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Rules and Regulations

Federal Register
Vol. 56, No. 167
Wednesday, August 28, 1991

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 967

[FV-91-405FR]

Expenses and Assessment Rate for Celery Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 967 for the 1991–92 fiscal year established under the celery marketing order. Funds to administer this program are derived from assessments on handlers. The celery marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable celery handled from the beginning of such year. An annual budget of expenses is prepared by the Florida Celery Committee (Committee) and submitted to the U.S. Department of Agriculture (Department) for approval.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Christian Nissen, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 382–1754.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 967 (7 CFR part 967), both as amended, regulating the handling of celery grown in Florida. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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

There are 7 handlers of celery grown in Florida who are subject to regulation under the celery marketing order and 13 producers of celery in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual revenues of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The minority of celery handlers and producers may be classified as small entities.

The celery marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable celery handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of celery. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 11, 1991, and unanimously recommended 1991–92 fiscal year expenditures of $165,000 and an assessment rate of $0.03 per 60-pound crate of celery shipped. In comparison, estimated expenses for 1990–91 are expected to be $164,327.34. The 1990–91 assessment rate was $0.02 per 60-pound crate of celery.

Major expenditure categories in the 1991–92 budget include $75,000 for administration, $75,000 for promotion, merchandising, and public relations, $6,000 for travel, and $6,000 for research. Comparable 1990–91 estimated expenditures are $75,000, $73,000, $6,696.89, and $7,336.68, respectively.

Assessment income for 1991–92 is estimated at $150,000 based on projected fresh shipments of 5,000,000 60-pound crates of celery. The remaining $15,000 in the expenses will be covered by reserve funds ($12,500) and interest income ($2,500). Any unexpended funds may be carried to the next fiscal year as a reserve.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule concerning this action was published in the Federal Register on July 15, 1991 (56 FR 32129). Comments on the proposed rule were invited from interested persons until July 25, 1991. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

The Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. Therefore, it is also found that good cause exists for not postponing the effective date of this action until 30 days

after publication in the Federal Register (5 U.S.C. 553).

List of Subjects in 7 CFR Part 967

Celery, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 967 is revised as follows:

PART 967—CELERY GROWN IN FLORIDA

1. The authority citation for 7 CFR part 967 continues to read as follows:

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

2. A new § 967.227 is added to read as follows:

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

§ 967.227 Expenses and assessment rate.

Expenses of $165,000 by the Florida Celery Committee are authorized and an assessment rate of $0.03 per crate of celery is established for the 1991–92 fiscal year ending on July 31, 1992. Unexpended funds from the 1990–91 fiscal year may be carried over as a reserve.

Dated: August 23, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–20646 Filed 8–27–91; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1737

Pre-loan Procedures Common to Guaranteed and Insured Telephone Loans

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Rural Electrification Administration (REA) published a final rule in the Federal Register on Monday, June 10, 1991 (56 FR 26590) to revise Agency pre-loan procedures for guaranteed and insured telephone loans. Due to a typographical error in the final rule, REA is publishing a correction.

EFFECTIVE DATE: June 10, 1991.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Chief, Telephone Loans and Management Staff, Rural Electrification Administration, room 2250 South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–8530.

SUPPLEMENTARY INFORMATION: The Rural Electrification Administration (REA) published a final rule in the Federal Register on Monday, June 10, 1991 (56 FR 26590). Page 26599 contains a typographical error regarding the requirements a borrower must meet in order to receive approval for interim financing from REA.

PART 1741—[AMENDED]

1. The authority citation for part 1741 continues to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

§ 1741.21 [Amended]

2. Section 1741.41(b)(1) is corrected to read as follows:

* * * * *

(b) * * *

(1)All of the information required under § 1737.21, or

* * * * *

Dated: August 22, 1991.

Kenneth D. Smith,

Acting Administrator.

[FR Doc. 91–20661 Filed 8–27–91; 8:45 am]

BILLING CODE 3410–15–M

SMALL BUSINESS ADMINISTRATION

13 CFR PART 121

Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice to waive the nonmanufacturer rule for mainframe computers and certain associated peripheral equipment acquired on the same procurement.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is establishing a waiver of the "nonmanufacturer rule" for mainframe computers and associated peripheral equipment. The basis for this waiver is that no small business manufacturer or processor is available to participate in the Federal market for this class of products. The effect of this waiver is to allow an otherwise qualified small business regular dealer to supply the product of any domestic manufacturer or processor on a Federal contract set aside for small business or awarded through the SBA 8(a) program. The availability of small business manufacturers or processors to participate in the Federal market has been established for other automated data processing (ADP) equipment such as mini computers, micro computers and computer peripheral equipment. Consequently, this waiver of the nonmanufacturer rule applies only to mainframe computers and peripheral equipment (not other computers) acquired on the same procurement and necessary to support that mainframe in an operational systems environment. Such peripheral equipment may include communication devices, input/output devices, networking devices, control devices, couplers, disk equipment, memory boards, power equipment and programmable chips.

EFFECTIVE DATE: August 28, 1991.

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

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal supply contracts set aside for small business or 8(a) contracts must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the nonmanufacturer rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provided for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. Public Law 101–574, enacted on November 15, 1990, further amended the Small Business Act to modify the language to include small business manufacturers or processors "available to participate in the Federal market", and to allow for waivers of individual contracts under certain circumstances. Individual contract waivers are not the issue here and will not be discussed.

This notice waives the nonmanufacturer rule for mainframe computers and ADP peripheral equipment necessary to support the mainframe in an operational systems environment when the peripheral equipment is acquired on the same procurement as the mainframe purchased subject to a waiver.

This waiver procedure was initiated when several Federal procurement activities advised the SBA that it appeared that a waiver of the nonmanufacturer rule was appropriate for ADP Equipment, due to the absence of small business manufacturers or processors in the Federal market place. An association of 8(a) firms also raised this issue. In response to these concerns, the SBA initiated a review of small business manufacturers or processors of

ADP equipment selling to the Federal government. Consistent with Public Law 101–574, to be considered available to participate in the Federal market, a small manufacturer must have been awarded a contract by the Federal government for that class of products, provided the class of products through a dealer, or submitted an offer to the government for that class of products within the twelve months prior to this waiver. A class of products is considered to be a particular Product and Service Code (PSC), under the Federal Procurement Data System, or an SBA recognized product line within a PSC. This definition is consistent with that used to establish waivers of the nonmanufacturer rule for other classes of products during the past six months, and with the notice of proposed rulemaking to establish SBA procedures on nonmanufacturer waivers published in the Federal Register on December 18, 1990 (55 FR, No. 243, p. 51913–11916), as modified by Public Law 101–574.

SBA initially reviewed the Federal market procurement statistics from the U.S. General Services Administration's (GSA) Federal Procurement Data Center (FPDC) for ADP equipment. Additionally, SBA also reviewed the GSA's schedule of ADP products, which typically lists the product, the manufacturer, and in most cases, the manufacturer's status as a small or other than small business concern. Since a firm must negotiate a supply agreement with GSA to be placed on this schedule, it is considered to be in the Federal market. Verification procedures to determine the size status of firms included review of Dun and Bradstreet credit reports and telephone contacts with the firms.

Small manufacturers were found to be in the Federal market for micro computers, mini computers and many types of ADP peripheral equipment. None were found for mainframe computers. This waiver applies to computers in product and services code (PSC) 7021 for ADP central processing units. Only mainframe computers within this PSC are being waived; smaller central processing units are not being waived. Small manufacturers of ADP equipment were found in the Federal market for the following product classes, the most commonly purchased:

- Control Devices
- Communication Boards
- Couplers
- Disk Drives
- Input/Output Devices
- Keyboards
- Memory Boards
- Modems
- Monitors
- Multiplexers
- Networking Items
- Optical Disk Equipment
- Plotters
- Power Equipment
- Printers
- Scanners
- Storage Devices
- Terminals
- Tape Drives

Small business suppliers were also found for other types of specialized ADP equipment of lesser importance. SBA sees no need to define classes of products more narrowly. Further details concerning the review of small manufacturers of ADP equipment can be found in the notice of intent to waive the nonmanufacturer rule in the Federal Register of June 4, 1990 (55 FR, No. 107, p. 22799). This also notified the public of SBA's intent to waive the nonmanufacturer rule for mainframe computers, and that there is no intent to issue a waiver for micro computers, mini computers or computer peripheral equipment. Five comments to this notice were received. Details follow.

A Federal agency supported the waiver proposal and desired that the waiver also extend to all peripheral equipment supplied as part of an individual contract for a mainframe computer. It argued that not all mainframes have a complete set of compatible peripheral equipment available from small manufacturers, and that contracts for mainframe computers often include peripheral equipment. SBA concurs with this comment. Consequently, this waiver of the manufacturer rule includes peripheral equipment necessary to support the mainframe computer in an operational systems environment, but only when both the mainframe and the peripheral equipment are acquired on the same procurement. This will permit the manufacturer of the mainframe to furnish, through a dealer, required compatible peripheral equipment (not other computers) made by any other manufacturer as part of the contract for the mainframe.

A small computer system integrator supported the waiver on the basis that it would be assisted in obtaining 8(a) contracts where a mainframe must be supplied in conjunction with peripheral equipment manufactured by small firms. This position is valid if it is a regular dealer as defined by the Walsh-Healey Public Contracts Act.

A manufacturer of mainframe computers, self-identified as not a small business, advised that mainframe manufacturers do not sell mainframe computers through "regular dealers." It stated that a regular dealer is required to keep in stock materials, supplies, or equipment of the general character required under the contract, and sell to the public in the usual course of business. This respondent objected to the waiver on the basis that it conflicts with the Walsh-Healey Public Contracts Act, as it pertains to regular dealers.

Although mainframe manufacturers have generally elected not to sell this product through regular dealers, this does not mean that regular dealers do not exist; furthermore, industry practices are subject to exceptions and to change. The procuring agency is required to make the determination as to whether a contractor is a regular dealer in accordance with the Walsh-Healey Act.

A law firm had no objection to a waiver when the contractor adds substantial value to the contract apart from providing a mainframe computer. This comment specifically identified systems integration as a case where a waiver would be beneficial. This respondent opposed a waiver when the Government is procuring a mainframe as a "stand alone item" on the basis that the contractor would simply add another layer of cost for which the procuring agency must pay. The statute provides specific grounds on which waivers are to be granted or denied; SBA cannot deny a waiver to the nonmanufacturer rule on the basis of possible higher prices for the item. The contracting agency has the responsibility to assure price reasonableness.

A minority association made a very brief comment supporting the proposed waiver. No additional information was provided with its comment.

All of the above comments were taken into consideration in determining to issue this waiver for mainframe computers.

This waiver is being granted under statutory authority for the designated classes of products, prior to the promulgation of final regulatory procedures. The processing and evaluation of the waiver has been essentially similar to SBA's notice of proposed rulemaking procedures published December 18, 1990. Only the consideration of firms that have offered unsuccessfully on solicitations to be available to participate is of material difference from the procedure. That difference had no bearing on this waiver, since no small business manufacturers or processors were found to have offered unsuccessfully. The final procedures may, however, differ from those followed for this particular waiver. If evidence is received that a

small manufacturer of mainframe computers is, in fact, available to participate in the Federal market, as defined by receiving or offering on a Federal contract within the past twelve months from the date of this waiver, SBA will reevaluate its position. If evidence is received that an error exists in denying waivers for other ADP equipment, SBA will also reevaluate its position.

A waiver of the nonmanufacturer rule is established for purposes of allowing an otherwise qualified small business regular dealer to supply the product of any domestic manufacturer on a contract set-aside for small business or awarded through the 8(a) program for mainframe computers in PSC 7021. This waiver includes ADP peripheral equipment (not other computers) necessary to support that mainframe in an operational system environment when acquired on the same procurement.

Dated: August 20, 1991.

Patricia Saiki,

Administrator, Small Business Administration.

[FR Doc. 91-20549 Filed 8-27-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 145

[T.D. 91-73]

Automated Mail Entry Form

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Customs is automating its processing of mail entries. The Automated Mail Entry Writing System will consist of a PC-based network located in the Customs mail branches. In order for the automated system to work, a new Customs form, which is for use by Customs officers, has been created. The new form and the new automated system will enable Customs to more easily track mail entries and the collections that are received from those entries. This document amends the Customs Regulations to include references to the new form, where appropriate, as well as making two other technical corrections. The amendments are procedural and non-substantive.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Nat Aycox, Office of Inspection and Control, 202-566-8151.

SUPPLEMENTARY INFORMATION:

Background

Generally, for each article of mail imported into the U.S. to be delivered by the U.S. Postal Service which contains merchandise not exceeding $1,250 in value and which is subject to duty or tax, Customs officers presently prepare and attach a mail entry form (Customs Form 3419). Customs Form (CF) 3419 is commercially printed and pre-numbered and serves as the informal entry for the mail article. Customs officers use the form to calculate the amount of duty on the article of mail, attach the form to the package, then return the article of mail to the Postal Service for delivery and collection of the duty. The Postal Service turns over the duty to Customs.

Customs has now developed the Automated Mail Entry Writing System which will streamline the tracking of imported mail and the collection of duty on mail entries. This system consists of a network of personal computers (PCs) that will be located in the Customs mail branches. Customs officers will input information into the PCs regarding the tariff classification of the mail article and the PCs will calculate duty and print out pertinent information on a new automated mail entry form—the CF 3419A. The form will be bar-coded and will allow automated transmittal of collections from the U.S. Postal Service to a Customs account. The new form, CF 3419A, and the Automated Mail Entry Writing System will enable Customs to more easily track mail entries and the collections that are received from those entries.

This document amends the Customs Regulations to reference the new Customs form, CF 3419A where there is reference to the non-automated mail entry form, CF 3419. Such references can be found in parts 141 and 145, Customs Regulations (19 CFR parts 141 and 145). As the new automated system will be implemented in stages as funding allows, CF 3419, will still be in use in certain mail branches. Accordingly, this document does not eliminate the reference to CF 3419. At such time as all mail branches become operational in the Automated Mail Entry Writing System, the Customs Regulations will be amended to eliminate references to CF 3419.

Technical Corrections

This document also corrects two errors that appear in the Customs Regulations concerning mail entries. Section 141.68(f) is amended to correct the number of a Customs form that is cited. The paragraph cites Customs Form 5110-A; the correct cite is Customs Form 5119-A. Section 145.4(c) was inadvertently not amended when the value of merchandise for which an informal entry may be filed was raised from $1,000 to $1,250; this document remedies this.

Inapplicability of Public Notice and Delayed Effective Date Requirements

This amendment is a matter of agency management and organization. It does not affect the importing public. Accordingly, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are not necessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

The document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Parts 141 and 145

Customs duties and inspections; Entry; Mail importations.

Amendments to the Regulations

Parts 141 and 145, Customs Regulations (19 CFR parts 141 and 145) are amended as set forth below:

PART 141—ENTRY OF MERCHANDISE

1. The general and relevant specific authority citation for part 141, Customs Regulations (19 CFR part 141) continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.* * *

§ 141.68 also issued under 19 U.S.C. 1315.

2. Section 141.68(f) is revised to read as follows:

§ 141.68 Time of entry.

* * * * * *

(f) *Informal mail entry.* The time of entry of merchandise under an informal mail entry, Customs Form 3419, 3419A or 5119–A, is the time the preparation of the entry documentation by a Customs employee is completed.

* * * * *

PART 145—MAIL IMPORTATIONS

1. The general and relevant specific authority for part 145, Customs Regulations (19 CFR part 145) continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

§ 145.4 also issued under 18 U.S.C. 545, 19 U.S.C. 1618; * * *

§ 145.12 also issued under 19 U.S.C. 1315, 1484, 1498; * * *

§ 145.4 [Amended]

2. Section 145.4(c) is amended in the following manner:

(a) By adding in the first sentence the punctuation and form number ", 3419A" between "Customs Form 3419" and "or 5119–A"; and

(b) By removing the amount "$1000" in the first sentence and adding in its place "$1,250".

§ 145.12 [Amended]

3. Section 145.12 (b)(1), (e)(1), and (e)(2) is amended by adding the words "or 3419A" immediately after "Customs Form 3419".

Approved: July 19, 1991.

Carol Hallett,

Commissioner of Customs.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 91–20602 Filed 8–27–91; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Ryan White Comprehensive AIDS Resources Emergency Act of 1990

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority by adding a new authority delegated by the Assistant Secretary for Health to the Commissioner of Food and Drugs. The authority being added is under title XXVI of the Public Health Service Act, section 2672, Provisions Relating to Blood Banks, as amended.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: In a memorandum dated February 21, 1991, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health authorities vested in the Secretary under title XXVI of the Public Health Service Act (the PHS Act), as amended (42 U.S.C. 300ff et seq.). The delegation excludes the authority to promulgate regulations, submit reports to the Congress, establish advisory committees or national commissions, and appoint members to such committees or commissions. In a subsequent memorandum, dated May 24, 1991, the Assistant Secretary for Health redelegated to the Commissioner of Food and Drugs the following authorities delegated to the Assistant Secretary for Health under 42 U.S.C. 300ff et seq. These authorities pertain to making materials and information available to technical and supervisory personnel employed at blood banks and facilities that produce blood products (sec. 2672(a)(1) (A) and (B) of the PHS Act), and to developing and implementing a training program to increase the number of employees of the Department of Health and Human Services who can conduct inspection of blood banks and facilities that produce blood products (sec. 2672(a)(2) of the PHS act). In addition, the Assistant Secretary for Health affirmed and ratified any actions taken by FDA involving the exercise of authorities delegated herein prior to the effective date of this delegation.

FDA is amending § 5.10 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials (21 CFR 5.10) by adding a new paragraph (a)(33) to incorporate these new authorities delegated to the Commissioner of Food and Drugs.

Further redelegation of authority is authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such a position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies); Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 is revised to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309, secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 2421, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.10 is amended by adding a new paragraph (a)(33) to read as follows:

§ 5.10 Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials.

(a) * * *

(33) Functions vested in the Secretary under section 2672(a)(1) (A) and (B) (Provisions Relating to Blood Banks) and section 2672(a)(2) (Information and Training Programs) of the Public Health Service Act (42 U.S.C. 300ff et seq.), as amended, insofar as these authorities pertain to the functions assigned to the Food and Drug Administration. The delegations exclude the authority to promulgate regulations, submit reports to the Congress, establish advisory committees or national commissioners, and appoint members to such committees or commissions.

* * * * *

Dated: August 21, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–20591 Filed 8–27–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Pensacola Bay, Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is establishing a restricted area in the waters of Pensacola Bay, Florida to provide additional safety for persons and vessels during periods when naval operations and/or exercises are being conducted in the area.

EFFECTIVE DATE: September 27, 1991.

ADDRESSES: HQUSACE, ATTN: CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Stokes at (904) 791-1668 or Mr. Ralph T. Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is establishing a restricted area in the waters of Pensacola Bay, offshore of the Naval Air Station at Pensacola, Florida in 33 CFR 334.775. The Commanding Officer, Naval Air Station, Pensacola, had requested the Corps of Engineers to establish two restricted areas in Pensacola Bay for the Navy's use in training exercises. On August 15, 1989, the Corps published the proposed restricted area in the Federal Register with the comment period expiring on September 14, 1989 (54 FR 33584-33585). The only comment received was from the Department of the Interior, National Park Service, which objected to the establishment of Area "B". The Navy has requested that the Corps establish Area "A" and hold any further action on Area "B" in abeyance until the matter is resolved. Accordingly, Area "A" is established as proposed.

Economic Assessment and Certification

This rule is being issued with respect to a military function of the Department of Defense and the provisions of E.O. 12291 do not apply. I hereby certify that this rule will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps of Engineers is amending 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3)

2. Section 334.775 is added to read as follows:

§ 334.775 Pensacola Bay, Pensacola and Gulf Breeze, Florida; naval restricted area.

(a) *The area.* Bounded by a line drawn in the direction of 180° T from the position 30°20'44" N./87°17'18" W. (near the Naval Air Station, due south of the Officer's Club) to position 30°20'09" N./87°17'18" W. thence 94° T to position 30°20'07" N./87°16'41" W., thence 49° T to position 30°20'37" N./87°16'01" W. (southwest end of Lexington finger pier), thence along the shoreline to point of origin.

(b) *The restriction.* (1) The area will normally be in use Monday through Wednesday between 8 a.m. and 4 p.m. and one evening from 4 p.m. until 8 p.m., every other week.

(2) During those times that specific missions, exercises, or training operations are being conducted, the U.S. Navy vessels and/or crafts designated as essential to the operation(s) by proper U.S. Navy authority shall have the rights-of-way. All other vessels and crafts are required to keep clear of and remain 300 yards from all naval vessels engaged in said operations. Approaching within 300 yards of vessels and/or crafts while they are engaged in operations and/or training exercises is prohibited.

(3) Vessel traffic through the restricted area will remain open during operations and/or exercises; however, mariners shall exercise extreme caution and be on the lookout for swimmers, small craft and helicopters when transiting the area. It should be presumed by all mariners that Navy operations and/or exercises are being conducted whenever military craft and/or helicopters are operating within the restricted area.

(4) Any problems encountered regarding Navy operations/exercises within the restricted area should be addressed to "Navy Pensacola Command" on Channel 16 (156.6 MHZ) for resolution and/or clarification.

(5) The regulations in this section shall be enforced by the Commander of the Naval Air Station, Pensacola, Florida, and such agencies as he/she may designate.

Dated: August 12, 1991.

Approved:

Arthur E. Williams,

Major General, U.S. Army, Director of Civil Works.

[FR Doc. 91-20552 Filed 8-27-91; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 910514-1195]

RIN 0651-AA49

Patent Interference Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending its rules of practice in patent interference cases. The U.S. District Court for the District of Columbia recently decided *Kochler* v. *Mustonen,* Civil Action No. 90-1074 (D.D.C. Apr. 23, 1991). The District Court held that PTO practice regarding taking of testimony abroad was not clear. PTO rules require that a testimony period be set. The rules also require that testimony be taken during the testimony period. Rule 684 authorizes testimony to be taken abroad. However, rule 684 requires that a motion be filed for leave to take testimony abroad and that the motion be filed before the close of a party's testimony period. The District Court suggested that a motion to take testimony abroad, filed in PTO on the last day of the testimony period, could be considered timely even though taking of the testimony might occur after the testimony period. By this amendment, PTO will continue to authorize the filing of a motion to take testimony abroad. However, a party will have to file the motion within a time such that the testimony can be taken during the testimony period set under PTO rule 651.

EFFECTIVE DATE: September 27, 1991.

FOR FURTHER INFORMATION CONTACT: Fred E. McKelvey by telephone at (703) 557-4035 or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The PTO conducts interference proceedings to determine who as between two or more applicants for patent or one or more applicants and one or more patentees is the first inventor of a patentable invention. As part of its proofs in an interference, a party may request leave to take testimony abroad. 37 CFR 1.684 (1990).

The U.S. District Court for the District of Columbia recently decided *Kochler* v. *Mustonen,* Civil Action No. 90-1074 (D.D.C. Apr. 23, 1991). The District Court held that PTO practice regarding taking of testimony abroad was not clear. PTO

Rule 651 (37 CFR 1.651 (1990)) requires that a testimony period be set. Rule 651 also requires that testimony be taken during the testimony period. Rule 684 (37 CFR 1.684 (1990)) authorizes testimony to be taken abroad. However, rule 684 requires that a motion be filed for leave to take testimony abroad and that the motion be filed before the close of a party's testimony period. The District Court suggested that a motion to take testimony abroad, filed in PTO on the last day of the testimony period, could be considered timely even though taking of the testimony might occur after the testimony period.

In a notice of proposed rulemaking published in the Federal Register on June 12, 1991, 56 FR 26949, paragraphs (a) and (d) of rule 651 and rule 684 were proposed to be revised to require a party to file the motion to take testimony abroad within a time such that the testimony could be taken during the testimony period set under PTO Rule 651.

One written comment was submitted by a Chief Executive Officer who stated his support of the proposed amendment. An attorney commented that the proposed amendment of § 1.684 appeared to foreclose the taking of testimony beyond any original time set under § 1.651. The attorney suggested language be added to paragraph (c) stating the alternative that testimony abroad must be completed within the time set under § 1.651 or by the Examiner-in-Chief. This suggestion has been adopted.

Other Considerations: The rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Orders 12291 and 12612 and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that these rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of these changes is to clarify the need for taking testimony abroad during the testimony period. The rule changes include no additional or increased fees. Substantive rights are not adversely affected.

The Office has determined that these rule changes are not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. Because most of the changes do not change burdens, there will be no major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule change will not impose any additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The Office has also determined that this rule change has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Inventions and patents.

For the reasons set forth in the preamble and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 135, the PTO is amending 37 CFR part 1 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1, subpart E, continues to read as follows:

Authority: 35 U.S.C. 6, 23, 41 and 135.

2. Section 1.651 is revised as follows:

§ 1.651 Setting times for discovery and taking testimony, parties entitled to take testimony.

(a) At an appropriate stage in an interference, an examiner-in-chief shall set (1) a time for filing motions (§ 1.635) for additional discovery under § 1.687(c) and (2) testimony periods for taking any necessary testimony (testimony includes testimony to be taken abroad under § 1.684).

(b) Where appropriate, testimony periods will be set to permit a party to:

(1) Present its case-in-chief and/or case-in-rebuttal and/or

(2) Cross-examine an opponent's case-in-chief and/or a case-in-rebuttal.

(c) A party is not entitled to take testimony to present a case-in-chief unless:

(1) The examiner-in-chief orders the taking of testimony under § 1.639(c);

(2) The party alleges in its preliminary statement a date of invention prior to the earlier of the filing date or effective filing date of the senior party;

invention prior to the earlier of the filing date or effective filing date of the party and the party has filed a preliminary statement alleging a date of invention prior to that date; or

(4) A motion (§ 1.635) is filed showing good cause why a testimony period should be set.

(d) Testimony, including any testimony to be taken abroad under § 1.684, shall be taken and completed during the testimony periods set under paragraph (a) of this section. A party seeking to extend the period for taking testimony must comply with § 1.635 and § 1.645(a).

3. Section 1.684 is revised as follows:

§ 1.684 Testimony in a foreign country.

(a) An examiner-in-chief may authorize testimony of a witness to be taken in a foreign country. A party seeking to take testimony in a foreign country shall, promptly after the testimony period is set, file a motion (§ 1.635):

(1) Naming the witness.

(2) Describing the particular facts to which it is expected that the witness will testify.

(3) Stating the grounds on which the moving party believes that the witness will so testify.

(4) Demonstrating that the expected testimony is relevant.

(5) Demonstrating that the testimony cannot be taken in this country at all or cannot be taken in this country without hardship to the moving party greatly exceeding the hardship to which all opposing parties will be exposed by the taking of the testimony in a foreign country.

(6) Accompanied by an affidavit stating that the motion is made in good faith and not for the purpose of delay or harassing any party.

(7) Accompanied by written interrogatories to be asked of the witness.

(b) Any opposition under § 1.638(a) shall state any objection to the written interrogatories and shall include any cross-interrogatories to be asked of the witness. A reply under § 1.638(b) may be filed and shall be limited to stating any objection to any cross-interrogatories proposed in the opposition.

(c) If the motion is granted, taking of testimony abroad must be completed within the testimony period set under § 1.651 or within such time as may be set by the Examiner-in-Chief. The moving party shall be responsible for obtaining answers to the interrogatories and cross-interrogatories before an officer qualified to administer oaths in the foreign country under the laws of the

(3) A testimony period has been set to permit an opponent to prove a date of United States or the foreign country. The officer shall prepare a transcript of the interrogatories, cross-interrogatories, and recorded answers to the interrogatories and cross-interrogatories and shall transmit the transcript to Box Interference, Commissioner of Patents and Trademarks, Washington, DC 20231, with a certificate signed and sealed by the officer and showing:

(1) The witness was duly sworn by the officer before answering the interrogatories and cross-interrogatories.

(2) The recorded answers are a true record of the answers given by the witness to the interrogatories and cross-interrogatories.

(3) The name of the person by whom the answers were recorded and, if not recorded by the officer, whether the answers were recorded in the presence of the officer.

(4) The presence or absence of any party.

(5) The place, day, and hour that the answers were recorded.

(6) A copy of the recorded answers was read by or to the witness before the witness signed the recorded answers and that the witness signed the recorded answers in the presence of the officer. The officer shall state the circumstances under which a witness refuses to read or sign recorded answers.

(7) The officer is not disqualified under § 1.674.

(d) If the parties agree in writing, the testimony may be taken before the officer on oral deposition.

(e) A party taking testimony in a foreign country shall have the burden of proving that false swearing in the giving of testimony is punishable as perjury under the laws of the foreign country. Unless false swearing in the giving of testimony before the officer shall be punishable as perjury under the laws of the foreign country where testimony is taken, the testimony shall not be entitled to the same weight as testimony taken in the United States. The weight of the testimony shall be determined in each case.

Dated: August 22, 1991.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 91-20845 Filed 8-27-91; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3714/R1104; FRL-3845-1]

RIN 2070-AB78

Pesticide Tolerances for Fenoxaprop-Ethyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes interim tolerances for the combined residues of the herbicide fenoxaprop-ethyl and its metabolites in or on the raw agricultural commodities (RACs) wheat grain and wheat straw; cattle fat, meat, and meat byproducts (mbyp); goat fat, meat, and mbyp; hog fat, meat, and mbyp; horse fat, meat, and mbyp; sheep fat, meat, and mbyp; and milk. This regulation to establish the maximum permissible level for residues of the herbicide in or on the RACs was requested by the Hoechst Celanese Corp. These interim tolerances expire April 12, 1996.

EFFECTIVE DATE: This regulation becomes effective August 28, 1991.

ADDRESSES: Written objections, identified by the document control number, [PP 9F3714/R1104], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1830.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 28, 1989 (54 FR 8393), EPA issued a notice that announced that the Hoechst Celanese Corp., Rte. 202-206, North Somerville, NJ 08876, had filed with EPA pesticide petition 9F3714 proposing to amend 40 CFR 180.430 by establishing tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a, for the combined residues of the herbicide fenoxaprop-ethyl, (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl]oxy]phenoxy]propanoate, and its metabolites [2-[4-[(6-chloro-2-benzoxazoly)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one], each expressed as fenoxaprop-ethyl, in or on the commodity wheat grain at 0.05 part per million (ppm).

EPA issued a second notice, published in the **Federal Register** of January 9, 1990 (55 FR 780), that proposed amending 40 CFR 180.430 by establishing tolerances for the herbicide fenoxaprop-ethyl and its metabolites, 2-[4-[(6-chloro-benzoxazolyl]oxy]-phenoxy] propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, each calculated as parent, in or on the raw agricultural commodities wheat grain at 0.05 ppm and wheat straw at 1.0 ppm.

EPA issued a third notice, published in the **Federal Register** of December 6, 1990 (55 FR 50393), that proposed amending 40 CFR 180.430 by establishing tolerances for the herbicide fenoxaprop-ethyl and its metabolites, 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy] propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, each calculated as parent, in or on the following raw agricultural commodities: wheat grain at 0.05 ppm; wheat straw at 0.50 ppm; cattle fat, meat, mbyp at 0.05 ppm; goat fat, meat, mbyp at 0.05 ppm; hog fat, meat, mbyp at 0.05 ppm; horse fat, meat, mbyp at 0.05 ppm; sheep fat, meat, mbyp at 0.05 ppm; and milk at 0.02 ppm.

No comments were received in response to the notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

The data considered in support of the tolerances include:

1. Plant and animal metabolism studies.

2. A rat oral median lethal dose (LD_{50}) study with an LD_{50} of 2.357 grams per kilogram (g/kg) or 2,357 milligrams per kilogram (mg/kg).

3. A 90-day rat feeding study with a no-observed-effect level (NOEL) of 20 ppm (1.0 mg/kg/day).

4. A 90-day dog feeding study with a NOEL of 16 ppm (0.4 mg/kg/day).

5. A 2-year dog feeding study with a NOEL of 15 ppm (0.37 mg/kg/day) and a lowest-effect level (LEL) of 75 ppm (1.875 mg/kg/day).

6. A rat teratology study with a NOEL of 32 mg/kg/day for developmental effects and maternal toxicity and an LEL of 100 mg/kg/day (highest dose tested) for developmental effects and maternal toxicity.

7. A rabbit teratology study with a maternal toxicity NOEL of 12.5 mg/kg/day and a maternal LEL (decreased weight gain and reduced food consumption) of 50 mg/kg/day, and a

developmental toxicity NOEL of 50 mg/kg/day, and a developmental toxicity LEL of 200 mg/kg/day (highest dose tested) with an increased incidence of rib anomalies and diaphragmatic hernias at this dose level.

8. A two-generation rat reproduction study with a NOEL of 5 ppm (0.25 mg/kg/day).

9. A rat carcinogenicity (28 months)/chronic feeding (24 months) study with no observed carcinogenic potential at any dose up to 180 ppm (9.0 mg/kg/day), the highest dose tested and a NOEL for chronic toxicity at 30 ppm (1.5 mg/kg/day).

10. A 2-year mouse carcinogenicity study with no observed carcinogenic potential at any dose up to 40 ppm (6 mg/kg/day), the highest dose tested. Because the maximum tolerated dose (MTD) was not tested, a second 2-year mouse carcinogenicity study is required within 48 months of the conditional registration with the use-pattern for use on wheat.

11. A negative *in vitro* human lymphocyte chromosomal aberration mutagenicity study; a negative unscheduled DNA synthesis study with HeLa cells; a negative (both with and without S9 activation) Ames assay with the appropriate strains of *Salmonella typhimurium*; a negative (with and without S9 activation) DNA repair study in *Saccharomyces cerevisiae*, and a negative mouse micronucleus assay.

Conditional registration of fenoxaprop-ethyl for use in the culture of wheat is supported by the weight-of-evidence that includes an adequate chronic rat study (not carcinogenic); mutagenicity assays were negative for each category of genotoxicity tested; fenoxaprop-ethyl is not in a structural class known to include carcinogens; and available data provide a good margin of safety (i.e., calculations which compare the high dose in the mouse study to a human exposure level based upon 0.05 ppm in 100 percent of the diet, a very conservative approach.

These tolerances are being established as interim tolerances because the Agency does not have adequate data from a mouse carcinogenicity study which is due August 12, 1995. When the Agency receives the second 2-year carcinogenicity study it will reassess these tolerances for residues in wheat grain and wheat straw; cattle fat, meat, and mbyp; goat fat, meat, and mbyp; hog fat, meat, and mbyp; horse fat, meat, and mbyp; sheep fat, meat, and mbyp; and milk. The use on wheat will result in measurable residue in feed commodities; however, the Agency does not believe that these tolerances pose significant risks.

These interim tolerances expire April 12, 1996. Residues not in excess of these tolerances will not be considered actionable if the pesticide is legally applied during the term of the conditional registration and in accordance with the acceptable labeling under the conditional registration. These tolerances will be revoked if any scientific data or experience with the pesticide indicate such revocation is necessary to protect the public health.

Based on a NOEL of 0.25 mg/kg/day in the two-generation rat reproduction study and a hundredfold safety factor, the acceptable daily intake (ADI) has been set at 0.0025 mg/kg/day with a maximum permissible intake (MPI) of 0.15 mg/day for a 60-kg person. The established and proposed tolerances have a theoretical maximum residue contribution (TMRC) of 0.000113 mg/kg/day and would utilize 4.5 percent of the ADI.

There are no regulatory actions pending against the registration of this pesticide. The nature of the residue of the pesticide is adequately understood for use on wheat, and an adequate analytical method, gas chromatography with electron-capture detector, is available for enforcement purposes. There is no expectation of secondary residues in poultry or eggs.

Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the *Pesticide Analytical Manual*, Vol. II, the analytical methodology is being made available to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-4432.

Based on the information and data considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

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

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

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

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. By revising § 180.430, to read as follows:

§ 180.430 Fenoxaprop-ethyl; tolerances for residues.

(a) Tolerances are established for the combined residues of the herbicide fenoxaprop-ethyl [(±)-ethyl 2-[4-[[6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate] and its metabolites [2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one], each expressed as fenoxaprop-ethyl, in or on the following raw agricultural commodities:

Commodity	Parts per million
Cottonseed	0.05
Peanuts	0.05
Peanut hulls	0.05
Rice grain	0.05
Soybeans	0.05

(b) Interim tolerances, to expire April 12, 1996, are established for the combined residues of the herbicide fenoxaprop-ethyl [(±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate] and its metabolites [2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one], each expressed as fenoxaprop-ethyl, in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, mbyp	0.05
Goats, fat	0.05
Goats, meat	0.05
Goats, mbyp	0.05
Hogs, fat	0.05
Hogs, meat	0.05
Hogs, mbyp	0.05
Horses, fat	0.05
Horses, meat	0.05
Horses, mbyp	0.05
Milk	0.02
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, mbyp	0.05
Wheat, grain	0.05
Wheat, straw	0.50

[FR Doc. 91–20512 Filed 8–27–91; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1003

RIN 0991–AA54

Medicare and Social Security: Fraud and Abuse; Civil Money Penalties for Misuse of Certain Terms, Symbols and Emblems

AGENCY: Office of Inspector General, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements section 428(a) of Public Law 100–360 which authorizes the imposition of civil money penalties for the use—in advertising, solicitations or other communications—of certain words, letters, symbols or emblems associated with the Department of Health and Human Services' Social Security and Medicare programs in a manner that the user knows, or should know, would convey a false impression that (1) the communicated item was approved, endorsed or authorized by the Department or its programs, or (2) the responsible person or organization has some connection with, or authorization from, the Department or these programs. This rulemaking is designed to assist in protecting citizens from misrepresentations concerning the services offered and programs administered by the Social Security Administration and the Health Care Financing Administration.

EFFECTIVE DATE: These regulations are effective on August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, Legislation and Regulations Staff, (202) 619–3270.

SUPPLEMENTARY INFORMATION:

I. Background

Over the past several years, numerous complaints have come to the Department's attention regarding mail solicitations and other advertising claims and offerings that make use of certain program terms, program acronyms, or agency symbols and emblems in such a way as to mislead or falsely represent the fact that such items or services being offered have been approved, endorsed or authorized by the Department, the Social Security Administration (SSA), or the Health Care Financing Administration (HCFA). Prior to the passage of Public Law 100–360 and the enactment of a new section 1140 of the Social Security Act, the Department had no statutory or regulatory authority tailored to its own programs to take action against such advertisers; the only recourse against such misleading or deceptive advertisements or solicitations was to seek voluntary cooperation in changing such communications. When the mails were being used to obtain money through misrepresentation or deception, or where a business was using particularly egregious acts in commerce, the Department could refer the communications to the United States Postal Service or to the Federal Trade Commission for action.

Use of Specific Department Terms and Symbols in Solicitation

In recent years, private organizations and businesses have begun using the words "Social Security" or "Medicare," or the acronyms "SSA" or "HCFA," in their title in a false or misleading manner, or have made use of program symbols or emblems in their solicitations, in such a way as to give the mistaken impression that they have been officially endorsed or authorized by this Department or its programs. Use of these terms and symbols has often been accompanied by other subtle methods designed to foster this mistaken impression, such as the use of stationery and type face in style and size similar to that used by the Federal Government in its correspondences, ambiguous company names or references to certain government-related activities or programs. Many individuals are misled into thinking, through the use of such terms, symbols and other methods, that the commercial business is in fact associated directly with the Department, HCFA or SSA.

Commercial offers for items and services or fund-raising appeals that mislead the public into believing that there is a governmental relationship may appear in newspapers and magazines, on radio or television, or may be distributed by direct mail or telephone solicitation.

In an effort to protect citizens from misrepresentations concerning the services offered and programs administered by SSA and HCFA, section 428(a) of Public Law 100–360 specifically added a new section 1140 to the Social Security Act that prohibited the use of certain words, symbols or emblems in a manner which a person or organization either knew, or should have known, would convey the false impression that (1) an advertisement or other item was approved, endorsed or authorized by the Department, SSA or HCFA, or (2) the person or organization has some connection with, or authorization from, the Department, SSA or HCFA.

II. Summary of the Proposed Rule

Proposed regulations implementing section 428(a) of Public Law 100–360 were published on February 6, 1990 (55 FR 3986) to solicit public comments on how best to impose civil money penalties (CMPs) for violations of these prohibitions. The proposed regulations reflected new authority under section 1140 of the Act to impose CMPs against individuals and entities that make false use of:

- The words "Social Security," "Social Security Account," "Social Security Administration," "Social Security System," "Medicare," and "Health Care Financing Administration" or any combination or variation of such words;
- The letters "SSA" or "HCFA," or any combination or variation of such letters; and

• Any symbols or emblems of the Social Security Administration or of the Health Care Financing Administration, or combination or variation of such symbols or emblems.

The proposed regulations reflected the authority granted by section 1140 of the Act in stating that the Office of Inspector General (OIG) may impose a CMP of up to $5,000 for each violation of this prohibition relating to printed media, and up to $25,000 per violation in the case of a misleading broadcast or telecast. With respect to multiple violations consisting of substantially identical communications or productions, total penalties may not exceed $100,000 per year.

The proposed rule also set forth five specific criteria and one general criterion as follows in determining CMP amounts for violation of this prohibition:

• The nature of the solicitation and the degree to which the organization has attempted to mislead or deceive the public through its advertising or offering;

• The frequency and scope of the violation;

• Any efforts made by the organization to include a clear, prominent and conspicuously-placed disclaimer of Government association on the mailing envelope, the first page, or in the beginning of its solicitation or offering;

• The prior history of the organization in its willingness or failure to comply with informal requests to correct violations;

• Actual harm to the public, or the likelihood of harm to the public, in terms of expenses incurred as a result of relying on such offering or solicitation; and

• Other matters required by justice.

In addition, the proposed rulemaking stated that, where feasible and where deemed appropriate, the OIG would attempt to use informal methods prior to initiating a CMP action. We indicated that such methods might include direct contact with an organization believed to be in violation of this provision to advise them of their potential liability and their need to avoid use of the various methods that create the capacity to deceive some members of the public, and the advisability of using a clear, prominent and conspicuously-placed disclaimer of any affiliation with the Department or its programs.

III. Response to Public Comments

In response to the proposed rulemaking, we received a total of 14 timely-filed public comments from various professional and business organizations and associations, medical societies, private practitioners and concerned citizens. The comments raised a number of issues ranging from requests for the OIG to establish "safe harbor" criteria for addressing acceptable solicitation practices; to the proper use and content of disclaimers in advertisements and solicitations. A summary of the comments received and our responses to those comments follows.

1. Scope of Regulations

Comment: Three commenters raised concerns about the breadth and scope of the proposed rulemaking, believing that the proposed regulations failed to precisely define the conduct prohibited by section 1140 of the Act. The commenters stated that the regulations should attempt to define as narrowly as possible the limits of the restrictions they seek to impose. The commenters further indicated that the OIG should consider adopting "safe harbor" criteria that would establish pre-approval procedures for complying with this provision. One commenter also suggested that the OIG, in order to accommodate those advertisements or solicitations for which disclaimers are not feasible or appropriate, implement an informal procedure for individuals and organizations to obtain advance rulings on whether solicitations or advertisements comply with the regulations.

Response: The statute specifically prohibits use of certain words, letters, symbols and emblems associated with the Social Security Administration or the Health Care Financing Administration in such a manner that the individual or entity knows, or should know, would create a false impression that the item or service being communicated has been approved, authorized or endorsed by, or that the individual or entity has some connection with or authorization by, the Department or its programs. We believe any attempt to define in advance what is meant by a false impression would be unduly restrictive since it is difficult to predict or specify precise parameters in advance as to whether an individual or entity knows, or should know, that a false impression had been conveyed. There is no particular message, such as the use of a prescribed disclaimer, that could "immunize" a communication or solicitation from being deceptive, false or misleading.

As to the request that the OIG issue advance rulings, we have already indicated in the proposed rule that the OIG will employ, where feasible, informal educational methods and provide warnings to errant individuals or entities prior to initiating a CMP action which should serve part of the function of advance rulings. The OIG, however, reserves the right to initiate a CMP action without the use of advance rulings or informal methods when it believes the violation may be egregious or in other appropriate circumstances.

While we are not establishing "safe harbor" criteria per se for delineating what is or is not a violation, the use of an effective disclaimer may constitute a mitigating factor under the regulations. We note, however, that the practices that constitute a violation may differ greatly from case to case, and it is impossible to prescribe the particulars of a disclaimer that would be effective in all or most situations, particularly where the solicitation misuses more than one term or emblem and is designed to simulate a government document in several ways. While the use of a clear, prominent and conspicuously-placed disclaimer could serve as a mitigating factor in determining a CMP amount, the mere use of a disclaimer itself in an advertisement or solicitation would not automatically absolve an individual or entity from a violation of this statute. An advertiser retains responsibility for the impression created by a particular solicitation, regardless of whether a disclaimer is used.

Comment: One commenter asked that we clarify that physicians who simply state, as part of their advertisements, that they accept assignment under Medicare would not be required to also include a disclaimer statement of affiliation with the Medicare program. Another commenter believed that an exception to section 1140 of the Act should be made for health maintenance organizations (HMOs) that have received Departmental approval as an eligible organization under section 1876 of the Act or as a health care prepayment plan (HCPP) under 42 CFR part 417, subpart D. The commenter raised concern that the regulations may establish obstacles to the legitimate marketing efforts of HMOs that contract with HCFA to serve Medicare beneficiaries. The commenter believed that the continued use of such terms as "Medicare Plus" in connection with medical plans they offer to program beneficiaries in accordance with health plan contracts with HCFA could be threatened.

Response: The statutory provision and these regulations are intended to prohibit and penalize the use of the term "Medicare" and other terms and letters in advertising and marketing materials by one who knows, or should know, that such terms could give the false

impression that items or services have been approved, endorsed or authorized by the Department, SSA or HCFA. The statute and these regulations do not per se prohibit the mere utterance or use of certain terms in print or broadcast where it is found that they truthfully state an individual's or organization's legitimate involvement or association with the Department or its programs. Thus, the statute does not prohibit a hospital from indicating that it is a participating Medicare facility, or a physician from stating that he or she is a participating Medicare practitioner, where these statements are true.

Similarly, if the phrase "Medicare Plus" and other similar terms used by HMOs and HCPPs have been authorized and approved by HCFA for inclusion into these entities' advertising and marketing materials, we would not view use of such terms as violative of the statute. The regulations are not intended to prohibit HMOs offering Medicare services in accordance with sections 1833 and 1876 of the Act from making true statements about their provision of Medicare products or services and their association with the Department. HCFA permits organizations contracting with the Medicare program under sections 1833 and 1876 of the Act to state that fact in marketing materials. However, HCFA prohibits organizations from claiming endorsement or recommendations of the agency or that the organization's representatives are agents of Medicare or the Federal government.

In addition, even as part of an approved program, the use and application of certain terms such as Social Security, HCFA and Medicare (or similar terms) by a physician, HMO or other health care provider in a manner that falsely implies that their provision of a particular item or service has received direct Department approval, endorsement or authorization may nevertheless be a violation under section 1140 of the Act.

Comment: One commenter believed that the use of the term "Medicare approved" with regard to the provision of items and services should specifically be prohibited. The commenter stated that the implication of approval was misleading and should be prohibited since the Medicare program covers equipment and services and does not approve items.

Response: We agree that such statements as "Medicare approved if medically necessary" used by Medicare providers and practitioners can create a false impression that the program has evaluated an item or service, or made a decision that it is useful or beneficial in some way. We believe that phrases such as "Medicare approved" could violate the statute if the user knows, or should know, that a false impression of affiliation is created by its use.

Moreover, categorical statements about Medicare coverage may be prohibited as well under the statute, since coverage and medical necessity of an item or service depend on the circumstances of the individual beneficiary and cannot be evaluated in advance.

Comment: One commenter believed that the provisions of this regulation should also be aimed at individuals who have had past special relationships to, or association with, the Department, the Medicare program or SSA and use that relationship to solicit business from program beneficiaries.

Response: We have recently been made aware of instances where individuals may use their past affiliation or association with the Department or its programs in their current advertisements in an effort to solicit business. One such episode cited involved a former administrative law judge who rented office space in the same building as the local Social Security offices and listed himself in the building directory as a "former Social Security" judge, with the word "former" appearing in smaller lettering. We believe that the mere statement of fact that this individual was a former Social Security judge, in and of itself, is not false or misleading, and we would not view this as a violation of section 1140. We believe that these types of cases can best be addressed and handled through direct contacts with the State professional society or through the local Better Business Bureau or similar organizations. Of course, if an individual uses such a past affiliation in a manner that falsely implies a present connection with the Department or its programs, penalties may result.

2. Defining a Violation

Comment: The proposed amendment to § 1003.103(b)(1), now codified as § 1003.103(c)(1) of the regulations, stated that the OIG may impose a CMP of up to $5,000 for each violation relating to printed media. With regard to direct mailing solicitations, the proposed rule stated that the group mailing of an identical letter sent at the same time would be considered as a single violation, and that specific and unique letters to individuals mailed at varying times would also be considered as separate violations. Commenters asked for clarification on what specifically constitutes a single or a multiple violation under the rubric of a group mailing.

Response: Under the law, each violation could subject an individual or entity up to a $25,000 penalty in the case of a broadcast or telecast, or up to a $5,000 penalty for other items. The statute itself, however, provides no definition for the term "violation." As indicated through the concerns of the commenters, the issue of defining a violation arises most acutely in the situation of a "group" or bulk mailing.

While we believe that a strong argument may be made that each individual letter sent by an individual or entity should constitute a separate violation, since the potential harm of the misleading solicitation would relate to each beneficiary's receipt of the item, arguments for a different approach have been convincingly made in the situation of the mailing of a large number of substantially similar items mailed at the same time, often on a national or regional basis.

We are defining a violation to include each individualized letter sent that contains in its heading or body, the name and address of the recipient, as well as each form mailing in which an individual or entity sends a "personalized" letter, albeit as part of a large "group" mailing, that might include the recipient's name and other identifying information in the solicitation. Such a procedure can be easily programmed by computer, and unlike a general advertisement or an identical "generic" publication sent to the untargeted individuals or households, such a personalized letter is potentially more harmful to each recipient because of the intended impression that the letter was indeed directed specifically to that person. We are continuing the approach of the proposed rule in defining each mass mailing without specific identifying information, mailed at the same time on a given day, as a single violation.

We have specifically clarified § 1003.103(c)(2) of the regulations on this point.

Comment: Two commenters stated that although the proposed regulations referred to "advertisement, solicitation or literature," they were uncertain as to whether this prohibition applied equally to newsletters, informational pamphlets and other publications concerning the Medicare and Social Security programs that may be issued at a cost or free of charge. The commenters specifically indicated concern over the publishing of information for their patients regarding program information, beneficiary rights

and benefits, and other coverage information.

Another commenter detailed the circumstance of unsolicited telephone calls to program beneficiaries from individuals identifying themselves as "Medicare representatives," and wanted to know whether such misleading telephone solicitations are also covered under these regulations.

Response: Providing printed or verbal news or information to individuals advising them about Social Security and Medicare programs, and the benefits to which they are entitled, is not prohibited as long as the information presented does not give a false impression regarding the entity's association or affiliation with these programs. We would not view as violative of the statute, in and of itself, material appearing in newsletters, such as Medicare screen lists and reimbursement updates, instructions on how to complete forms related to Social Security benefits or Medicare coverage, or any direct response advertisement items that would reference the Department or its programs, but would purport no approval, endorsement or authorization from the Department or its programs.

With regard to telephone solicitations, the statute states that no person may misuse those specified words, letters, symbols or emblems associated with the Department, Social Security and the Medicare program, "in connection with any item constituting an advertisement, solicitation, circular, book, pamphlet, or *other communication* * * *" (Underlining added). We have interepreted "other communication" to include telephone solicitations that may create a false impression that a direct relationship or affiliation exists with the Department or its programs. False and misleading telephone solicitation activities will be subject to CMPs on the same basis as broadcast and telecast violations.

Comment: Two commenters requested clarification on the liability of individuals and organizations for disseminating third-party advertisements that may violate the statute.

Response: While we would hope that companies selling commercial space or commercial time to advertisers would check the accuracy and truthfulness of the solicitation being carried, as a rule, the individual or entity engaging in the false solicitation, and not the third-party advertiser acting as the conduit, will be deemed in violation of this provision. A third-party advertiser, as well as an advertising agency, can, however, themselves be subject to a CMP when they alter an advertisement or solicitation so to create a false impression as prohibited by the statute.

3. Variation of Prohibited Terms, Emblems and Symbols

Comment: Citing difficulty in determining under what circumstances an organization's use of a particular design might be prohibited, one commenter requested that the regulations clearly describe or depict those emblems or symbols affected by this prohibition.

Response: Two areas of concern are brought into play through the commenter's inquiry: The use of official symbols and emblems associated with the Medicare and SSA programs, and the use of symbols and emblems depicting variations of those designs and symbols. In keeping with the statute, use of any and all of the official emblems and symbols used by or associated with the Department's SSA and Medicare programs, or any combination or variation of such symbols or emblems in a deceptive manner, without the Department's prior consent will be considered a violation of this provision.

With respect to describing or depicting in regulations those variations or facsimiles of Departmental and program symbols, emblems, shields and other identifiers, we reject any "safe harbor" approach in this area as we have similarly done with the variation of words and program-related terms. As we stated above, section 1140 of the Act provides for an approach of judging whether the result of the use of certain words, symbols and emblems is such that the person knows or should know that the item would create a false impression that it was approved, endorsed or authorized by the Department.

Comment: One commenter cited the confusion caused by proprietary entities that call themselves "MediCare claims processing centers," and requested that the regulations be clarified to prohibit the use of similar sounding words and phrases that are designed to falsely mislead individuals into believing they represent the Department, SSA or the Medicare program.

Response: There are numerous entities and organizations that attempt to play off the names of official Government departments and agencies in order to create a false or misleading impression to the public that their activity is associated with, or authorized, endorsed or otherwise sanctioned by, the Federal Government. While the scope of this provision already extends to variations or combination of Department and program-related words and symbols, such as the term "Medicare," section 1140 remains limited to prohibitions on only certain words, letters, symbols and emblems (or their variations) directly associated with this Department and its Medicare and Social Security programs. As a result, we will review and assess each potential violation based on the facts surrounding the particular advertisement or solicitation in question in order to determine whether an actual violation exists and whether a CMP will be imposed.

For example, with regard to variations of certain health care-related terms and letters, we realize that the use of such prefixes as "Med-" and "Medi-" are very often integral parts of terms and titles associated with the advertisement and provision of health and medical care services, and are inherently more prone to creating a misleading impression. We will closely review these terms and letters where we believe they are being used to create a false impression of Departmental association, such as with the case of certain organizations representing themselves as "Medi-Care" or "MedCare" bill processing centers. Variations of other names and letters covered by the statute will also be reviewed on a case-by-case basis to determine possible misleading advertisements and potential violations.

4. Use of Disclaimers

Comment: In assessing the penalty amount for a violation, the proposed regulations indicated that the OIG would consider efforts by the individual or organization to include a clear, prominent and conspicuously-placed disclaimer of any association or affiliation with the Department or its programs, and we attempted to cite examples of what might be deemed as acceptable disclaimers, e.g., those that would appear on the face of the solicitation, as well as on the envelope in the case of a mailed solicitation. One commenter was concerned that individuals and organizations could continue to misuse terms or symbols in their solicitations as long as a disclaimer of affiliation with the Department or its agencies was incorporated into their advertisement. A second commenter indicated that the proposed regulations failed to indicate precisely where the disclaimer(s) should appear.

Response: The primary purpose of the statute is to discourage the use of certain program-related terms, letters, symbols or emblems, or combinations or variations of these items, in a manner

which may create a misrepresentation that the communication is approved, endorsed or authorized by the Department. Such misrepresentations can be powerfully reinforced by a host of other methods, such as use of (1) paper and type face similar in style and size to items used by the Department (e.g., Social Security check envelopes); (2) ambiguous trade names (e.g., "Bureau of Beneficiary Services"); (3) Washington or Baltimore addresses; (4) gratuitous references to Government promotional interests (e.g., "Buy U.S. Savings Bonds"); (5) stylized eagles or other images associated with the Federal Government; and (6) purported deadlines or limitations (e.g., "Final Notice"). While use of any of these techniques may not materially foster a false impression, often they are used in creative, subtle and highly effective ways to enhance such a misrepresentation.

It must be emphasized that the preferable way to avoid liability under the statute is to avoid entirely use of the programs' terms, letters, symbols and emblems, particularly where accompanied by a variety of the other common methods for strengthening the misrepresentation of association with the Government. Where such terms, letters, symbols or emblems are misused in solicitations and other communications that also employ some of the variety of other methods to foster a false impression, a disclaimer may be quite ineffective. This is particularly the case with many of the Department's beneficiary groups, such as seniors, who may be increasingly vulnerable to the appearance and character of a solicitation or advertisement, and less able to appreciate the significance and meaning of the disclaimer. Accordingly, we believe that use of a disclaimer in such instances may carry little weight in affixing liability and in determining an appropriate amount for a penalty.

For the reasons described above, and due to the wide variety of methods for creating and reinforcing a prohibited misrepresentation, it is not possible to prescribe a particular disclaimer that would be reasonably effective in most or all circumstances. At all times, the issuing individual or entity retains the responsibility for the overall impression created by their solicitation or advertisement.

Of course, in some circumstances, a clear, prominent and conspicuously-placed disclaimer might be completely effective in clarifying that the solicitation has not been approved, endorsed or authorized by the Department. An example of such a circumstance could be where the use of the term "Medicare" or "Social Security" is unavoidable, and where there is little or nothing else in the solicitation that fosters a misrepresentation of association with the Department.

Even where liability is found under the statute, a clear, prominent and conspicuously-placed disclaimer may be considered as a mitigating factor by the administrative law judge in affixing the amount of penalty. We offer the following suggestions on what such a disclaimer should contain—

- It appears on the face of a solicitation, as well as on the envelope in the case of a mailed solicitation, in conspicuous and eligible type that would be in contrast by typography, layout and color with other printing on its face.
- It clearly states words to the effect that the offering entity is a private corporation or entity not affiliated with any Federal agency, that the product or service offered through the solicitation or advertisement has not been approved, authorized or endorsed by the Department, and that the offering is not being made by the Department or its programs.
- It states, when appropriate, that all or some of the products or services offered in the solicitation may also be provided either free of charge or at a lower price by the Department.
- If mailed, it bears on the face of the envelope, outside cover or wrapping of the solicitation in capital letters and in conspicuous and legible type, notice that the solicitation is not a Federal document.
- In the case of a broadcast or telecast, it contains an easily understandable and unambiguous verbal disclaimer.

Also with respect to mitigating and aggravating factors, the proposed regulations had considered "actual harm to the public" as a relevant factor in determining the amount of any penalty under the law. However, we now believe that there would likely be intractable problems in actually proving such harm and the extent of such harm. Since the proof of harm is not required or contemplated by the statute, we believe "actual harm" should not be viewed as a mitigating or aggravating factor in setting the penalty amount, and have revised § 1003.106 accordingly. While the overall congressional purpose in enacting this type of legislation may have been to protect the public from the "harm" of deceptive solicitations and other communications, the statute itself does not require a measure of such harm before imposition of a penalty. Other statutes prohibiting deceptive practices, such as the Department's CMP law, the Postal Service's authority governing false representations [39 U.S.C. 3005] and the Federal Trade Commission Act [15 U.S.C. 45], likewise provide no such standard.

5. Time for Compliance

Comment: One commenter indicated that the proposed regulations did not provide sufficient lead time or a grace period for compliance, and believed that it would be beneficial if the OIG allowed for affected individuals and organizations to make changes necessary to comply with these provisions. A second commenter believed that any solicitations or advertisements published prior to the rule's enactment date should be exempt from CMPs.

Response: The statute on which these regulations are based was enacted July 1, 1988. Our CMP authority concerning the misuse of names and symbols has, therefore, existed since that time, and these final regulations are not establishing any particular requirements beyond those imposed by the statute. Also, we believe that establishing a grace period that may allow individuals and entities to continue to falsely represent products and services would not be in the best interest of protecting the general public.

In addition, as indicated above, we intend to use, where feasible and appropriate, informal methods of education and contact with individuals and organizations prior to initiating a CMP action and to afford them an opportunity to alter their advertisements or to cease their use. As a result, we have determined that these regulations will be effective upon publication.

III. Regulatory Impact Statement

Introduction

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for regulations that meet one of the Executive Order criteria for a "major rule," that is, that would be likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-

based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (5 U.S.C. 601 through 612), unless the Secretary certifies that a regulation would not have a significant economic impact on a substantial number of small entities. The analysis is intended to explain what effect the regulatory action by the agency will have on small businesses and other small entities, and to develop lower cost or burden alternatives.

Impact on Organizations and Businesses

We have determined that this rule is not a "major rule" under Executive Order 12291 as it is not likely to meet the criteria for having a significant economic impact. As indicated above, the provisions contained in this rulemaking provide new authorities to the OIG to levy civil money penalties against persons or entities engaged in the prohibited activity or practice of misusing certain Departmental terms, symbols and emblems, as proscribed by statute. These provisions are a result of statutory changes and serve to clarify departmental policy with respect to the imposition of CMPs upon persons and entities who violate the statute. We believe that the great majority of providers and practitioners do not engage in such prohibited activities and practices discussed in these regulations, and that the aggregate economic impact of these provisions should, in effect, be minimal, affecting only those who have engaged in prohibited behavior in violation of statutory intent. As such, this rule should have no direct effect on the economy or on Federal or State expenditures.

Conclusion

For the reasons set forth above, we have determined that no regulatory impact analysis is required for these final regulations. In addition, while some penalties the Department could impose as a result of these regulations might have an impact on small entities, we do not anticipate that a substantial number of these small entities will be significantly affected by this rulemaking. Therefore, since we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on a number of small business entities, we have not prepared a regulatory flexibility analysis.

List of Subjects in 42 CFR Part 1003

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare, Penalties.

42 CFR part 1003 is amended as set forth below:

PART 1003—CIVIL MONEY PENALTIES AND ASSESSMENTS

1. The authority citation for part 1003 is revised to read as follows:

Authority: 42 U.S.C. 1302, 1320a–7, 1320a–7a, 1320b–10, 1395u(j), 1395u(k), 11131(c) and 11137(b) (2).

2. Section 1003.100 is revised to read as follows:

§ 1003.100 Basis and purpose.

(a) *Basis.* This part implements sections 1128(c), 1128A, 1140, 1842(j) and 1842(k) of the Social Security Act, and sections 421(c) and 427(b) (2) of Pub. L. 99–660 (42 U.S.C. 1320a–7(c), 1320a–7a, 1320b–10, 1395u(j), 1395u(k) 11131(c) and 11137(b) (2)).

(b) *Purpose.* This part establishes procedures for (1) Imposing:

(i) Civil money penalties and assessments against persons who have submitted certain prohibited claims under Medicare and State health care programs;

(ii) Civil money penalties against persons who fail to report information concerning medical malpractice payments or who improperly disclose, use or permit access to information reported under part B of title IV of Public Law 99–660, and regulations specified in 45 CFR part 60; and

(iii) Civil money penalties against an individual or organization that misuses certain Medicare and Social Security program words, letters, symbols and emblems;

(2) Suspending from the Medicare and State health care programs, persons against whom a civil money penalty or assessment has been imposed; and

(3) Specifying the appeal rights of persons subject to a penalty or assessment.

3. Section 1003.102 is amended by revising paragraphs (b) (1) (iii), (2), and (3) (ii) and by adding a new paragraph (b) (4) to read as follows:

§ 1003.102 Basis for civil money penalties and assessments.

* * * * *

(b) The OIG may impose a penalty against any person or organization whom it determines in accordance with this part:

(1) Has presented or caused to be presented a request for payment in violation of the terms of—

* * * * *

(iii) An agreement to be a participating physician or supplier under section 1842(h) (1);

(2) Is a non-participating physician under section 1842(j) of the Act and has knowingly and willfully billed individuals enrolled under part B of title XVIII of the Act during the statutory freeze for actual charges in excess of such physician's actual charges for the calendar quarter beginning on April 1, 1984;

(3) Is a physician who has knowingly and willfully—

* * * * *

(ii) Included in his or her bill the services of an assistant at surgery during a routine cataract operation, and has not received prior approval from the appropriate Peer Review Organization or Medicare carrier for such services based on the existence of a complicating medical condition; or

(4) Has made use of certain words, letters, symbols or emblems in such a manner that they knew, or should have known, would convey the false impression that an advertisement or other item was authorized, approved, or endorsed by the Department, the Social Security Administration (SSA) or the Health Care Financing Administration (HCFA), or that such person or organization has some connection with, or authorization from, the Department, SSA or HCFA. Civil money penalties may be imposed for misuse of—

(i) The words "Social Security," "Social Security Account," "Social Security Administration," "Social Security System," "Medicare," and "Health Care Financing Administration," or any other combination or variation of such words;

(ii) The letters "SSA" or "HCFA," or any other combination or variation of such letters; or

(iii) A symbol or emblem of the Social Security Administration (including the design of, or a reasonable facsimile of the design of, the Social Security card, the check used for payment of benefits under title II, or envelopes or other stationery used by SSA) or of the Health Care Financing Administration, or any combination or variation of such symbols of emblems.

* * * * *

4. Section 1003.103 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 1003.103 Amount of penalty.

(a) The OIG may impose a penalty of not more than $2,000 for each item or service that is subject to a determination

under §§ 1003.102(a) and (b)(1)–(3) of this part.

* * * * *

(c)(1) The OIG may impose a penalty of not more than $5,000 for each violation resulting from the misuse of Departmental or program words, letters, symbols, or emblems relating to printed media, and a penalty of not more than $25,000 in the case of such misuse relating to a broadcast or telecast, that is subject to a determination under § 1003.102(b)(4) of this part. With respect to multiple violations consisting of substantially identical communications or productions, total penalties may not exceed $100,000 per year.

(2) For purposes of this paragraph, a violation is defined as—

(i) In the case of a direct mailing solicitation, each group mailing of an identical, non-personalized, generic letter or solicitation sent at the same time on the same day. Each unique or personalized letter or solicitation, such as with the individual's name and address appearing in the body of the advertisement or on the mailing envelope or covering, will be treated as a separate and single violation;

(ii) In the case of a printed advertisement, each advertisement or solicitation in each publication or issue of a publication in which it appears. Multiple or separate advertisements will be treated as separate violations; and

(iii) In the case of a broadcast or telecast, the airing of a single commercial or solicitation. Each airing will be a separate violation.

5. Section 1003.105 is amended by revising paragraph (a) and to read as follows:

§ 1003.105 Suspension from participation in Medicare and Medicaid.

(a) A person subject to a penalty or assessment determined under §§ 1003.102 (a) or (b)(1)–(3) may, in addition, be suspended from participation in Medicare for a period of time determined under § 1003.107. The OIG may require the appropriate State agency to suspend the person from the Medicaid program for a period specified by the OIG. The State agency may request the Secretary to waive suspension of a person from the Medicaid program under this section if it concludes that, because of the shortage of providers or other health care personnel in the area, individuals eligible to receive Medicaid benefits would be denied access to medical care or that such individuals would suffer hardship. The Secretary will notify the State agency if and when the Secretary waives suspension in response to such a request.

* * * * *

6. Section 1003.106 is amended by revising paragraphs (a)(1), (a)(3) and the introductory text of (b) and (c) to read as follows:

§ 1003.106 Determinations regarding the amount of the penalty and assessment.

(a)(1) In determining the amount of any penalty or assessment in accordance with §§ 1003.102 (a) and (b)(1)–(3), the OIG will take into account—

(i) The nature of the claim or request for payment and the circumstances under which it was presented;

(ii) The degree of culpability of the person submitting the claim or request for payment;

(iii) The history of prior offenses of the person submitting the claim or request for payment;

(iv) The financial condition of the person presenting the claim or request for payment; and

(v) Such other matters as justice may require.

* * * * *

(3) In determining the amount of any penalty in accordance with § 1003.102(b)(4), the OIG will take into account—

(i) The nature and objective of the solicitation or other communication, and the degree to which the communication has the capacity to deceive members of the public;

(ii) The frequency and scope of the violation, and whether a specific segment of the population was targeted;

(iii) The degree to which any misrepresentation or deception may have been mitigated by a clear, prominent and conspicuously-placed disclaimer of association with the Government;

(iv) The prior history of the organization in its willingness or refusal to comply with informal requests to correct violations;

(v) The history of prior offenses of the individual or entity in their misuse of Departmental and program words, symbols and emblems; and

(vi) Such other matters as justice may require.

(b) *Guidelines for determining the amount of the penalty or assessment.* As guidelines for taking into account the factors listed in paragraph (a)(1) of this section, the following circumstances are to be considered—

* * * * *

(c) As guidelines for determining the amount of the penalty and, when applicable, assessments to be imposed for every item or service subject to a determination under §§ 1003.102(a) and (b)(1)–(3)—

* * * * *

7. Section 1003.109 is amended by revising introductory text of paragraph (a) to read as follows:

§ 1003.109 Notice of proposed determination.

(a) If the Inspector General proposes to impose a penalty and, when applicable, assessment, or to suspend a respondent from participation in Medicare or Medicaid, as applicable, in accordance with this part, he or she must deliver or send by certified mail, return receipt requested, to the respondent, written notice of his or her intent to impose a penalty, assessment and suspension, as applicable.

* * * * *

8. Section 1003.114 is amended by revising paragraph (a) to read as follows:

§ 1003.114 Issues and burden of proof.

(a)(1) To the extent that a proposed penalty and, when applicable, assessment is based on claims or requests for payment presented on or after August 13, 1981, the Inspector General must prove by a preponderance of the evidence that the respondent presented such claim or request for payment as described in §§ 1003.102(a) and (b)(1)–(3).

(2) To the extent that a proposed penalty is based on the misuse of terms, letters, symbols or emblems of the Medicare or Social Security programs under section 1140 of the Social Security Act, the Inspector General must prove by a preponderance of the evidence that the respondent used such terms, letters, symbols or emblems as prohibited by § 1003.102(b)(4) and section 1140 of the Act.

* * * * *

Dated: April 9, 1991.

Richard P. Kusserow,

Inspector General, Department of Health and Human Services.

Approved: May 21, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91–20547 Filed 8–27–91; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6871

[CO-930-4214-10; COC 13447]

Withdrawal of National Forest System Lands for the Protection of The Lower Rampart Range Scenic Zone; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 11,488 acres of National Forest System lands from mining for 20 years for the Forest Service to protect the panoramic view of the Air Force Academy, the Garden of the Gods, and the Pikes Peak area along Interstate 25 north of Colorado Springs. The lands remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

DATES: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

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

1. Subject to valid existing rights, the following described National Forest System lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from location and entry under the United States mining law (30 U.S.C. ch. 2), for the protection of outstanding scenic values:

Sixth Principal Meridian

Pike National Forest

T. 11 S., R. 67 W.,
- Sec. 6, Lots 1 and 2, S½NE¼ and W½SE¼;
- Sec. 7, Lots 3 and 4, NE¼, E½W½, W½SE¼, and SE¼SE¼;
- Sec. 17, W½W½, S½N½NE¼SW¼, S½NE¼SW¼, and SE¼SW¼;
- Sec. 18, E½;
- Sec. 19, E½E½;
- Sec. 20, NW¼NE¼, N½NW¼, W½SW¼NW¼, SE¼SW¼NW¼, W½NE¼SW¼, N½NE¼NE¼SW¼, S½SE¼NE¼SW¼, NW¼SW¼, and S½SW¼;
- Sec. 29, NW¼ and W½SW¼;
- Sec. 30, E½E½.

T. 13 S., R. 67 W.,
- Sec. 4, Lots 2, 3, and 4, SW¼NW¼, SW¼, W½SE¼, and SE¼SE¼;
- Sec. 5, Lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 6, Lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
- Sec. 7, Lots 1 to 4, inclusive, E½W½ and E½;
- Sec. 8;
- Sec. 9, N½NW¼NE¼, SW¼NW¼NE¼, W½SW¼NE¼, W½, NE¼NE¼SE¼, NW¼NW¼SE¼, S½N½SE¼, and S½SE¼;
- Sec. 17;
- Sec. 18, Lots 1 to 4, inclusive, NE¼, E½W½, N½SE¼, N½S½SE¼, N½S½SW¼SE¼, and SE¼SE¼;
- Sec. 19, Lots 1 to 4, inclusive E½NE¼NE¼, SW¼NW¼NE¼, S½NE¼, E½W½, and SE¼;
- Sec. 20, NW¼NE¼, NE¼NW¼, and W½W½;
- Sec. 29, W½NW¼ and NE¼SW¼;
- Sec. 30, Lots 1 to 4, inclusive, NE¼, E½W½, W½SE¼, and NE¼SE¼, exclusive of Mineral Patent No. 32595;
- Sec. 31, Lot 1 and NW¼NE¼ and NE¼NW¼.

T. 13 S., R. 68 W.,
- Sec. 1, SE¼SE¼;
- Sec. 11, Lot 14;
- Sec. 12, Lots 1 to 8, inclusive NE¼NE¼ and S½NE¼;
- Sec. 13, Lots 1 to 11, inclusive, 15 and 16, West 10 chains of Lot 13, and East 10 chains of Lot 14;
- Sec. 14, Lots 1, 2, 7, 8, 13, 14, and West 10 chains of lot 10;
- Sec. 23, NE¼NE¼;
- Sec. 24, Lots 1 to 14, inclusive;
- Sec. 25, Lots 1 to 12, inclusive, E½NW¼SW¼, and N½NW¼NW¼SW¼.

T. 14 S., R. 68 W.,
- Sec. 1, Lots 3 and 4, S½N½, SW¼, W½SE¼;
- Sec. 2, Lots 1 and 2.

The areas described aggregate approximately 11,488.28 acres of National Forest System lands in El Paso County.

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

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

Dated: August 16, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-20554 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-JB-M

43 CFR Public Land Order 6875

[OR-943-4214-10; GP1-196; OR-1202]

Withdrawal of National Forest System Lands for Babyfoot and Big Craggies Botanical Areas; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,050 acres of National Forest System lands in the Siskiyou National Forest from mining for a period of 20 years for protection of the Forest Service's Babyfoot and Big Craggies Botanical Areas. The lands have been and remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

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

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch 2), but not from leasing under the mineral leasing laws, to protect the Forest Service's botanical areas:

Willamette Meridian

Siskiyou National Forest

Babyfoot Botanical Area

Those portions of the following described lands located outside the designated Kalmiopsis Wilderness Area:

T. 38 S., R. 9 W.,
- Sec. 31, S½S½NE¼NE¼, W½NW¼NE¼, SE¼NW¼NE¼, S½NE¼, E½NE¼NW¼, NE¼NE¼SW¼, S½NE¼SW¼, N½SE¼, and N½S½SE¼;
- Sec. 32, SW¼NW¼, W½SE¼NW¼, N½NW¼NE¼SW¼, and N½NW¼SW¼.

The area described contains approximately 335 acres in Curry and Josephine Counties.

Big Craggies Botanical Area

Those portions of the following described lands located outside the designated Kalmiopsis Wilderness Area:

T. 37½ S., R. 11 W., unsurveyed,
- Sec. 31, W½NW¼NW¼ and NW¼SW¼NW¼.

T. 37 S., R. 12 W., unsurveyed,
- Sec. 34, S½NE¼SW¼, N½SE¼SW¼, SE¼SE¼SW¼, and SE¼;
- Sec. 35, S½NE¼, S½SE¼NW¼, SW¼, N½SE¼, N½SW¼SE¼, and SE¼SE¼;
- Sec. 36, SW¼NW¼ and W½SW¼.

T. 37½ S., R. 12 W., unsurveyed,
Sec. 25, SW¼SW¼NE¼, S½SE¼NW¼, NE¼SW¼, E½SE¼SW¼, W½SE¼, and SE¼SE¼;
Sec. 26, W½NW¼NE¼, S½S½NW¼, N½SW¼, NE¼SW¼SW¼, and SE¼SW¼;
Sec. 36, NW¼NE¼, N½SW¼NE¼, SE¼SW¼NE¼, and E½NE¼NW¼.
The areas described contain approximately 715 acres in Curry County.
The areas described above aggregate approximately 1,050 acres.

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

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

Dated: August 16, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-20558 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6874

[OR-943-4214-10; GP1-164; OR-45928]

Withdrawal of National Forest System Lands for the Panelli Seed Orchard and the Quartz Evaluation Plantation; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 99.78 acres of National Forest System lands in the Fremont National Forest from mining for a period of 20 years for protection of the Forest Service's Panelli Seed Orchard and Quartz Evaluation Plantation. The lands have been and remain open to such disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

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

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, to protect a Forest Service seed orchard and evaluation plantation:

Willamette Meridian

Fremont National Forest

T. 37 S., R. 15 E.,
Sec. 24, NE¼SE¼.
T. 37 S., R. 16 E.,
Sec. 19, W½ of lot 3;
Sec. 28, SW¼NE¼.
The areas described aggregate 99.78 acres in Klamath and Lake Counties.

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

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

Dated: August 16, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-20557 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6872

[OR-943-4214-10; GP1-165; OR-10138]

Withdrawal of National Forest System Land for the Mount Ashland Winter Sports Recreation Area Addition; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,080 acres of National Forest System land in the Klamath and Rogue River National Forests from mining for a period of 20 years for protection of the Forest Service's Mount Ashland Winter Sports Recreation Area Addition. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

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

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect a Forest Service recreation area addition:

Willamette Meridian

Klamath and Rogue River National Forests

T. 40 S., R. 1 E.,
Sec. 9, S½S½S½;
Sec. 15, NW¼SW¼;
Sec. 16, N½;
Sec. 17, E½;
Sec. 20, NE¼;
Sec. 21, S½N½.
The area described contains 1,080 acres in Jackson County.

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

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

Dated: August 16, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-20556 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6873

[CO-070-4920-10-4555-10; COC-51600]

Transfer of Public Land for Estes Gulch Disposal Site; Colorado

AGENCY: Bureau of I and Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order permanently transfers 205 acres of public land to the Department of Energy in accordance with the terms of the Uranium Mill Tailings Remedial Action Amendments Act of 1988.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-1706.

By virtue of the authority vested in the Secretary of the Interior by section 106 of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916), as amended by the Uranium Mill Tailings Remedial Action Amendments Act of 1988, Public Law 100-616, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby permanently transfered to the Department of Energy, and as a result of this transfer, the land is no longer subject to the operation of the general land laws, including the mining and mineral leasing laws, for the Estes Gulch Disposal Site:

Sixth Principal Meridian

T. 5 S., R. 93 W.,
Sec. 11, S½S½SW¼SW¼SE¼;
Sec. 14, NW¼NW¼NE¼, W½SW¼NW¼NE¼, W½W½SW¼NE¼, E½NE¼NW¼, E½NW¼NE¼NW¼, SW¼NE¼NW¼, SE¼SE¼NW¼NW¼, NE¼NE¼SW¼NW¼, S½NE¼SW¼NW¼, SE¼SW¼NW¼, SE¼NW¼, NE¼SW¼, NE¼NW¼SW¼, E½E½NW¼NW¼SW¼, W½NW¼SE¼, and W½W½NW¼SE¼.

The area described contains approximately 205 acres of public land in Garfield County.

2. The transfer of the above-described land to the Department of Energy vests in that Department the full management jurisdiction, responsibility, and liability for such land and all activities conducted thereon, except as provided in paragraph 3.

3. The Secretary of the Interior shall retain the authority to administer any existing claims, rights, and interests in this land established before the effective date of the transfer.

Dated: August 14, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-20555 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-JB-M

43 CFR Public Land Order 6870

[OR-943-4214-10; GP1-177; OR-16905 (WASH)]

Withdrawal of National Forest System Land for Steamboat Mountain Research Natural Area; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,400 acres of National Forest System land in the Gifford Pinchot National Forest from mining for a period of 20 years for protection of the Forest Service's Steamboat Mountain Research Natural Area. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

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

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, to protect a Forest Service research natural area:

Willamette Meridian

Gifford Pinchot National Forest

A tract of land located within the following described townships and sections as more particularly identified and described below:

T. 7 N., R. 8 E., unsurveyed,
Sec. 1.
T. 8 N., R. 8 E., unsurveyed,
Secs. 25, 35, and 36.
T. 7 N., R. 9 E., unsurveyed,
Sec. 6.
T. 8 N., R. 9 E., unsurveyed,
Secs. 30 and 31.

Beginning at the Steamboat Mountain Lookout Station in the SE¼SE¼NE¼, sec. 31, T. 8 N., R. 9 E.; thence southerly along a spur ridge to a point where Steamboat Mountain trail crosses the spur ridge; thence easterly along Steamboat Mountain trail to the Steamboat Mountain quarry road; thence southwesterly along the Steamboat Mountain quarry road, 200 feet from the centerline, approximately two and one-eighth miles to its junction with Forest Road 123; thence westerly along Forest Road 123, 200 feet from the centerline, approximately one mile to its junction with Forest Road N819; thence northwesterly along Forest Road N819, 200 feet from the centerline, for approximately one-half mile to its junction with Forest Road N845; thence northerly along Forest Road N845, 200 feet from the centerline approximately one-eighth mile to its junction with Forest Road N946; thence northerly along a line N. 73° E. for about one-half mile to a point on Forest Road N846; thence easterly along Forest Road N846, 200 feet from the centerline, for approximately three-quarters of a mile to its terminus (end of gravelled road on the eastern edge of the clear-cut in the SE¼ of sec. 25, T. 8 N., R. 8 E.); thence northerly along the edge of the clearcut to the 4,400 foot contour; thence easterly along the 4,400 foot contour for approximately five-eighths mile to the top of a rock escarpment; thence along the top of the escarpment for approximately one mile to the Steamboat Mountain Lookout site and the place of beginning.

The area described contains approximately 1,400 acres in Skamania County.

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

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

Dated: August 16, 1991.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-20559 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 910654-1154]

Steller Sea Lion Conservation: Alaskan Native Subsistence Harvest

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

ACTION: Final rule, correction.

SUMMARY: The Secretary of Commerce (Secretary) issues this final rule to correct the regulations establishing protective measures for Steller sea lions. Those regulations were issued pursuant to the authority of the Endangered Species Act (ESA). One provision of those regulations, a prohibition on entering into buffer zones around key

Steller sea lion rookeries, was made applicable to all persons including Alaskan natives engaged in subsistence hunting. Under the terms of the ESA, takings of endangered or threatened species by any Indian, Aleut, or Eskimo who is an Alaskan native residing in Alaska or any non-native permanent resident of an Alaskan native village (hereinafter Alaskan natives) primarily for subsistence purposes, may not be regulated unless special rulemaking procedures specified in the ESA with respect to regulating subsistence takings by Alaskan natives are followed. Thus, since the Secretary is not authorized to impose the prohibition on Alaskan natives without following the requisite procedures, the regulations are corrected to remove the prohibition with respect to Alaskan natives. The prohibition remains with respect to all others covered by the rule.

EFFECTIVE DATE: August 28, 1991.

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

SUPPLEMENTARY INFORMATION: The Steller sea lion was listed by the Secretary as threatened under the ESA on November 9, 1990, and regulations establishing protective measures for Steller sea lions were issued under the authority of the ESA along with the notice of listing (55 FR 49204, Nov. 26, 1990).

Section 227.12(a)(1) of 50 CFR part 227, the regulations establishing protective measures, prohibit all persons from discharging a firearm at or within 100 yards (91.4 meters) of a Steller sea lion. Section 227.12(b)(3) makes the prohibition inapplicable to Alaskan natives engaged in subsistence hunting. Section 227.12(a)(2) prohibits all persons from entering into buffer zones established around key Steller sea lion rookeries. As issued, Alaskan natives engaged in subsistence takings of Steller sea lions are subject to the prohibition from entering the buffer zones. However, the regulations allow such natives to apply for an exemption from the prohibition for any activity which will not have a significant adverse impact on Steller sea lions, which has been conducted historically or traditionally in the buffer zones, and for which there is no feasibly available and acceptable alternative both as to the site and the activity (50 CFR 227.12(b)(6)).

Under section 10(e) of the ESA, the provisions of the ESA with respect to the taking of any endangered or threatened species, if such taking is primarily for subsistence purposes, do not apply to Alaskan natives unless the Secretary of Commerce determines such taking materially and negatively affects the threatened or endangered species (16 U.S.C. 1539(e)). In such case, the Secretary may issue regulations governing (including prohibiting) such taking after giving notice, holding hearings, and complying with the requirements of section 103 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1373).

Section 103 of the MMPA requires that such regulations "be made on the record after the opportunity for an agency hearing." When these words are present in a statute, any rulemaking proceeding implementing or in conformance with that statute must follow the procedures of sections 556 and 557 of the Administrative Procedure Act (APA) (5 U.S.C. 556 and 557). These sections, commonly referred to as the "formal rulemaking procedures" of the APA, require that there be an opportunity for an evidentiary hearing before an administrative law judge, that there be an opportunity for cross examination as necessary for full and true disclosure of the facts, that the parties be allowed to submit proposed findings and conclusions and present exceptions to the initial or recommended decisions of subordinate agency employees or to tentative agency decisions, and that the final decision be supported by substantial evidence in the exclusive rulemaking record. Because of an oversight as to the applicability of formal APA rulemaking provisions with respect to the regulation of subsistence takings by Alaskan natives (compliance with formal APA procedures is not required with respect to any other persons), the procedures were not followed with respect to prohibiting such natives from entering a buffer zone. Thus, because the Secretary is not authorized to impose the prohibition on Alaskan natives without following the requisite procedures, the regulations are corrected to remove the prohibition with respect to Alaskan natives. The prohibition remains with respect to all other persons covered by the rule.

The correction is executed by revising § 227.12(b)(3) to make the whole of paragraph (a) of § 227.12 inapplicable to the taking of Steller sea lions for subsistence purposes by Alaskan natives.

NMFS intends to promulgate more comprehensive protective regulations for the Steller sea lion and to designate critical habitat later this year. The recovery plan (see 56 FR 11204, Mar. 15, 1991) is expected to provide additional relevant information. NMFS issued an advance notice of proposed rulemaking requesting public comment to assist in efforts to develop more comprehensive regulations and to designate critical habitat (55 FR 29793, July 20, 1990). In its consideration of more comprehensive regulations, NMFS will further evaluate the impacts on Steller sea lions of the Alaskan native subsistence harvest. Standards for what constitutes a "wasteful manner" and whether the current level and method of subsistence harvest is being conducted in a wasteful manner will be analyzed. In addition, NMFS will evaluate whether such harvests materially and negatively affect the species. Appropriate action will be taken in response to these evaluations.

Because this rule corrects an existing rule to remove a prohibition imposed without following the prerequisite procedures specified in the enabling statute, and thus imposed without authority, there is no discretion as to the removal of the provision, and it is therefore unnecessary under 5 U.S.C. 555(b)(B) to provide notice and opportunity to comment. Because this rule relieves a restriction, under 5 U.S.C. 553(d)(1) it can and is being made immediately effective.

List of Subjects in 50 CFR Part 227

Endangered and threatened wildlife.

Dated: August 20, 1991.

Samuel W. McKeen,

Program Management Officer.

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

PART 227—THREATENED FISH AND WILDLIFE

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

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

§ 227.12 [Amended]

2. In § 227.12(b)(3), change the reference to "Paragraph (a)(1)" to read "Paragraph (a)".

[FR Doc. 91–20577 Filed 8–27–91; 8:45 am]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 167
Wednesday, August 28, 1991

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 926

[Docket No. FV-91-419]

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish assessment rates under Marketing Orders 920 and 926 for the 1991–92 fiscal period. Authorization of these budgets would permit the Kiwifruit Administrative Committee and the Tokay Grape Industry Committee (committees) to incur expenses that are reasonable and necessary to administer the programs. Funds to administer these programs are derived from assessments on handlers.

DATES: Comments must be received by September 9, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–447–2020.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement and Order No. 920 (7 CFR part 920), regulating the handling of kiwifruit grown in California, and Marketing Agreement No. 93 and Order No. 926 (7 CFR part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California. The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

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

There are approximately 100 handlers of California kiwifruit under Marketing Order No. 920, and approximately 850 kiwifruit producers. There are approximately 9 handlers of California Tokay grapes under Marketing Order No. 926, and approximately 40 Tokay grape producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of California kiwifruit producers and an estimated 30 to 40 percent of the kiwifruit handlers and the majority of the Tokay grape producers and handlers may be classified as small entities.

The budgets of expenses for the 1991–92 fiscal period were prepared by the Kiwifruit Administrative Committee and the Tokay Grape Industry Committee, the agencies responsible for local administration of the marketing orders, and submitted to the Department of Agriculture for approval. The members of these committees are handlers and producers of California kiwifruit and California Tokay grapes. They are familiar with the committees' needs and with the costs of goods and services in their local areas and are thus in a position to formulate appropriate budgets. The budgets were formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rates recommended by the committees were derived by dividing anticipated expenses by expected shipments of kiwifruit and Tokay grapes. Because these rates will be applied to actual shipments, they must be established at rates that will provide sufficient income to pay the committees' expenses.

The Kiwifruit Administrative Committee met on July 24, 1991, and unanimously recommended a 1991–92 budget of $138,452, $45,494 less than the previous year. Major increases in staff salaries and the pension plan would be offset by major decreases in the field staff food and lodging, member food and lodging, controlled buys, and contingency categories, and the elimination of funding for the maturity test. The committee also recommended an assessment rate of $0.015 per tray of kiwifruit, $0.005 more than last season's. The vote was six in favor, two opposed, and one abstaining. The two people voting no felt the assessment rate should be higher, and the one abstaining preferred not taking sides. This rate, when applied to anticipated shipments of 7.5 million 7½ pound trays, would yield $112,500 in assessment income. This, along with $25,952 from the committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1991–92 fiscal period, estimated to be approximately $20,000, would be within the maximum permitted by the order of one fiscal period's expenses.

The Tokay Grape Industry Committee met on April 2, 1991, and unanimously recommended a 1991–92 budget of $5,375, $8,160 less than the previous year. Major decreases were the elimination of the executive travel and manager's salary categories. When the previous manager retired late last year, the committee's secretary assumed the manager's duties. The committee also

met on July 29, 1991, and unanimously recommended an assessment rate of $0.07 per 23-pound lug, the same as last season. Anticipated shipments of 39,606 lugs would yield $2,772.42 in assessment income. This, along with $2,602.58 from the committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1991–92 fiscal period are estimated to be approximately $476, which is within the maximum permitted by the order of one fiscal period's expenses.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1991–92 fiscal period for the Kiwifruit Administrative Committee began on August 1, 1991, and the 1991–92 fiscal period for the Tokay Grape Industry Committee began on April 1, 1991, and each marketing order requires that the rate of assessment for the fiscal period apply to all assessable kiwifruit or grapes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committees at public meetings. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for these programs need to be expedited.

List of Subjects in 7 CFR Parts 920 and 926

Marketing agreements, Grapes, Kiwifruit, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR parts 920 and 926 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

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

2. A new § 920.209 is added to read as follows:

§ 920.209 Expenses and assessment rate.

Expenses of $138,452 by the Kiwifruit Administrative Committee are authorized, and an assessment rate of $0.015 per 7½ pound tray of California kiwifruit is established for the fiscal period ending July 31, 1992. Unexpended funds may be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

3. The authority citation for 7 CFR part 926 continues to read as follows:

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

4. A new § 926.230 is added to read as follows:

§ 926.230 Expenses and assessment rate.

Expenses of $5,375 by the Tokay Grape Industry Committee are authorized, and an assessment rate of $0.07 per 23-pound lug of California Tokay grapes is established for the fiscal period ending March 31, 1992. Unexpended funds may be carried over as a reserve.

Dated: August 23, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–20647 Filed 8–27–91; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 966

[Docket No. FV–91–287]

Tomatoes Grown in Florida; Proposed Rule To Revise Pack and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the three mandatory size classifications established for Florida tomatoes; authorize the use of an additional container for shipping Florida tomatoes; and clarify existing language in the handling regulation. This action would help promote the marketing of Florida tomatoes by reducing market uncertainties and assisting in the development of new markets.

DATES: Comments must be received by September 27, 1991.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 447–5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 125 and Marketing Order No. 966 (7 CFR part 966), both as amended, regulating the handling of tomatoes grown in Florida. The marketing agreement and order are authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

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

There are approximately 50 handlers of Florida tomatoes subject to regulation under the marketing order, and approximately 250 Florida tomato producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of Florida tomatoes may be classified as small entities.

The Florida Tomato Committee (committee), the agency responsible for

local administration of the order, met on May 15, 1991, and unanimously recommended revising the size classification requirements included in the handling regulation to establish three mandatory size classifications for Florida tomatoes. The committee also unanimously recommended authorizing the use of an additional container for shipping Florida tomatoes and clarifying existing language in the handling regulation.

Under the Florida tomato marketing order (order), tomatoes produced in the production area and shipped to fresh market channels are required to meet certain handling requirements specified in § 966.323. Current requirements include a minimum grade of U.S. No. 3 and a minimum size of 2$^{6}/_{32}$ inches in diameter. Pack and container requirements are also in effect for tomato shipments to destinations outside the regulated area, which is defined as all of the State except the panhandle. The current regulation establishes three tomato size designations which are defined as 6x7, 6x6, 5x6 and Larger. Each size designation is in terms of a minimum and maximum diameter. For example, 6x7 size tomatoes range from a minimum diameter of 2$^{6}/_{32}$ inches to a maximum diameter of 2$^{15}/_{32}$ inches. There is a $^{9}/_{32}$ inch overlap between the current size designations.

The committee recommended that the size classifications in the handling regulation be revised to three mandatory size classifications (Medium, Large, and Extra Large), each with a $^{1}/_{32}$ inch overlap.

The United States Standards for Grades of Fresh Tomatoes (Standards) were recently revised to include four size designations (Small, Medium, Large and Extra Large), with a $^{1}/_{32}$ inch overlap between the different size classifications (56 FR 21913; effective October 1, 1991). These size designations are not factors in determining specific grades; that is, tomatoes could meet a U.S. No. 1 grade without regard to these provisions.

The Standards are in effect pursuant to the Agricultural Marketing Act of 1946. Under most circumstances, the use of the standards is voluntary. One exception is when a Federal marketing order, such as that covering Florida tomatoes, requires a commodity to be graded in accordance with the Standards. The committee believes that revising the size designations under the handling regulation to conform to the revised Standards would promote more uniform trading practices in the industry. Therefore, to assure that Florida tomatoes are packed and sold on the same basis as tomatoes produced in other producing areas on a national level, it would be necessary to amend the Florida tomato handling regulation accordingly.

The committee also recommended that a 10-pound container be added to the list of containers currently authorized for use under the handling regulation. Currently, the handling regulation provides authority for the use of 20- or 25-pound containers when shipping Florida tomatoes into interstate channels. Handlers have been shipping Florida tomatoes packed in 10-pound containers in intrastate markets. Receivers in interstate markets have expressed an interest in buying Florida tomatoes in 10-pound containers. The 10-pound container has been well received by the trade within the regulated area. The committee believes that authorizing the use of this container in interstate markets would provide buyers with a desired product and have a positive impact on the Florida tomato industry.

Section (a)(3)(i) Containers of the current regulation requires that containers of Florida tomatoes comply with § 51.1863 of the Standards. This section of the Standards provides, in part, that when packages are marked with a net weight of 15 pounds or more the net weight of the contents must be no less than the designated net weight, and no more than 2 pounds above that weight. Packages weighing less than 15 pounds are not covered by these requirements. The committee has requested that this standard weight requirement also apply to 10-pound containers for shipping tomatoes to interstate markets. The handling regulation is being proposed to be amended accordingly.

Tomatoes grown outside the production area are not covered by the marketing order and therefore are not required to meet the established grade, size, pack and container requirements, even when packed in the production area. It has become a practice for many of the 50 Florida tomato handlers to haul unregulated tomatoes in bulk to packinghouses located in the production area and pack them for shipment into interstate commerce. According to the committee, handlers are finding it less costly to haul tomatoes to production area packinghouses and prepare such tomatoes for market than to invest in new packinghouses outside the production area. There has been some confusion in the Florida tomato industry as to whether or not these tomatoes are covered under the marketing order. The committee believes that revising the handling regulation to specify that only tomatoes produced in the production area must meet the applicable requirements would clarify the handling regulation for the industry. However, if production area tomatoes are commingled with unregulated tomatoes during the packing process, such tomatoes would lose their identity. There is no readily identifiable means to determine regulated tomatoes from unregulated tomatoes when commingled. In order to ensure that the applicable provisions of the handling regulation are met, the handling requirements would apply to all such commingled tomatoes.

Additional clarification of the handling regulation pertains to yellow-meated tomatoes. Yellow-meated tomatoes are exempt from the container net weight requirements, but must meet all other applicable requirements. However, there has been a misunderstanding in the Florida tomato industry among handlers who believe that the limited exemption provided for yellow-meated tomatoes from the container requirements also exempts such tomatoes from grade, size, pack and inspection requirements. The committee believes that the regulation should be revised to clarify that yellow-meated tomatoes must meet the established grade, size, pack and inspection requirements.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for tomatoes under a domestic marketing order, imported tomatoes must meet the same or comparable requirements. However, this rule does not propose any changes in the minimum grade and size requirements under the domestic handling regulation. Further, the Act does not authorize the imposition of container and pack requirements on imports. Therefore, no change would be necessary in the tomato import regulation as a result of this action.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons an opportunity to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 966 be amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

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

2. Section 966.323 is amended by revising the introductory text and paragraphs (a)(1), (a)(2)(i), (a)(2)(iii), (a)(3)(i) and (d)(1) to read as follows:

§ 966.323 Handling regulation.

From October 10 through June 30 of each season, except as provided in paragraphs (b) and (d) of this section, no person shall handle any lot of tomatoes produced in the production area for shipment outside the regulated area unless it meets the requirements of paragraph (a) of this section, and no person shall handle any lot of tomatoes for shipment within the regulated area unless it meets the requirements of paragraphs (a)(1), (a)(2)(i), and (a)(4) of this section.

(a) *Grade, size, container and inspection requirements*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Fresh Tomatoes, except that all shipments of Medium size tomatoes must grade U.S. No. 2 or better. When not more than 15 percent of the tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than 1 percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) All tomatoes packed by a handler shall be at least 2⅝₃₂ inches in diameter. Tomatoes shipped outside the regulated area shall also be sized with proper equipment in one or more of the following ranges of diameters. Measurements of diameters shall be in accordance with the methods prescribed in § 51.1859 of the U.S. Standards for Grades of Fresh Tomatoes of this chapter.

Size classification	Inches	
	Minimum diameter	Maximum diameter
Medium	2⅝₃₂	2¹⅛₃₂
Large	2¹⅝₃₂	2²⅝₃₂
Extra large	2²⅛₃₂	

* * * * *

(iii) Only Medium, Large, Extra Large or abbreviations of same may be used to indicate the above listed size designations on containers of tomatoes.

* * * * *

(3) *Containers.* (i) All tomatoes packed by a registered handler shall be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents shall not be less than the designated net weight and shall not exceed the designated net weight by more than two pounds. Section 51.1863(b) of the U.S. Tomato Standards shall apply to all containers.

* * * * *

(d) *Exemption.*—(1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes. Yellow-meated tomatoes are exempt from the container net weight requirements specified in paragraph (a)(3)(i) of this section, but must meet the other requirements of this section.

* * * * *

Dated: August 23, 1991.

Robert O. Keeney

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–20648 Filed 8–27–91; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20 and 35

[Docket No. PRM–20–20]

Carol S. Marcus; Filing of Petition for Rulemaking; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: Extension of comment period.

SUMMARY: On June 12, 1991 (56 FR 26945), the NRC published a notice of a petition for rulemaking filed by Carol S. Marcus (PRM–20–20). The petition requests that the Commission revise its standards for protection against radiation to raise the annual radiation dose absorbed by individual members of the public from 1 mSv to 5 mSv (500 mrems). The notice of receipt requested public comment on the petition and established a comment closing date of August 12, 1991. In response to requests from potential commenters, the NRC is extending the comment period on PRM–20–20 for 60 days from the original comment closing date.

DATES: The comment period for PRM–20–20 has been extended from August 12, 1991, to October 12, 1991.

ADDRESSES: All persons desiring to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 and 4:15 p.m. Federal workdays. (Telephone 301–492–1966).

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room at 2120 L Street NW. Lower Level, Washington, DC 20037. A copy of the petition may be obtained by writing to the Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7758 or Toll Free: 800–368–5642.

Dated at Rockville, Maryland this 22d day of August, 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91–20642 Filed 8–27–91; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. 91–10]

Appraisals

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("OCC") is proposing to amend subpart C of part 34 to exempt additional transactions from the requirements of the final appraisal rule

published on August 24, 1990 (55 FR 34,684). If adopted, the proposed amendment would: (1) Eliminate the requirement for regulated institutions to obtain appraisals by certified or licensed appraisers for real estate related financial transactions having a value, as defined in the rule, of $100,000 or less; (2) permit regulated institutions to use appraisals prepared for loans insured or guaranteed by an agency of the federal government if the appraisal conforms to regulations or other written requirements of the federal insurer or guarantor; and (3) add a definition of "real estate" and "real property" to clarify that the appraisal regulation does not apply to mineral rights, timber rights, or growing crops.

The OCC is proposing this amendment to address concerns raised by national banks concerning the cost of complying with the appraisal requirement for certain loans which have not resulted in substantial losses to national banks. If adopted, this proposal would decrease the number of real estate related financial transactions requiring an appraisal prepared by a certified or licensed appraiser in accordance with the OCC's final appraisal rule, thereby reducing costs associated with those transactions.

OCC is soliciting comments regarding all aspects of the proposed rule and is requesting that comments include specific information regarding real estate related loans held by banks where the transaction value is: $50,000 or below; $50,001 to $100,000; and above $100,000. All comments received by the OCC will be reviewed and given appropriate consideration.

DATES: Comments must be received by September 27, 1991.

ADDRESSES: Comments should be directed to: Communications Division, Comptroller of the Currency, 9th Floor, 250 E Street SW., Washington, DC 20219, Attention: Docket No. 91–10. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Thomas E. Watson, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 874–5350, or Horace G. Sneed, Senior Attorney, Legal Advisory Services Division, (202) 874–5310, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") directed the OCC, and the other financial institutions regulatory agencies,[1] to publish appraisal rules for federally related transactions within the jurisdiction of each agency. In accordance with statutory requirements, OCC's final rule set minimum standards for appraisals used in connection with federally related transactions and identified those federally related transactions that require a State certified appraiser and those that require either a State certified or licensed appraiser. The final rule was published August 24, 1990 (55 FR 34684).

De Minimis Threshold

Section 1121 of FIRREA, 12 U.S.C. 3350, defines a "federally related transaction" as a real estate-related financial transaction which, *inter alia,* requires the services of an appraiser. In the notice of proposed rulemaking published February 16, 1990 (55 FR 5808), the OCC stated its intention not to require the services of a certified or licensed appraiser for transactions below a $15,000 *de minimis* threshold and asked for specific comment on "the amount and appropriateness of the *de minimis* level" below which the services of an appraiser would not be required.

The OCC received over 180 comments on the *de minimis* provision, the overwhelming majority of which suggested raising the *de minimis* threshold. Suggested values ranged from $25,000 to $500,000, with the greatest number of commenters recommending that the threshold be raised to $100,000.

In the preamble to the final rule, the OCC stated that it believed the *de minimis* threshold may appropriately be set at $100,000. However, because Title XI of FIRREA expressed a preference for uniform appraisal rules among the financial institutions regulatory agencies, the OCC set the threshold level at $50,000 based on its understanding that the other agencies would adopt a $50,000 threshold amount.

Subsequent to adoption of OCC's final rule, individual bankers and representatives of associations representing a broad range of banks have contacted the OCC to request that the threshold level be raised. These bankers stated that they have not experienced substantial losses from real estate-related financial transactions below $100,000. Moreover, several bankers stated that they are experiencing increased costs and substantial delays in obtaining appraisals that conform to the regulation because of the increased demand for appraisers who are likely to meet state certification and licensing requirements. The experience of these bankers has indicated that the increased cost and delay associated with obtaining appraisals that conform to the rule for transactions below $100,000 outweigh any benefits that might be obtained from requiring appraisals by certified or licensed appraisers for these transactions.

The OCC also has received a petition from the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, and the International Right of Way Association (collectively "Petitioners"), requesting that the OCC reopen the rulemaking to amend its appraisal regulation by reducing or eliminating the *de minimis* threshold, among other things. Petitioners argue that title XI of FIRREA does not authorize the OCC to establish a *de minimis* provision and that the $50,000 threshold established by the final rule is too high and cannot be supported in the record. The OCC disagrees with these assertions.

The requirements of title XI of FIRREA apply to federally related transactions. See FIRREA section 1110, 12 U.S.C. 3339 (requiring the OCC to prescribe standards for "the performance of real estate appraisals in connection with *federally related transactions*") (emphasis supplied); FIRREA section 1112, 12 U.S.C. 3341 (requiring the OCC to prescribe "which categories of *federally related transactions* should be appraised by a State certified appraiser and which by a State licensed appraiser") (emphasis supplied). "The term *federally related transaction* means any real estate-related financial transaction which * * * requires the services of an appraiser." FIRREA section 1121, 12 U.S.C. 3350(4). Title XI of FIRREA does not require the use of an appraiser in connection with all real estate-related financial transactions, nor does it identify any class of real estate-related financial transactions for which financial institutions must obtain the services of an appraiser.

As the supervisor of national banks, the OCC is responsible for ensuring the safety and soundness of the national banking system and, under 12 U.S.C. 93a, the OCC is authorized to issue rules and regulations to carry out that responsibility. This authority permits the OCC to determine by regulation when the services of an appraiser should be required in connection with a real

[1] These are: The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration. In addition, the Resolution Trust Corporation has issued appraisal rules under title XI of FIRREA.

estate-related financial transaction involving a national bank.

The OCC believes that real estate-related financial transactions involving amounts below $100,000 have not led to substantial losses for national banks and do not pose a systemic threat to the national banking system. This conclusion is based on the agency's experience in examining national banks, the comments received in response to the proposed rule, and comments received from bankers subsequent to publication of the final rule. In light of the foregoing, the OCC now proposes to amend § 34.43(a)(1) to increase the threshold level from $50,000 to $100,000.

The OCC recognizes that regardless of the threshold level adopted, additional experience with the appraisal regulation may indicate a need to modify this provision by raising, lowering or eliminating the *de minimis* threshold. Consequently, the OCC is committed to reconsidering the appropriateness of this provision no later than 24 months after a final rule is adopted with respect to this proposal.

Government Guaranteed Loans

The OCC also proposes to amend § 34.43 to add a new paragraph (a)(6) which would exempt from the appraisal requirement any transaction involving a loan insured or guaranteed by an agency of the federal government if that loan is supported by a current appraisal that meets the standards of the federal agency providing the insurance or guarantee. The OCC is proposing this amendment in response to banks' concerns about the differences in requirements for appraisals under OCC's rule and appraisals required by various federal agencies insuring or guaranteeing the loans.

Because of differences in appraisal requirements, it has not always been clear to bankers what appraisal rules were applicable to particular transactions. Moreover, some bankers were told that certain federal loan insurance or guarantee programs do not allow their appraisers to report any additional information in an appraisal or prepare a supplement to an appraisal which includes information beyond that required on the agency's appraisal form. consequently, some banks believed that they were required to obtain two separate appraisals in order to comply with the requirements of the federal insurer or guarantor and the requirements of part 34, subpart C.

The proposed amendment would eliminate this problem by exempting those transactions that involve federally insured or guaranteed loans from OCC's appraisal rule if the transaction is supported by a current appraisal that conforms to the appraisal regulations or other written appraisal requirements of the insuring or guaranteeing agency. The OCC believes that the appraisal standards of the federal agencies that insure or guarantee loans protect federal financial and public policy interests in those real estate-related financial transactions. Consequently, requiring these transactions to meet additional appraisal requirements would increase costs for national banks and consumers of federally insured or guaranteed loans without providing additional benefits or furthering the purposes for which title XI of FIRREA was enacted.

Defintion of "Real Estate" and "Real Property"

Finally, the OCC is proposing a technical amendment which adds a definition of "real estate" and "real property" to its appraisal rule. This change is being made in response to questions from several bankers concerning the application of the appraisal rule to interests in real property such as mineral rights, standing timber and growing crops.

Title XI of FIRREA does not define "real estate" or "real property" nor does the context in which these terms are used unambiguously suggest that the terms are intended to have different technical meanings. For instance, real estate-related financial transaction is defined as:

> Any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

FIRREA section 1121(5), 12 U.S.C. 3350. Title XI of FIRREA also directs the OCC to issue regulations requiring "that *real estate appraisals* be performed in accordance with generally accepted appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation." (Emphasis supplied.) The Appraisal Foundation's standards, the Uniform Standards of Professional Appraisal Practice ("USPAP"), have separate definitions for real property ("the interest, benefits, and rights inherent in the ownership of real estate") and real estate ("an identified parcel or tract of land, including improvements, if any"). USPAP also recognizes that the terms are used interchangeably in some jurisdictions.

In its appraisal rule, the OCC used "real property" and "real estate" interchangeably to mean interests in an identified parcel or tract of land and improvements. However, the OCC did not intend these terms to include mineral rights, timber rights, or growing crops, since valuation of such interests generally requires the services of a professional other than an appraiser. The proposed amendment makes the OCC's intent clear by defining "real property" and "real estate" for purposes of the appraisal regulation as "an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, or growing crops."

Public Comment

Public comment is solicited on all aspects of this proposed rule, and the OCC will consider all comments received. In conjunction with the comments on the proposal to increase the *de minimis* threshold to $100,000, the OCC also requests financial institutions to determine or estimate:

(I) The total assets of the institution;

(II) The number and total dollar amount of real estate related loans held by the institution and losses experienced within the last 12-month period for all real estate secured loans, for real estate secured loans above $100,000, for all real estate secured loans of $50,001 to $100,000, and all real estate secured loans of $50,000 or below; and

(III) The cost and time necessary to obtain an appraisal (A) before August 24, 1990, (B) on or after August 24, 1990, and (C) after regulated institutions are required to use either licensed or certified appraisers for all federally related transactions.

All commenters are advised that, pursuant to the Administrative Procedure Act, all information provided to the OCC will be available for public inspection. To assist the OCC in compiling and analyzing the comments, the OCC requests that commenters use the following format:

All Comments Provided to the OCC Regarding This Proposed Rule Will Be Available to the Public as Part of the Public File of the Rulemaking

I. Total Assets of the Institution

II. Summary of Real Estate Loans Held

Categories of Loans Secured by Real Estate (R.E. Loans)	Number of R.E. Loans	Total Dollar Amount of R.E. Loans Held by the Institution	Loss on R.E. Loans Within the Last 12 Months
All Real Estate Secured Loans.			
Real Estate Secured Loans Above $100,000.			
Real Estate Secured Loans of $50,001 to $100,000.			
Real Estate Secured Loans of $50,000 or below.			

III. Time Necessary to Obtain an Appraisal

Please estimate the cost and lapse of time between ordering and obtaining a written appraisal:

		Days
A. Before August 24, 1990	$ _____	_____
B. On or After August 24, 1990	$ _____	_____
C. When appraisals must be prepared by State certified or licensed appraisers for all federally related transactions	$ _____	_____

IV. General Comments

A. De Minimis Threshold.

B. Exemption for Government Guaranteed Loans.

C. Definition of "Real Property" or "Real Estate."

D. Other comments.

All comments are voluntary and no individual or institution is required to provide any of the information requested above, nor must comments be provided in the format outlined above.

Regulatory Flexibility Act: Executive Order 12291

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes, if adopted, are not expected to have a significant economic impact on a substantial number of small entities.

The OCC also has determined that this proposal does not constitute a "major rule" within the meaning of Executive Order 12291 and Treasury Department Guidelines. Accordingly, a Regulatory Impact Analysis is not required on the grounds that the proposed regulation, if adopted, (1) would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign and domestic), employment, investment, productivity, or innovation, within the meaning of the executive order.

Overall, the OCC expects the changes to benefit consumers and national banks regardless of size by reducing costs without substantially increasing the risk of loss for the banks arising from fraudulent or inaccurate appraisals of real estate collateral. Accordingly, the changes should not substantially increase the risk of loss to the federal deposit insurance fund arising from the affected transactions.

Paperwork Reduction Act

When this regulation was adopted in August 1990, the information collection requirements in § 34.44 were approved by the Office of Management and Budget under control number 1557–0190 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). At that time, the annual reporting burden for part 34 was estimated at 243,600 burden hours.

The changes proposed in this Notice of Proposed Rulemaking would, if adopted as a final rule, reduce this burden by approximately 62,300 hours to a total of 181,300 burden hours. The OCC estimates that 4,100 banks would maintain records, with an estimated average annual recordkeeping burden of 44.2 hours.

The average burden will be approximately 21 minutes per federally related transaction. Depending on the type of property appraised, the actual burden per transaction is estimated to range from approximately two hours for a large, complex, commercial real estate loan to approximately five minutes or less for a loan secured by a single family residence. Large banks, by their nature, will make more large commercial loans.

The information collection requirements in § 34.44 are intended to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. National banks will use this information in determining whether and on what terms to enter into federally related transactions, such as making loans secured by real estate or selling foreclosed real estate collateral. The OCC will use this information in its examination of national banks to ensure that national banks undertake real estate related financial transactions in accordance with safe and sound banking principles. The likely recordkeepers are for-profit institutions.

Comments on the collections of information contained in this notice of proposed rulemaking should be sent to the Comptroller of the Currency, Legislative and Regulatory Analysis Division, 8th Floor, 250 E Street, SW., Washington, DC 20219, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1557–0190), Washington, DC 20503.

Total Burden if the Rule Is Adopted as Proposed

4100 recordkeepers x 44.2 hours = 181,300 total burden hours.

List of Subjects in 12 CFR Part 34

Mortgages, National banks, Real estate appraisals, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, part 34 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

1. The authority citation for part 34 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a; 12 U.S.C. 371; 12 U.S.C. 1701j–3; 12 U.S.C. 3331 *et seq.*

2. In § 34.42, existing paragraphs (g) through (k) are redesignated as paragraphs (h) through (l) and a new paragraph (g) is added to read as follows:

§ 34.42 Definitions.

* * * * *

(g) *Real estate* or *real property* means an identified parcel or tract of land, including easements, rights of way, undivided or future interests and similar rights in a tract of land, but excluding mineral rights, timber rights, and growing crops.

* * * * *

3. In § 34.43, paragraphs (a)(1), (4)(iv) and (5) are revised and a new paragraph (a)(6) is added to read as follows:

§ 34.43 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals not required.* An appraisal performed by a State certified or licensed appraiser is not required for any real estate-related financial transaction in which:

(1) The transaction value is $100,000 or less;

* * * * *

(4) * * *

(iv) There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection;

(5) A regulated institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each loan, pooled loan, or real property interest met the requirements of this regulation, if applicable, at the time of origination; or

(6) A regulated institution makes or purchases a real estate loan that is insured or guaranteed by an agency of the United States government, provided the transaction is supported by an appraisal that conforms to the appraisal rules or other written appraisal requirements of the Federal agency providing the insurance or guarantee.

* * * * *

Dated: August 23, 1991.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 91-20640 Filed 8-27-91; 8:45 am]

BILLING CODE 4810-33-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-29593; International Series Release No. 309; File No. S7-24-91]

RIN 3235-AE42

Large Trader Reporting System

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Securities and Exchange Commission is publishing for comment proposed Rule 13h-1 (17 CFR 240.13h-1), pursuant to section 13 of the Securities Exchange Act of 1934 ("Act"), that would establish an activity-based large trader reporting system. The rule would establish a definition for large traders, and require large traders to make certain disclosures to the Commission. Registered broker-dealers would be required to maintain account and transaction records for each large trader and report transactions on a special call basis to the Commission or a self-regulatory organization ("SRO") designated by the Commission. Rule 13h-1 is proposed pursuant to the provisions of the Market Reform Act of 1990 ("Market Reform Act") to provide the Commission with the information necessary for reconstructing trading activity in periods of market stress and for surveillance, enforcement, and other regulatory purposes.

DATES: Comments must be received on or before November 26, 1991.

ADDRESSES: Persons wishing to submit written comments should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. All comment letters should refer to File No. S7-24-91. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Julio A. Mojica, Assistant Director, (202) 272-7497, Nicholas T. Chapekis, Special Counsel, (202) 272-3115 or James M. Martin, Staff Attorney, (202) 272-2789, Division of Market Regulation, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

During the past decade, the securities markets have experienced a fundamental change in the predominant type of market participant and the manner in which such participants conduct business.[1] Market information and communication systems have become global in nature and have increased the scope and velocity at which information is disseminated to investors. As a result, securities are now traded rapidly in a global securities market. During this period of change, the securities markets also have experienced a significant increase in activity and volatility. Further, in today's securities market many small individual investors have relinquished direct management of their investments to professional investment managers. Accordingly, large institutional investors such as public and private pension or retirement funds, mutual funds, insurance companies, foundations, hedge funds and investment managers have grown extraordinarily in number and size, and have become a predominant type of market participant. Investor demands for returns greater than market averages have caused institutional investors and investment managers to develop complex and innovative relationships, products, and trading strategies. These new investment relationships, products and strategies have led to increased specialization in investment management and linked capital markets around the world. These developments enable institutional investors to trade large amounts of securities and commodities with stunning swiftness to minimize risk or to profit from small differences in valuation.

The Market Reform Act [2] was born from the findings of the studies conducted following the declines in the United States securities markets in October 1987 and October 1989.[3] In the legislative history accompanying the Market Reform Act, the Senate Committee on Banking, Housing and Urban Affairs ("Committee") noted a consensus among these studies that the Commission's efforts to analyze the causes of a market crisis were impeded by its lack of specific statutory authority to gather trading information.[4] Broad-based samples of investor trading activity reconstructed in time sequence provide the empirical data necessary for the Commission's evaluations of market crises and volatility and enhance its ability to detect illegal trading activity.[5] The Committee also noted that existing self-regulatory organization ("SRO") audit trails provide a time sequenced report of broker-dealer securities transactions but do not identify the broker-dealer's customers.[6] As a result

[1] See S. Rep. No. 300, 101st Cong., 2d Sess. 2-5 (1990). ("Senate Report")

[2] Pub. L. No. 101-432, 104 Stat. 963 (1990).

[3] See Senate Report, *supra* note 1, at 7-12. See also Report of the Presidential Task Force on Market Mechanisms (January 1988) ("Brady Report"), The October 1987 Market Break, a Report by the Division of Market Regulation, U.S. Securities and Exchange Commission (February 1988) ("Market Break Report"), and Trading Analysis of October 13 and 16, 1989, a Report by the Division of Market Regulation, U.S. Securities and Exchange Commission (May 1990) ("October 1989 Report").

[4] Senate Report, *supra* note 1, at 34.

[5] *Id.* at 4, 44, and 71.

[6] *Id.* at 45. In response to the suggestion of industry representatives and SROs that the existing electronic bluesheet system could be used to obtain broad-based samples of large trader information, the Committee stated:

However, based on the SEC's recent difficulties in reconstructing trading for the October 1989 market events using the Electronic Blue Sheets, the Committee believes that the SEC needs the

Continued

of the Committee's findings, section 3 of the Market Reform Act was enacted to amend section 13 of the Act to add a new subsection (h),[7] which authorizes the establishment of a large trader reporting system under such rules and regulations as the Commission may prescribe.

Proposed Rule 13h–1 would require large traders, defined as persons that effect certain levels and types of securities transactions during a certain period, to disclose their accounts and affiliations. A large trader would disclose this information by filing Form 13H with the Commission, and thereafter would receive a unique identification number. Broker-dealers that carry accounts would be required to maintain and preserve aggregated account and transaction records for each identified large trader that has filed Form 13H and has been assigned an identification number. Broker-dealers also would be required to maintain and preserve transaction records for unidentified large traders that have not filed Form 13H and have not been assigned an identification number but who the broker-dealer knows or has reason to know are large traders based upon aggregate transactions effected through such broker-dealer. Upon the request of the Commission or an SRO designated by the Commission, broker-dealers would then be required to report certain trade information regarding transactions of a certain size effected by an identified or unidentified large trader, and for unidentified large traders certain additional identifying information. Large trader transaction reports would be required to be transmitted by the close of business on the day following receipt of a request for information. Broker-dealers would transmit large trader transaction reports electronically in machine-readable form through the securities industry's existing electronic communication systems.

The proposed large trader reporting system will enable the Commission to gather timely large trader information in the form necessary for reconstructing trading activity in periods of market stress and for surveillance, enforcement, and other regulatory purposes. The Commission is cognizant of the potential burdens of the system and has strived to minimize the impact of the system on market participants through discussions with industry representatives and the incorporation of existing securities industry rules and systems. The Commission believes that proposed Rule 13h–1 accomplishes the objectives of the Act, and requests comment on its proposals.

II. Description of the Proposed Rule

A. Application and Scope

Proposed Rule 13h–1 applies to large traders that would be identified by aggregate trade activity in publicly traded securities. Paragraph (f) of the proposed rule defines the term "large trader" as every person who, for its own account or an account for which it exercises investment discretion, effects transactions in publicly traded securities in an aggregate amount equal to or in excess of the identifying activity level.

The identifying activity level would be established by paragraph (f)(3) as aggregate transactions [8] during any 24 hour period that equal or exceed either 100,000 shares or fair market value of $4,000,000, or any transactions that constitute program trading. The Commission has selected the share and market value thresholds based upon its experience with broad-based requests for trade information [9] and discussions with industry representatives.[10] The 24 hour period was selected for flexibility in adapting to changing market structures. The Commission preliminarily believes that these thresholds would not be unreasonably burdensome on market participants, would be administratively manageable,[11] and would enable the Commission to accomplish the purposes of the Act.

The Commission acknowledges that these thresholds may cause some accounts, which otherwise may not be considered sufficiently active or large, to be subject to the proposed rule.[12] However, trade activity during a 24 hour period of the size set forth in the proposed rule may be likely to have an impact on the market for a security or group of securities. The additional costs resulting from the capture of such activity would be outweighed by the benefits obtained in the furtherance of the purposes of the Act.[13]

The Commission requests comment regarding the proposed volume and market value identifying activity levels and whether some other period of time (*e.g.*, "a calendar day") would be more appropriate. Additionally, the Commission solicits comment on: (1) The frequency of Form 13H filing by otherwise small or infrequent traders; (2) whether an exemption for such traders should be established; and (3) whether provisions should be established for exiting the system or for suspending the annual filing requirements of the proposed rule. A rule for exiting or suspending the requirements of the proposed rule could provide that a large trader would cease to be a large trader, or would be placed in a "suspended or inactive" category, and therefore, would be relieved of all or any part of the obligations imposed on large traders (*e.g.*, disclosure of accounts and filing requirements) if the large trader had not effected transactions: (1) Exceeding a specific percentage of the identifying activity level within a specific period of time; or (2) exceeding a total quantity or market value for a specific period of time.[14]

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authority provided in (the Market Reform Act) to develop an effective and efficient large trader reporting system and that existing systems are not capable of fulfilling this function. While the Electronic Blue Sheet system is extremely valuable, it is designed for use in more narrowly focused enforcement investigations that generally relate to trading in individual securities. It is not designed for use for multiple inquiries that are essential for trading reconstruction purposes.

Id. at 48.

[7] 15 U.S.C. 78m(h) (1990).

[8] See *infra* text accompanying notes 87 through 100 for a complete discussion of the rules pertaining to aggregation.

[9] Pursuant to the analysis of trading in October 1989 the Division of Market Regulation ("Division") sent bluesheet requests to approximately 50 broker-dealers regarding trade information in 132 stocks for trade dates October 13 and 16, 1989. From this request the Division determined that approximately 1% of all accounts for which trades were transmitted would have reached the proposed identifying activity level. See October 1989 Report, *supra* note 3, at 14, text accompanying note 18.

The Division also conducted a test pursuant to the development of the proposed system on February 21, 1991 wherein 26 broker-dealers were sent bluesheet requests for trade information in 75 stocks for the week of January 21, 1991 through January 25, 1991. From this request the Division also determined that approximately 1% of all accounts for which trades were transmitted would have reached the proposed identifying activity level.

[10] The Division staff has met with the Securities Industry Association ("SIA") and Intermarket Surveillance Group ("ISG") to discuss a variety of issues relating to the development of a large trader reporting system.

[11] In developing the identifying activity thresholds the Commission considered the additional resources that it would require for receiving, processing and evaluating the information gathered through the proposed system.

[12] For example, individual investors that ascribe to a "long term hold" investment strategy or otherwise would not be considered large traders may engage in trades that would equal or exceed the identifying activity level due to a fundamental change in lifestyle or investment needs (*e.g.*, a qualified plan rollover as the result of retirement, divorce, or death).

[13] The Commission believes that the frequency of Form 13H filings by otherwise small or infrequent traders would be nominal.

[14] See *infra* text accompanying note 42 regarding the time for filing Form 13H under the proposed rule. For example, a person could cease to be a large trader or could be exempt from the annual filing requirements if such person effected transactions equal to or less than: (1) 70% of the identifying activity level during any 24 hour period for the preceding calendar year; or (2) a total of 100,000 shares or $4,000,000 for the entire calendar year.

Separately, the identifying activity threshold would be satisfied by any transaction or transactions that constitute program trading as defined in paragraphs (f) (5) and (6) of the proposed rule. The proposed definition of program trading is substantially similar to New York Stock Exchange ("NYSE") Rule 80A(c) (i) and (ii).[15] The Commission's experience with the size of program trades suggests that most program trades would normally exceed the established identifying activity level. The Commission believes, however, that capturing all program trading activity concurrently with all other significant trading activity would be essential to assuring that the purposes of the Act are fulfilled.

The term "publicly traded security" would be limited by paragraph (f)(2) of the proposed rule to mean only national market system securities as defined by Rule 11Aa2-1 under the Act.[16] Accordingly, the definition of a publicly traded security under paragraph (f)(2) of the proposed rule includes only equities, options on individual equities and options on an index of equity securities that are listed for trading on a national securities exchange or the National Association of Securities Dealers Automated Quotation System, National Market System ("NASDAQ/NMS").[17] The proposed rule would apply to all publicly traded securities traded in foreign or domestic over-the-counter ("OTC") markets and after-hours trading systems. Section 13(h)(5)(C) requires the Commission, when implementing the large trader reporting system, to consider the relationship between United States and international securities markets.[18] The Commission believes that the failure to apply the proposed rule to foreign OTC markets and after-hours trading systems would create competitive impediments between foreign and domestic markets for publicly traded securities.[19]

Furthermore, the scope of the proposed rule is limited by its fundamental purpose of monitoring the impact of trading activity on securities markets.[20] Accordingly, the proposed rule provides that the term "transaction or transactions" would not include the four transactions enumerated in paragraphs (f)(8) (i) through (iv). These four types of transactions share the common element of not being effected through the facilities of a national securities exchange or national securities association. The transaction specified in paragraph (f)(8)(i) would include transactions that are generally referred to as public offerings or private placements of securities under the Securities Act of 1933.[21] The transaction specified in paragraph (f)(8)(iv) would include transactions that are generally referred to as employee benefit plan transactions.[22]

The Commission solicits comment on these proposed exclusions from the definition of a transaction or transactions. The Commission specifically solicits comment on whether other transactions should be excluded or a more general provision would be appropriate.[23]

The proposed rule would identify large traders as those persons that have a direct beneficial interest in the securities that are traded and those persons that make the decision to purchase or sell publicly traded securities regardless of their beneficial interest in the securities.[24] Requiring the identification of both the beneficial owners and the persons with investment discretion over securities will enable the Commission to identify trading and trading strategies of institutional investors that employ many investment managers. Conversely, the Commission could identify the trading and trading strategies of a single investment manager that is employed by many institutional investors. The Commission believes that this information and the resulting ability to sort trade information by institutional investor or investment manager is essential for the accomplishment of the purposes of the Act.[25] The term "person" would be defined in paragraph (f)(7) of the proposed rule as those natural persons and entities specified in section 3(a)(9) of the Act and includes two or more persons acting as a partnership, limited partnership, syndicate, or other group.[26] In conformity with section 13(h)(8)(E) of the Act the proposed rule expressly excludes foreign central banks from the definition of a person.[27]

A person that falls within the definition of a large trader would be required by paragraph (a)(1) of the proposed rule to disclose certain information to the Commission by filing Form 13H in accordance with the instructions contained therein.[28] Investor compliance with the identification requirements of the proposed rule would be enforced by the Commission under sections 15(c)(4), 21(d)(3), and 21C of the Act.[29]

Proposed Form 13H would elicit fundamental descriptive information concerning the large trader, including: (1) Name, address and telephone number; (2) type of organization; (3) principal business or occupation; (4) regulatory status; (5) a description of each trading account maintained by the large trader; and (6) any affiliations or associations the large trader may have with other persons.[30] Proposed Schedules 2a through 2c are designed for use by each specific type of person (*e.g.*, individual, corporation or trust), and seek background information regarding the specific type of person.

Proposed Schedules 5 through 8 are designed for use by persons affiliated or associated with the large trader and seek general information concerning the affiliated or associated person and the basis of the affiliation or association. These proposed schedules are focused toward those affiliated or associated persons that own or control or are under

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[15] *NYSE Guide* (CCH) ¶ 2080A. By proposing this definition of program trading the Commission seeks only to be consistent with existing industry practice and usage, and is not commenting as to the appropriateness of NYSE rule 80A(c).

[16] 17 CFR 240.11Aa2-1.

[17] See Rule 11Aa3-1 under the Act, 17 CFR 240.11Aa3-1. See also NASD By-Laws, Schedule D, part XII, *NASD Manual* (CCH) ¶1865.

[18] 15 U.S.C. 78m(h)(5)(C) (1990).

[19] The Committee indicated that all publicly traded securities should be included within the definition irrespective of where they are traded. Senate Report, *supra* note 1, at 49.

[20] 15 U.S.C. 78m(h)(1) (1990).

[21] 15 U.S.C. 77a, *et seq.* (1988).

[22] See *e.g.*, Rule 14a-1(b) under the Act, 17 CFR 240.14a-1(b), Rule 16b-3 under the Act, 17 CFR 240.16b-3, and Form S-8, 17 CFR 239.16b.

[23] For example, the rule could exclude all transactions that are not subject to an effective transaction reporting plan. See Rule 11Aa3-1 under the Act, 17 CFR 240.11Aa3-1.

[24] The Commission believes that this broad concept of a large trader conforms with the scope and purposes of the Act. See Senate Report, *supra* note 1, at 44-50.

[25] The inability to sort trade information by institution or manager so frustrated the Commission's analysis of institutional stock trading in October 1989 that many of its findings were rendered incomplete. October 1989 Report, *supra* note 3, at 15.

[26] 15 U.S.C. 78c(a)(9) (1988). The Committee indicated that persons that may be large traders would include individuals, hedge funds, banks, broker-dealers, insurance companies, investment advisers, mutual funds, pension funds, and trust companies. Senate Report, *supra* note 1, at 73.

[27] 15 U.S.C. 78m(h)(8)(E) (1990). The Committee indicated that foreign central banks were excluded from the Act in the interest of comity and due to the nature of the specific functions of such entities. Senate Report, *supra* note 1, at 49.

[28] Proposed Form 13H and instructions are attached as appendix A.

[29] 15 U.S.C. 78o(c)(4) (1988). 15 U.S.C. 78u(d)(3) (1990) and 15 U.S.C. 78u-3 (1990).

[30] The Commission was concerned that an excessively detailed form would be confusing, administratively burdensome, and of little practical use. Proposed Form 13H, therefore, was designed with the intention of creating a simple and efficient means for identifying the appropriate person or persons to contact when the Commission has specific questions regarding a large trader or its trading activity.

the common ownership or control of the large trader. The instructions to the schedules would provide that a person would be owned or under common ownership of every officer, director, partner, trustee, or nominee of such person, and any other person who directly or indirectly is the beneficial owner of more than 10 percent financial interest in such person or the equity in such person's trading accounts. The proposed instructions would deem a person to be controlled or under the common control of another when such person has received or assigned investment discretion or authority to direct transactions in publicly traded securities from or to such other person. These instructions incorporate the definitions of ownership or control and common ownership or control provided in the proposed rules for aggregation.[31]

The primary purpose of the proposed large trader reporting system is the gathering of information regarding large traders and transactions effected through their securities accounts. Accordingly, the proposed rule and general instructions to Form 13H indicate that nominees would be owners of publicly traded securities accounts, and therefore, may be large traders. Furthermore, because the focus of the proposed system is on publicly traded securities accounts of various types of persons, as distinguished from the registration of securities, issuers, or regulated entities, the Commission believes that generally accepted accounting principles for determining total capital or equity and a person's contribution to total capital or equity should be applied instead of any existing method for computing ownership under the Act.[32]

The Commission requests comment regarding any aspect of the proposed definition of ownership. The Commission specifically solicits comment regarding any alternative definitions that would better address the concerns of the Commission that result from the organizational structure of some large traders and their trading accounts.[33]

The proposed instructions to Form 13H also would interpret control or common control relationships to include full discretionary investment authority [34] and limited discretionary investment authority.[35] The proposed concept of control and common control would be consistent with the definition of investment discretion contained in section 3(a)(35) of the Act.[36] The Commission believes that the proposed disclosure of limited discretionary investment authority is necessary for accomplishing the purposes of the Act because trade timing and relative valuation are essential components of many modern trading strategies.[37]

Upon filing Form 13H the identified large trader would receive from the Commission a unique large trader identification number ("LTID"). The unique LTID would serve the critical function of enabling the Commission to aggregate accounts and transactions of large traders on an inter-broker-dealer basis.[38] The unique LTID also may help broker-dealers to keep and report aggregate large trader account and transaction records on an intra-broker-dealer basis.[39] Due to the complexity of modern institutional investment management structures,[40] the ability to aggregate accounts and transactions accurately and efficiently on an intra-broker-dealer and inter-broker-dealer basis is imperative for accomplishing the purposes of the Act.[41]

Paragraph (a)(3)(i) of the proposed rule would provide that large traders would be required to file their initial Form 13H within 10 business days after first effecting transactions that reach the identifying activity level. Thereafter, large traders would be required by paragraph (a)(e)(ii) of the proposed rule to file Form 13H annually, within 45 days after the calendar year-end. Further, paragraph (a)(3)(iii) of the proposed rule would require large traders to file an amended Form 13H within 10 business days after any of the information contained therein becomes inaccurate for any reason (*e.g.*, change of name and address, type of organization, principal business, regulatory status, accounts maintained, or associations).[42] These time frames are modeled after the filing requirements of section 16(a) of the Act.[43] The

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[31] See *infra* text accompanying notes 87 through 100 for a complete discussion of the proposed rules for aggregation.

[32] For example, the rules adopted under section 18 of the Act, 15 U.S.C. 78p (1988), would not be applicable, because trustees and nominees are included within the definition of ownership under the proposed rule, and are excluded or exempted from the meaning of "beneficial owners" by Rules 16a–1, 16a–2, or 16a–8 under the Act, 17 CFR 240.16a–1, 16a–2, or 16a–8.

[33] See *infra* text accompanying notes 40, 41, and 47 for a description of the organizational structure of modern institutional investment complexes. See also *infra* text accompanying notes 47 through 49, 78 through 81, 98 through 100, and 108 regarding the concerns of the Commission with respect to nominees or custodians and ownership of omnibus accounts.

[34] The term "full discretionary investment authority" means the discretion to enter an order or orders for the account of another for the purchase or sale of any publicly traded security or securities, of any size, and at any time or price, without prior approval of the transaction or transactions by the beneficial owner of such account or publicly traded securities.

[35] The term "limited discretionary investment authority" means the discretion to enter an order or orders for the account of another, limited only to the time or price of trade execution, upon the express prior instruction of the beneficial owner of such account.

[36] 15 U.S.C. 78c(a)(35) (1988).

[37] Precision in time and price of trade execution are essential elements of an investment manager's expertise and the Commission's evaluations of market trading activity. The inability to accurately identify all activity of an investment manager delegated limited discretion (*i.e.*, time and price) for a given type of trading strategy (*e.g.*, dynamic hedging, index arbitrage, or tactical asset allocation) by more than one institutional investor reduces the Commission's ability to accurately analyze the causes of market events or detect illegal trading activity.

[38] As noted by the Committee, taxpayer identification numbers cannot be used for this purpose because large traders regularly trade through many different entities that have different tax identification numbers. Senate Report, *supra* note 1, at 48, n. 198. Broker-dealer customer account numbers also vary from firm to firm, and therefore, are not useful for inter-broker-dealer aggregation. *Id.* at 45.

[39] The Committee found that broker-dealer records are not currently structured to provide account and transaction information in the form necessary for broad-based market reconstructions. Senate Report, *supra* note 1, at 45. The Commission believes that the addition of LTIDs to broker-dealer records would provide the vehicle for development of broker-dealer information management systems that would be able to sort intra-broker-dealer trade information by LTID in a fashion similar to that envisioned by the Commission for sorting trade information on an inter-broker-dealer basis.

[40] The Commission found during its analysis of trading in October 1989 that institutional investors use many different organizational structures to manage their investments. For example, a modern institutional investment management structure may have one strategic manager that designs and coordinates overall investment strategy. The strategic manager in turn may assign specific portions of the total investment strategy (*e.g.*, dynamic hedging, index arbitrage or asset allocation) to other investment managers that may pool all similar investment assets under their control. The flow of orders from the various managers may be directed to any number of executing broker-dealers that may execute the trades in an average price account. Finally, the custodial function for the entire investment complex may be centralized in one bank, trust company, or broker-dealer (a so-called "prime broker"). The Commission found that throughout these institutional investment management structures the degree of authority exercised by the participants varies greatly. See October 1989 Report, *supra* note 3, at 14, nn. 19–20.

[41] The Committee indicated that entities which function only as nominees or custodians may not be assigned LTIDs. Senate Report, supra note 1, at 50. The Commission has determined, however, that nominees should be included within the definition of a large trader, and assigned LTIDs, due to the problems faced with regard to aggregating the activity of modern institutional investment complexes.

[42] *See* Senate Report, *supra* note 1, at 71.

[43] 15 U.S.C. 78p(a) (1988). See Form 3, 17 CFR 249.103, (initial statement of beneficial ownership); Form 4, 17 CFR 249.104, (statement of changes of beneficial ownership) and Form 5, 17 CFR 249.105, (annual statement of beneficial ownership).

Commission believes that these filing requirements are reasonable and would assure that Form 13H information would be current and accurate.

A person that falls within the definition of a large trader also would be required by paragraph (a)(2) of the proposed rule to disclose to any broker-dealer, by or through which such large trader directly or indirectly effects transactions in publicly traded securities, that it is a large trader, its LTID, all accounts carried by such broker-dealer, and the LTIDs of all associated large traders that have discretion or control over the transactions effected for such accounts. This paragraph of the proposed rule is intended to reduce compliance burdens on broker-dealers by mandating disclosure of LTIDs and accounts to those broker-dealers through which large traders effect transactions in publicly traded securities. The Commission notes that SRO rules require broker-dealers to "know their customers" [44] and maintain systems and procedures for the supervision of their employees and business practices.[45] While the Commission does not intend to require broker-dealers to use any particular means of monitoring firm activity for persons that have not complied with the identification requirements of the proposed rule the Commission would require that broker-dealers develop supervisory systems and procedures, including training, consistent with their supervisory obligations under SRO rules and reasonably designed to ensure compliance with the proposed rule. The Commission would recommend that, in addition to developing surveillance and training systems, broker-dealers develop procedures for sending communications to persons that they know or have reason to know are large traders informing such persons of their obligations under the proposed rule.[46]

The Commission acknowledges that broker-dealers acting as prime brokers and custodial banks or trust companies may perform similar functions for institutional investors.[47] Application of the disclosure requirement of proposed paragraph (a)(2) to customers of prime brokers, and not to customers of custodian banks or trust companies would competitively disadvantage prime brokers.[48] The Commission would obviate this competitive impediment by requiring, pursuant to paragraph (a)(2), prime brokers and custodian banks or trust companies that effect transactions by or through undisclosed omnibus accounts that are large traders within the meaning of the proposed rule, to disclose to the broker-dealer carrying such omnibus account, the LTID for the omnibus account and the LTIDs of all large traders whose trades are effected by or through such omnibus account.[49]

The disclosures that would be required by paragraph (a) of the proposed rule would be afforded confidentiality, notwithstanding any other provision of law, pursuant to the terms of section 13(h)(7) of the Act.[50] The terms of section 13(h)(7) provide that it shall be considered a statute within the meaning of section 552(b)(3)(B) of the Freedom of Information Act ("FOIA") that would exempt large trader information from disclosure because it establishes particular criteria for withholding information or refers to particular types of matters that may be withheld.[51] The scope of the confidentiality afforded large trader information is limited to the extent that the Commission may not refuse a legitimate information request from Congress, may grant access to any other Federal department or agency requesting such information within its jurisdiction, or may comply with an order of a court of the United States in any action commenced by the United States or the Commission.[52]

B. Recordkeeping Requirements

All registered brokers or dealers that carry accounts would be required under paragraph (b) of the proposed rule to make and keep records of transactions effected directly or indirectly through such broker or dealer for all large traders that have complied with paragraph (a) of the proposed rule.

Registered brokers or dealers that carry accounts also would be required to keep records of transactions for those persons that have not complied with paragraph (a) of the proposed rule but which the broker or dealer knows or has reason to know are large traders, based on transactions effected by or through such broker or dealer.[53] This portion of

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[44] See *e.g.*, NYSE Rule 405, *NYSE Guide* (CCH) ¶2405; Chicago Board Options Exchange ("CBOE") Rules, Chapter IX, Rule 9.7, *CBOE Guide* ¶2307; and NASD Rules of Fair Practice, Article III, § 21(c), *NASD Manual* (CCH) ¶2171.

[45] See *e.g.*, NYSE Rules 342 and 351, *NYSE Guide* (CCH) ¶¶2342 and 2351; CBOE Rules chapter IX, Rule 9.8, *CBOE Guide* (CCH) ¶2308; and NASD Rules of Fair Practice, Article III, Section 27, *NASD Manual* (CCH) ¶2177. These rules uniformly require broker-dealers to supervise a variety of business activities, including: customer accounts and records; discretionary accounts and trades; communications with the public; the handling of cash and securities; employee and proprietary trading; the segmentation of the flow of material nonpublic information; and compliance with all other Federal, State, and SRO rules and regulations.

[46] This obligation to supervise compliance with the proposed rule also would apply to introducing or correspondent broker-dealers that clear their transactions on an omnibus basis through a self-clearing broker-dealer. Absent other indications, self-clearing broker-dealers would not normally be expected to supervise compliance by persons effecting transactions through omnibus accounts maintained for introducing or correspondent broker-dealers. A broker-dealer's failure to supervise compliance with the identification requirements of the proposed rule would be enforced by the Commission under section 15(c)(4) of the Act, 15 U.S.C. 78o(c)(4) (1988), section 21(d)(3) of the Act, 15 U.S.C. 78u(d)(3) (1990), section 21B of the Act, 15 U.S.C. 78u-2 (1990) and section 21C of the Act, 15 U.S.C. 78u-3 (1990).

[47] Prime brokers, banks, or trust companies may act as the centralized custodian for the investment assets of their institutional customers. This type of custodial arrangement enables institutional investors to anonymously execute trades through many different executing broker-dealers while maintaining centralized possession and control of their investment assets. This function is facilitated through undisclosed omnibus accounts maintained on a correspondent basis with the executing broker-dealer, in the name of the prime broker, custodian bank, or trust company. The only structural distinction between prime brokers and bank or trust company custodians are the consequences of failures to settle transactions on the custodian and executing broker-dealer. By addressing the implications of the prime brokerage business in this release the Commission is not expressly or implicitly approving or disapproving of such business or the means of conducting such business.

[48] Some accounts of prime brokers and custodial banks or trust companies are fully disclosed as to beneficial ownership or control and do not present any particular competitive concerns. Furthermore, in accordance with section 13(h)(8)(E) of the Act, 15 U.S.C. 78m(h)(8)(E) (1990), and paragraph (f)(7) of the proposed rule, prime brokers and custodian banks or trust companies acting on behalf of foreign central banks would be exempt from the proposed rule.

[49] As discussed above, the existence of these types of custodial arrangements necessitated inclusion of nominees within the definition of ownership, and therefore, the definition of a large trader.

[50] 15 U.S.C. 78m(h)(7) (1990).

[51] 5 U.S.C. 552(b)(3)(B) (1988).

[52] The broad scope of confidentiality afforded information disclosed and the minimal disclosure required by the proposed rule (*i.e.*, names, addresses, accounts, affiliations, and LTID) mitigate any conflict that may exist with respect to custodial bank or trust company compliance with the proposed rule and confidentiality requirements under federal or state banking statutes or regulations.

[53] See *supra* text accompanying notes 44 through 46 regarding a broker-dealer's obligation to supervise compliance with the proposed rule. Broker-dealer compliance with the recordkeeping and reporting requirements of the proposed rule would be enforced under section 15(c)(4) of the Act, 15 U.S.C. 78o(c)(4) (1988), section 21(d)(3), 15 U.S.C. 78u(d)(3) (1990), section 21B of the Act, 15 U.S.C. 78u–2 (1990), and section 21C of the Act, 15 U.S.C. 78u–3 (1990). The Commission would monitor broker-dealer supervision of and compliance with the recordkeeping requirements through examinations conducted pursuant to section 13(h)(4) of the Act, 15 U.S.C. 78m(h)(4) (1990). See *infra* text accompanying note 67.

proposed paragraph (b)(1) is intended to provide the Commission with the information necessary for assuring compliance with the identification requirements of paragraph (a) of the proposed rule.[54]

Brokers or dealers that carry accounts would be required to keep records of all elements of trade information for each transaction in publicly traded securities effected directly or indirectly for the accounts of each person specified in paragraph (b)(1). The elements of trade information that would be required to be maintained are specified in paragraph (b)(3) of the proposed rule and include: (1) LTID of all large traders that directly own or control the account for which the transaction was effected; (2) account number; (3) trade date; (4) security symbol; (5) market center where executed; (6) transaction price; (7) quantity and type of transaction (*i.e.*, buy, sell, short sale, put, call, open or close); (8) clearing numbers of all parties to the trade; (9) execution time; and (10) capacity code (*i.e.*, agent or principal).[55] These elements currently are required to be kept pursuant to Rule 17a–3(a) of the Act.[56] This rule, however, does not provide that such information be maintained in a single electronic system or in any other particular fashion.[57]

To accomplish the purposes of the Act and minimize the recordkeeping burdens of the proposed system, the Commission has proposed recordkeeping requirements for transaction information that closely parallel the information required to be reported to SROs through the electronic bluesheet system. Of the ten proposed elements of large trader transaction information, eight are currently contained in the standardized electronic bluesheet format.[58] The maintenance of these eight elements of large trader transaction information is uniformly accepted by the Commission and SROs as essential for the effective reconstruction of market trading activity and do not present new recordkeeping burdens on broker-dealers. The large trader transaction information format would exclude some elements of the standard bluesheet format because the excluded information, or its equivalent, would be captured and maintained through Form 13H.[59]

The two elements of proposed large trader transaction information that currently are not reported through the electronic bluesheet system are LTIDs and trade execution time. The LTIDs that would be required to be maintained for a transaction by paragraph (b)(3)(i), include the LTIDs of the persons that are the direct owners of the account for which the transaction was effected and those persons that exercise full or limited discretionary investment authority or control over the account for which the transaction was effected.[60] This element of large trader transaction information represents the proposed system's data processing cornerstone for the efficient and accurate aggregation of accounts and transactions intended by the Act.[61] Execution time is the remaining element of the large trader transaction information that is not required in the bluesheet system, and is clearly necessary for reconstructing market trading activity in time sequence. Although the Commission acknowledges that execution time is not sufficiently accessible through existing automated broker-dealer accounting systems,[62] section 13(h) of the Act was intended to authorize a system through which time-sequenced reconstructions of trading activity could be performed.[63] The Commission believes that incorporating execution time into large trader transaction information may be the most burdensome and costly aspect of the proposed large trader system. On the other hand, execution time is essential for accomplishing the purposes of the Act. Accordingly, in light of sections 13(h)(5)(A) and (B) of the Act,[64] which require the Commission to consider existing systems and the costs of recordkeeping and reporting when adopting rules to effectuate the system, the Commission is proposing a two-year phase-in period for the execution time recordkeeping requirement. The Commission's plan proposes to require full compliance with the execution time requirement contained in paragraph (b)(3)(ix) of the proposed rule two years after adoption of the rule. During the two year phase-in period, broker-dealers would be required to maintain execution time records in a fashion that would enable them to provide the Commission, or an SRO designated by the Commission, with execution times for specific large trader transaction reports, within 10 days of a request for such execution times.[65]

The Commission believes that the plan for implementing the execution time requirements of the proposed rule would accomplish the purposes of the Act while providing broker-dealers with reasonable time to design and

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[54] The information would be provided to the Commission, or an SRO designated by the Commission, through transaction reports made pursuant to paragraph (c)(3) of the proposed rule. See infra text accompanying notes 66 through 68 for a complete discussion of the rules pertaining to reporting requirements. The Commission would establish procedures for contacting the persons identified through this system in order to inform them of their obligation to file Form 13H.

[55] The legislative history indicates that broker-dealers would keep and segregate large trader transaction information by LTID in order to make it available to the Commission, or an SRO designated by the Commission, on the morning following trade date. Senate Report, *supra* note 1, at 48 and 71. Provided that broker-dealers would be able to extract large trader transaction information from their existing accounting systems and report them to the Commission, or an SRO designated by the Commission, in accordance with the reporting requirements of the proposed rule, the Commission believes that requiring the segregation of large trader records would not be necessary and may cause a duplication of records or a bifurcation of systems that may be unreasonably burdensome.

[56] 17 CFR 240.17a–3(a).

[57] The Committee found that most firms maintained this information in different automated accounting systems, and that some of the information is found on order tickets that may be maintained at various locations. Senate Report, *supra* note 1, at 45.

[58] See *e.g.* NYSE Rule 410A, *NYSE Guide* (CCH) ¶ 2410A. The eight elements of large trader transaction information that also are required to be maintained and reported pursuant to the standard electronic bluesheet format, include: (1) Account number; (2) trade date; (3) security symbol; (4) market center where executed; (5) transaction price; (6) transaction quantity, purchase, sale, short sale, and opening or closing transaction codes; (7) clearing numbers of all parties to the trade; and (8) capacity code (*i.e.*, agent or principal).

[59] The elements of the standard electronic bluesheet format that are not required in the large trader information format, include: (1) Tax identification number(s); (2) customer address; (3) branch office and registered representative numbers; (4) the date account was opened; and (5) whether the order was solicited or unsolicited. See *infra* text accompanying notes 75 through 77, regarding the proposed reporting requirements for unidentified large traders.

[60] Because some of the information contained in the electronic bluesheet format would be excluded, inclusion of many different LTIDs in the large trader format may only require minimal broker-dealer system modifications.

[61] By requiring the maintenance of all LTIDs of persons that directly control the account for which the transaction was effected the Commission would be able to efficiently sort trade information by institutional investor or investment manager. See note 25, *supra*.

[62] Broker-dealers are required by Rules 17a–3(a)(6) and (7) under the Act, 17 CFR 240.17a–3(a)(6) and (7), to maintain records of order entry, execution, and report times. These time records, however, are maintained through various means, including: (1) Hand written trade tickets located centrally or in branch offices; (2) electronic communication system records of order entry and trade execution reports generated by automated order routing systems (*i.e.*, "front-end systems"); and (3) a combination of trade tickets and front-end system records. The Commission understands that the vast majority of broker-dealers have not integrated or interfaced their front-end brokerage accounting systems with their trade processing and customer account systems (*i.e.*, "back-office systems").

[63] 15 U.S.C. 78m(h) (1990). See Senate Report, *supra* note 1, at 46–47.

[64] 15 U.S.C. 78m(h)(5)(A) and (B) (1990).

[65] See note 85, *infra*.

implement efficient large trader recordkeeping systems capable of maintaining accurate execution times for each transaction. The Commission solicits comment as to the feasibility of the proposed plan for implementing the execution time recordkeeping requirement and whether order entry or report times should also be required to be maintained.

All records made pursuant to the proposed rule would be required to be maintained and preserved under paragraph (b)(4) in accordance with Rule 17a–3 under the Act and shall be kept for a period of three years.[66] These records would be subject to periodic, special, and other examinations by representatives of the Commission, or an SRO designated by the Commission, pursuant to section 13(h)(4) of the Act.[67]

C. Reporting Requirements

Paragraph (c)(1) of the proposed rule would require broker-dealers to make large trader transaction reports ("13H Reports") to the Commission, or an SRO designated by the Commission, with respect to all transactions of persons for whom such broker-dealers must maintain records, that equal or exceed the reporting activity level effected directly or indirectly by or through such broker-dealer. Broker-dealers would be required to transmit 13H Reports before the close of business on the day following receipt of a request for such information from the Commission or an SRO designated by the Commission.

The reporting activity level is defined in paragraph (f)(4) of the proposed rule as all transactions in publicly traded securities that are equal to or greater than either 1,000 shares or fair market value of $40,000, or such other amount that may be established by the Commission from time to time.[68] Similar to the identifying activity level established under paragraph (f)(3), the reporting activity level contained in paragraph (f)(4) also includes any transaction or transactions that constitute program trading as defined in paragraph (f)(5) of the proposed rule. The reporting activity level was derived from the same information that was used to determine the appropriate identifying activity level.[69] The Commission believes that by initially establishing a low reporting activity level it would capture virtually all large trader activity. The Commission could, therefore, perform more accurate broad-based reconstructions of large trader aggregate activity.[70] The Commission is also proposing a low initial reporting activity level because combined with the proposed reporting requirement for unidentified persons contained in paragraph (c)(3), the Commission would have an effective means for assuring compliance with the identification requirements of proposed paragraph (a).[71] The proposed rule also implements the authority, contained in section 13(h)(8)(D) of the Act, to establish from time to time such reporting activity level that the Commission shall by order deem necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[72] Depending on the quality of 13H Reports and the level of compliance with the identification requirements, the Commission anticipates that it may exercise this authority and change the reporting activity levels by order.[73]

The Commission preliminarly believes that the burden of reporting this level of transactions would not be unreasonable and would be beneficial to accomplishing the purposes of the Act.[74] The Commission solicits comment, however, on the feasibility of the reporting activity level and any alternative level that may be appropriate.

Proposed paragraph (c)(3) would require that broker-dealers make 13H Reports of transactions effected directly or indirectly by or through the accounts of those persons that the broker-dealer knows or has reason to know are large traders, based on transactions effected by or through the broker-dealer, but have not complied with the identification requirements of paragraph (a). The proposed rule would require broker-dealers to make 13H Reports only for those unidentified persons that effect aggregate transactions, by or through accounts carried by such broker-dealer, that equal or exceed the identifying activity level on any day for which a request for information under paragraph (c) is made.[75] Those 13H Reports made under paragraph (c)(3) of the proposed rule also would be required to include the unidentified person's name, address, the date the account was opened, and tax identification numbers. This reporting requirement would not be undully burdensome because broker-dealers are already required to report such information through the electronic bluesheet system.[76] The cost of this reporting requirement would be outweighed by the benefit of enabling the Commission to monitor compliance with paragraph (a) of the proposed rule.[77]

Proposed paragraph (c)(4) would require 13H Reports of transactions that are effected by or through an omnibus account, or an account otherwise undisclosed as to ownership and control,[78] to contain the LTID of the

[66] These records would be required to be kept in an accessible place for the first two years in accordance with Rule 17a–4(b) under the Act. 17 CFR 240.17a–4(b).

[67] 15 U.S.C. 78m(h)(4) (1990). The legislative history indicates that this examination authority would be complementary to the examination authority provided in section 17(b) of the Act. 15 U.S.C. 78q(b) (1988). Senate Report, *supra* note 1, at 72.

[68] Note that the proposed rules for aggregation would not apply to the reporting activity level. See *infra* text accompanying note 87.

[69] See *supra* text accompanying notes 9 through 11.

[70] The Commission is concerned that a higher reporting activity level may lead to significant numbers of large trader transactions not being reported because the proposed rules for aggregation are not applicable to the reporting activity level.

[71] The Commission was concerned that a higher reporting activity level may enable persons that are large traders within the meaning of the proposed rule to avoid the identification process through execution of many transactions in quantities less than the reporting activity level. For example, if the reporting activity level was 10,000 shares then a broker-dealer may erroneously fail to report the transactions of an unidentified large trader that executed trades of 8,000 shares in 14 different securities with a total market value of $900,000.

[72] 15 U.S.C. 78m(h)(8)(D) (1990). The Committee indicated that this authority to act by order was intended to provide the Commission with the flexibility necessary for responding to changing market conditions. Senate Report, *supra* note 1, at 73.

[73] In order to improve the quantity and quality of 13H Reports, the Commission intends to conduct periodic tests of the proposed system that would assist in system implementation, provide training for Commission and broker-dealer personnel, and encourage compliance with the identification requirements.

[74] The Commission learned from its previous requests for broad-based trade information that due to the structure of most broker-dealer automated accounting systems they would prefer to report or "dump" all transactions in a given security. See October 1989 Report, *supra* note 3, at 13. The Commission has also learned from its test conducted in February 1991 that of the 26 broker-dealers sent a request for information, 8 or 31%, had developed software systems for this purpose or otherwise were able to comply with the Commission's request for trades of 1,000 shares or greater.

[75] See *supra* text accompanying notes 44 through 46, regarding the obligation of broker-dealers to supervise compliance with the proposed rule. This aspect of the proposed rule also decreases the probability that small or infrequent traders would be affected by the system. See note 12, *supra*.

[76] See notes 58 and 59, *supra*.

[77] The Commission notes that this requirement may require broker-dealers to develop systems for modifying the 13H Report information format.

[78] Accounts that are otherwise undisclosed as to ownership and control would include custodial accounts and average price accounts and other broker-dealer accounts in which firm or customer transactions are commingled.

custodian in whose name the account is maintained and all LTIDs of persons whose transactions are effected directly or indirectly through such account.[79] As with the reporting of transactions under paragraph (c)(3), the requirements of proposed paragraph (c)(4) would impose burdens on broker-dealers that would be outweighed by the benefits to the system.[80] The reporting requirements of paragraph (c)(4), applied in conjunction with the disclosure requirements of paragraph (a)(2) and recordkeeping requirements of paragraphs (b)(1) and (b)(3)(i), would provide the Commission with the information necessary for identifying those accounts that should be required to disaggregate accounts or transactions pursuant to proposed paragraph (d)(4).[81]

Requests for 13H Reports would be made by the Commission, or an SRO designated by the Commission, through a standard form letter that would provide the applicable transmission codes, trade dates, and securities. The standard request form would be sent to broker-dealers by facsimile transmission.[82] Broker-dealers would be required to transmit 13H Reports by the close of business on the day following receipt of the request.[83] This reporting time frame would assure flexibility to accommodate changing market conditions or requirements of the securities industry's trade processing facilities and systems.[84] Broker-dealers would be required, by proposed paragraph (c)(2), to transmit 13H Reports in machine-readable form in accordance with instructions issued by the Commission or an SRO designated by the Commission. All 13H Report transmissions would be made through the existing electronic communication systems maintained and operated by the Securities Industry Automation Corporation ("SIAC") for the transmission of data requested through the bluesheet system.[85] The proposed use of the SIAC's automated bluesheet systems would conform with the requirements of section 13(h)(5) of the Act and would not impose any additional costs or burdens on U.S. securities markets or participants.[86]

D. Aggregation of Accounts and Transactions

Proposed paragraph (d) provides the rules for aggregation of accounts and transactions that would apply to the determination of whether a person is a large trader within the meaning of paragraphs (a), (f)(1), and (f)(3).[87] Pursuant to the express terms of section 13(h)(2) of the Act and paragraph (b) of the proposed rule, broker-dealers would only be obligated to aggregate accounts and transactions on an intra-broker-dealer basis.[88] In accordance with the intent of the Act to minimize disclosure of proprietary information and recordkeeping burdens on broker-dealers, the Commission would perform the aggregation of accounts and transactions on a inter-broker-dealer basis.[89]

The rules for aggregation of accounts are provided in proposed paragraphs (d)(1)(i), (d)(2), and (d)(3), and require the aggregation of all transactions effected for all accounts owned and controlled or under common ownership and control of a person. These proposed rules would be interpreted in accordance with the explanation contained in the instructions to Form 13H.[90] The rules for the aggregation of transactions provided in proposed paragraphs (d)(1) (ii) through (iv) would be interpreted to the broadest extent possible to assure that all large traders would be identified and all records would be maintained to the extent required by the proposed rule.

Paragraph (d)(1)(iv) sets forth the fundamental "gross-up" concept of aggregation under the proposed rule. This proposed rule specifically is intended to prohibit the subtraction, offset, or netting of any transactions, including those that establish or liquidate bona fide hedge positions or unhedged positions.[91] Paragraph (d)(1)(ii) of the proposed rule provides that the gross volume or fair market value of equity securities purchased and sold would be aggregated with the gross exercise volume of exercise value of the equity securities underlying transactions in options on individual equity securities purchased and sold.[92]

Paragraph (d)(1)(iii) establishes the aggregation rules for transactions in options on a group or index of equity securities by requiring the aggregation of

[79] In order to minimize duplicative reporting, 13H Reports would not be made for transactions recorded in broker-dealer "offset" or trade processing accounts that are maintained for the purposes of dual entry accounting systems or customer billing. See October 1989 Report, *supra* note 3, at 15, n. 20. For example, trades executed for customers on an average price basis may be posted to a single proprietary account through which the broker-dealer clears all of the various transactions and then computes the total shares, total market value and average price of the executed shares. The broker-dealer may then post the appropriate quantity of shares at the average price to customer accounts through back-office entries (*e.g.*, the proprietary account sells and the customer account buys) that cause the broker-dealer's automated accounting systems to produce a trade confirmation showing the quantity and average price of the securities purchased or sold. Assuming that some of the customer accounts are large traders within the meaning of the proposed rule, the broker-dealer in this example would make 13H Reports of the back-office entries posted to the large trader customer accounts and the balance of those actual trades posted to the large trader proprietary average price account that are not attributable to a large trader customer account.

[80] Because of the recordkeeping requirements of paragraph (b)(3)(i), the reporting requirement of paragraph (c)(4) also may require the development of flexible trade information formats.

[81] See *infra* text accompanying notes 98 through 100 for a complete discussion of the rule pertaining to the disaggregation of accounts or transactions.

[82] Many SROs, and the Commission, currently use facsimile transmissions to communicate bluesheet requests.

[83] Pursuant to the proposed plan for implementation of the execution time recordkeeping requirement of paragraph (b)(3)(ix), broker-dealers would be required to transmit execution time records for specific 13H Reports within ten days of the receipt of such request.

[84] The Commission would endeavor to provide broker-dealers with advance notification of its intention to request information under the proposed rule and would not request the transmission of trade information prior to final comparison (*i.e.*, close of business on T+1).

[85] Pursuant to the proposed execution time phase-in plan, 13H Reports subsequently supplemented with execution time information also would be required to be transmitted electronically in machine-readable form. Accordingly, absent reliable software systems, broker-dealers would be required to manually enter execution time records to their existing 13H Report database or files.

[86] 15 U.S.C. 78m(h)(5) (1990). The SIAC automated bluesheet system has been in operation since 1989 and broker-dealers are required by all applicable SRO rules to transmit such trade information electronically through the system. The Commission through discussions with its Office of Information Systems Management ("ISM"), has determined that the SIAC system has sufficient capacity and capabilities for the proposed large trader reporting system.

[87] The Commission has chosen not to make these rules applicable to the reporting activity level contained in paragraph (f)(4) due to the constraints that would be imposed by the relatively short period provided for processing and transmitting 13H Reports under proposed paragraph (c)(1).

[88] 15 U.S.C. 78m(h)(2) (1990). The Commission notes that the principal compliance burden of inter-broker-dealer aggregation would be focused on the recordkeeping and reporting requirements for unidentified large traders contained in proposed paragraphs (b)(1) and (c)(3).

[89] See Senate Report, *supra* note 1, at 49. As previously described the Commission intends to perform this function through the use of LTIDs.

[90] See *supra* text accompanying notes 30 and 31.

[91] For example, a person that purchased 50,000 shares of XYZ, sold long 50,000 shares of ABC, and sold short 50,000 shares of XYZ within a 24 hour period, would have effected aggregate transactions of 150,000 shares.

[92] For example, a person that purchased 50,000 shares of XYZ and sold 500 XYZ July 25 call options to open within a 24 hour period, would have effected aggregate transactions of 100,00 shares. Similarly, a person that sold long 50,000 shares of XYZ and sold 500 ABC June 50 put options to close within a 24 hour period, would have effected aggregate transactions of 100,000 shares. The Commission acknowledges that this rule may require broker-dealers who develop data processing subroutines for computing the exercise volume or value of individual equity options in order to assure compliance with the recordkeeping and reporting requirements for unidentified large traders.

the gross exercise value of index options purchased or sold. The Commission is concerned that requiring broker-dealers to "burst" index options into share equivalents for each component equity would be burdensome and difficult to monitor.[93] However, the need to aggregate transactions in index options with other transactions is compelling.[94] The Commission has considered various alternative methods for computing the appropriate identifying activity value of index options.[95] Based on its evaluation of the alternatives the Commission is proposing that, for the purposes of the proposed rule, the "gross exercise value" of an index option would be computed by multiplying the number of contracts purchased or sold by the exercise price of the option and the applicable multiplier.[96] Accordingly, proposed paragraph (d)(1)(iii) would require those accounts that have effected any transactions in index options to aggregate only with respect to the identifying activity level market value threshold contained in paragraph (f)(3) of the proposed rule.[97]

Paragraph (d)(4) of the proposed rule would authorize the Commission to require a large trader or broker-dealer to disaggregate accounts of transactions when the Commission determines such to be in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act. This paragraph of the proposed rule is designed to work in conjunction with the disclosure requirements of paragraph (a)(2), the recordkeeping requirements of paragraph (b)(3)(i), and the reporting requirements of paragraph (c)(4).[98] The Commission believes that this combination of proposed rules would conform with the requirements of section 13(h)(5) of the Act and reasonably assure that the proposed system would not have negative effects on competition among market participants that effect transactions by or through an omnibus account.[99] The Commission would use the authority contained in this paragraph to require prime brokers and custodian banks or trust companies that maintain large trader omnibus accounts to disaggregate the transactions for each LTID reported pursuant to paragraph (c)(4).[100]

E. Exemptions

The proposed rule contains provisions for exemption that recognize the scope of various other SRO reporting requirements while reasonably assuring that the Commission would have access to the broad-based trade information intended by section 13(h) of the Act.[101] Paragraph (e)(1)(i) specifically exempts broker-dealers that do not carry accounts and are registered as specialists or option market makers in accordance with the rules of a national securities exchange. Paragraph (e)(2) applies to those broker-dealers that conduct business both with the public and as a specialist, and specifically exempts only that portion of such broker-dealer's transactions effected as specialist, in securities for which it is registered as a specialist by a national securities exchange. These exemptions acknowledge that information substantially similar to that required by the proposed rule regarding specialist proprietary transactions is captured and reported to SROs.[102] All transactions effected by specialists or option market makers on an agency basis would be reported by the broker-dealers that carry the account for which the transaction was effected. Accordingly, reporting by specialists or option market makers under the proposed large trader reporting system would be in all cases duplicative. Members or allied members of a national securities exchange that do not carry accounts and exclusively executive transactions on the floor of such exchange also would be exempt pursuant to paragraph (e)(1)9ii). This exemption for floor brokers is also based on the realization that their proprietary transactions are reported to SRO audit trail systems [103] and agency transactions would be reported by the broker-dealers that carry the account for which the transaction was effected.

Proposed paragraph (e)(3) provides the Commission with authority, upon written application, to exempt any person, large trader, or broker-dealer from the requirements of the rule. The authority provided by this rule requires a finding by the Commission that application of the identification, recordkeeping, or reporting requirements would not be necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the rule. Proposed paragraph (e)(3) is intended to assure adequate flexibility to adapt to changing investment relationships and market conditions or structures. Although the Commission does not foresee significant numbers of persons, large traders, or broker-dealers that may be so exempted, it solicits comment regarding any appropriate uses for the authority contained in proposed paragraph (e)(3).[104]

F. Foreign Entities

As discussed above, the definition of the term "person" found in proposed paragraph (f)(7) only excludes foreign central banks, and therefore, would apply to all foreign persons and entities including foreign non-central banks.[105]

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[93] The Commission notes that the share weight of each component of an index on equity securities may vary among indexes and may vary from day to day within a given index.

[94] The Commission is concerned that persons that effect large quantities of transactions in index options and nominal transactions in equities may not be identified as large traders.

[95] The computational alternatives considered by the Commission were constrained by the mandate of section 13(h)(5) of the Act, 15 U.S.C. 78m(h)(5) (1990), to the use of those elements of trade information routinely maintained in automated broker-dealer accounting systems with respect to transactions in options (*i.e.*, number of contracts, exercise price and expiration date, market price of the option contract, and total premiums paid or received). The Commission determined that none of these elements of option trade information by themselves would be adequate calculations of the aggregate value of index options for the purposes of the proposed rule.

[96] For example, assuming that the ABC Index has a multiplier of 100, a person that purchased 200 ABC Index July 345 calls within a 24 hour period would have effected aggregate transactions of $6,900,000 (*i.e.*, 200 x 345 x 100=$6,900,000). See Options Clearing Corporation ("OCC") By-Laws, Article XVII, section 1(k), OCC Guide (CCH) at 652. The Commission notes that like the aggregation of individual equity options, this proposed rule may require broker-dealers to develop computational subroutines in order to assure compliance with the proposed rule.

[97] For example, a person that purchased 3,000 shares of 14 different stocks with a total fair market value of $900,000 and sold 90 ABC Index July 345 calls within a 24 hour period, would have effected aggregate transactions of $4,005,000 (*i.e.*, (90 x 345 x 100] + $900,000=$4,005,000).

[98] For example, the Commission may receive a significant 13H Report in compliance with paragraph (c)(4) for an omnibus account carried in the name of a custodian bank, trust or prime broker that contains several different LTIDs in compliance with the recordkeeping requirements of paragraph (b)(3)(i), and as disclosed to the reporting broker-dealer by the custodian in compliance with paragraph (a)(2). In this case the Commission may deem it necessary to disaggregate the activity attributable to each of the various LTIDs in order to accurately evaluate the impact of each large trader's activity during a period of market stress or for other regulatory purposes.

[99] 15 U.S.C. 78m(h)(5) (1990).

[100] The Commission may also require segregation of transactions effected for large trader mutual fund complexes or through large trader average price accounts.

[101] 15 U.S.C. 78m(h) (1990).

[102] See *e.g.*, NYSE Rule 104.12, *NYSE Guide* (CCH) ¶2104.50; and CBOE Rules, chapter VIII, Rule 8.9 *CBOE Guide (CCH) ¶2279.*

[103] See *e.g.*, NYSE Rule 132, *NYSE Guide* (CCH) ¶2132, and CBOE Rules, chapter VI, Rule 6.51, *CBOE Guide* ¶2181.

[104] The Commission notes that this exemptive provision may be an appropriate means for alleviating the impact of the proposed rule on small or otherwise infrequent traders. See notes 12 through 14, *supra.*

[105] See *supra* text accompanying notes 26 and 27. Although it is difficult to estimate, the Commission believes that relatively few foreign entities directly effect transactions in U.S. securities markets that would meet the identifying activity level.

The Commission carefully considered the application of the proposed rule to foreign entities in accordance with the obligation provided in section 13(h)(5)(C) of the Act.[106] The Commission was concerned that excluding foreign entities from the proposed rule would leave domestic markets at a competitive disadvantage relative to foreign markets and would cause domestic and foreign investors to seek the facilities of foreign markets.[107] The Commission also was concerned that exclusion of foreign entities, particularly foreign banks, would competitively disadvantage domestic entities that perform custodial functions for institutional investors.[108] The Commission believes that the preservation of an equal competitive environment is fundamental to the accomplishment of the purposes of the Act.

The Commission solicits comment from market participants, including foreign entities and regulatory agencies, concerning the application of the proposed rule to foreign entities. In particular, the Commission seeks comment regarding possible alternative means for filing Form 13H, maintaining Form 13H information, and assigning LTIDs with respect to foreign entities.[109]

G. Statutory Authority

The Market Reform Act amended section 13 of the Act by adding a new subsection (h),[110] to provide the statutory authority necessary for the creation of a system through which the Commission would be able to gather timely broad-based samples of investor trading activity and perform time-sequenced trading reconstructions for the evaluation of market crises and volatility, and enhance its ability to detect illegal trading activity.[111] The authority granted by the Market Reform Act to establish a large trader reporting system under such rules and regulations as the Commission may prescribe is expressly limited by section 13(h)(5) of the Act.[112] Section 13(h)(5) requires the Commission when exercising its rulemaking authority to consider: (1) Existing reporting systems; (2) the costs associated with keeping and reporting large trader information; and (3) the relationship between United States and international securities markets.

The Commission has worked closely with the industry to develop an efficient and cost effective means for gathering large trader data.[113] The Commission believes that it has incorporated the securities industry's existing bluesheet and electronic communication systems to the greatest extent possible while accomplishing the purposes of the Act.[114] By incorporating these systems as well as other existing recordkeeping and reporting requirements of the Act and SRO rules, the Commission believes that the costs associated with the proposed large trader system have been minimized to greatest extent possible while accomplishing the purposes of the Act. Further, the Commission has sought to assure that the relationship between U.S. and international securities markets would not be disturbed through application of the proposed rules to all foreign entities, except foreign central banks,[115] and all transactions in publicly traded securities irrespective of where or when a large trader effects transactions.[116]

The Commission acknowledges that certain components of the proposed rule may cause market participants to incur additional costs. The Commission believes that the additional costs for investors and broker-dealers would include: (1) Preparation, filing, and updating of Form 13H; (2) maintenance and reporting of trade information for identified, unidentified and omnibus large traders; (3) maintenance and reporting of LTIDs and execution times; (4) intra-broker-dealer aggregation of large trader trade and account information; and (5) development and implementation of supervisory systems and procedures reasonably designed to ensure compliance with the proposed rule.

The Commission believes that the proposed system has minimized costs in virtually every case, including the maintenance and reporting of LTIDs, execution times, and intra-broker-dealer aggregation, which are intrinsically necessary for accomplishing the purposes of the Act. Accordingly, the Commission believes that the proposed large trader reporting system described herein would be squarely within the statutory authority conferred by the Market Reform Act and accomplish the purposes of section 13(h) of the Act.

H. Conclusion

The Commission is proposing Rule 13h–1 to establish an activity-based large trader reporting system that will enable it to gather timely large trader information in the form necessary for reconstructing trading activity in periods of market stress and for surveillance, enforcement, and other regulatory purposes. The Commission solicits comment on the effectiveness of the proposed system and its impact on market participants.

III. Effects on Competition and Regulatory Flexibility Analysis

The Commission is required by section 23(a) of the Act [117] to consider effects on competition when adopting rules under the Act, and balance any burdens on competition against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission is preliminarily of the view that proposed Rule 13h–1 would not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Commission requests comment, however, on any competitive burdens that might result from adoption of the proposed rule.

In addition, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA"), pursuant to the requirements of the Regulatory Flexibility Act,[118] concerning the

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[106] 15 U.S.C. 78m(h)(5)(C) (1990). In considering the relative burdens imposed on foreign entities the Commission took into account the anticipated infrequency of requests for 13H Reports.

[107] This consideration was addressed by the Committee which found that in the U.S. futures markets, where large position reporting is required, a migration to foreign markets had not appeared to have occurred as the result of large futures position reporting. Senate Report, *supra* note 1, at 50.

[108] As discussed above, due to the structure of modern investment management organizations and the minimal disclosures required under the proposed rule the Commission believes that application of the proposed rule to foreign and domestic custodians would be necessary and would not be unduly burdensome. See *supra* text accompanying notes 33 and 47 through 49.

[109] The Commission notes that it has negotiated a number of memoranda of understanding ("MOU") with foreign regulatory agencies to address foreign concerns about international evidence gathering and at the same time its own information requirements. The Commission emphasizes that this proposed large trader reporting system is not intended to supersede or circumvent existing MOUs. Accordingly, the Commission solicits comment from foreign regulatory agencies regarding the possible development of "MOU-type" understandings to facilitate the gathering of Form 13H information.

[110] 15 U.S.C. 78m(h) (1990).

[111] See *supra* text accompanying notes 4 and 5.

[112] 15 U.S.C. 78m(h)(5) (1990).

[113] See Senate Report, *supra* note 1, at 48. See also *supra* note 10.

[114] See *supra* text accompanying notes 58 and 59 regarding the incorporation of the existing bluesheet system. See also *supra* text accompanying notes 85 and 86 regarding the incorporation of the existing SIAC electronic communication systems.

[115] See *supra* text accompanying notes 105 through 109.

[116] See *supra* text accompanying notes 16 through 19.

[117] 15 U.S.C. 78w(a) (1988).

[118] 5 U.S.C. 603 (1988).

proposed rule. The IRFA indicates that proposed Rule 13h–1 may impose some additional costs on small broker-dealers and the small investor community. The Commission believes that the rule minimizes these costs to the greatest extent possible while achieving its purpose under the Act to provide the information necessary for reconstructing trading in periods of market stress and for surveillance, enforcement, and other regulatory purposes. A copy of the IRFA may be obtained from Nicholas T. Chapekis, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, (202) 272–3115.

IV. List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements; Securities.

V. Text of the Proposed Rule

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

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

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

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

2. By adding § 240.13h–1 to read as follows:

§ 240.13h–1 Large trader reporting system.

(a) *Identification requirements for large traders.* (1) Each large trader shall file with the Commission identifying information on Form 13H (17 CFR 249.327) in accordance with the instructions contained therein.

(2) Each large trader shall identify to any registered broker or dealer, by or through whom such large trader directly or indirectly effects transactions is publicly traded securities, all accounts carried by such broker or dealer and all large trader identification numbers.

(3) A large trader shall file Form 13H:

(i) Within 10 business days after first effecting aggregate transactions that equal or exceed the identifying activity level provided in paragraph (f)(3) of this section;

(ii) Within 45 days after the end of calendar year 1992 and each calendar year thereafter; and

(iii) Within 10 business days after the information contained therein becomes inaccurate for any reason.

(b) *Recordkeeping requirements for brokers and dealers.* (1) Every registered broker or dealer shall make and keep records of transactions effected directly or indirectly by or through such broker or dealer for all persons that are identified in accordance with paragraph (a) of this section and for each person such broker or dealer knows, or has reason to know, based on transactions effected by or through such broker or dealer, is a large trader.

(2) The records required to be maintained and preserved for each person specified in paragraph (b)(1) of this section shall include all elements of trade information for each transaction, in publicly traded securities effected directly or indirectly by or through such broker or dealer, for such persons accounts.

(3) The elements of trade information required to be maintained pursuant to paragraph (b)(2) of this section shall include:

(i) Large trader identification numbers of all large traders that directly or indirectly own or control the account for which the transaction was effected;

(ii) Account number;

(iii) Date on which the transaction was executed;

(iv) Identifying symbol assigned to the security;

(v) Market center where the transaction was executed;

(vi) Transaction price;

(vii) The number of shares or option contracts traded and whether such transaction was a purchase, sale, or short sale, and if an option transaction, whether such was a call or put option, an opening purchase or sale, or a closing purchase or sale;

(viii) The clearing house number of such broker or dealer and the clearing house numbers of the brokers or dealers on the opposite side of the transaction;

(ix) The time that the transaction was executed; and

(x) A designation of whether the transaction was effected or caused to be effected for a customer of such broker or dealer, or was a proprietary transaction effected or caused to be effected by such broker or dealer for any account in which such broker or dealer, partner, officer, director, or employee thereof, is directly or indirectly interested.

(4) The records and information required to be made and kept pursuant to the provisions of this section shall be kept in accordance with the provisions of Rule 17a–3 under the Securities Exchange Act of 1934 and shall be kept for a period of three years, the first two years in a readily accessible place.

(c) *Reporting requirements for brokers and dealers.* (1) Every broker or dealer shall report to the Commission all transactions of persons, for whom records must be maintained pursuant to paragraph (b)(1) of this section, that equal or exceed the reporting activity level effected directly or indirectly by or through such broker or dealer before the close of business on the day following receipt of a request for trade information required to be maintained under paragraph (b)(3) of this section from the Commission or an SRO designated by the Commission.

(2) All broker or dealer transaction reports made pursuant to paragraph (c) of this section shall contain the trade information required to be maintained pursuant to paragraph (b)(3) of this section and shall be electronically transmitted in machine-readable form in accordance with instructions issued by the Commission, or an SRO designated by the Commission.

(3) If a reported transaction is effected directly or indirectly by or through the account of a person that such broker or dealer knows or has reason to know is a large trader, based upon transactions effected by or through such broker or dealer, that has not complied with paragraph (a) of this section; then such broker or dealer shall report the trade information required to be maintained pursuant to paragraph (b)(3) of this section and such person's name, address, date that the account was opened, and tax identification number(s).

(4) If a reported transaction is effected directly or indirectly by or through an omnibus account or an amount otherwise undisclosed as to ownership or control, then such broker or dealer shall report the trade information required to be maintained pursuant to paragraph (b)(3) of this section and all large trader identification numbers of persons whose transactions are effected directly or indirectly through such account.

(d) *Aggregation of accounts and transactions.* (1) For the purpose of determining whether the volume or fair market value of transactions of a person equal or exceed the identifying activity level as provided in paragraph (f)(3) of this section, the following rules shall apply:

(i) All transactions effected directly or indirectly by a person in all accounts owned or controlled by, or under the common ownership or control of such person shall be aggregated;

(ii) The gross volume or fair market value of equity securities purchased and sold shall be aggregated with the gross exercise volume or exercise value of the equity securities underlying transactions in options on individual equity securities purchased and sold;

(iii) The gross exercise value of options on a group or index of equity securities purchased shall be aggregated with the gross exercise value of options on a group or index of equity securities sold; and

(iv) Under no circumstances shall a person or broker-dealer be permitted to subtract, offset or net purchase and sale transactions, among or within accounts, equity securities or option contracts when aggregating the volume or fair market value of transactions under this section.

(2) For the purposes of this paragraph, a person shall be deemed to be owned or under common ownership of every officer, director, partner, trustee, or nominee of such person, and any other person who directly or indirectly is the beneficial owner of more than a 10 percent financial interest in such person or the equity in a publicly traded securities account of such person.

(3) For the purposes of this paragraph, a person shall be deemed to control or be under the common control of another when such person has received or assigned full or limited investment discretion or authority to direct transactions in publicly traded securities from or to such other person.

(4) Nothing contained in this paragraph shall be deemed to prohibit the Commission from requiring a large trader within the meaning of this section or a broker-dealer to disaggregate accounts or transactions when the Commission determines such to be necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of this section.

(e) *Exemptions.* (1) The provisions of this section shall not apply to any broker or dealer that does not carry accounts, and:

(i) Is registered as a specialist or option market maker by a national securities exchange; or

(ii) Is a member or allied member of a national securities exchange that exclusively executes transactions on the floor of such national securities exchange.

(2) The provisions of this section shall not apply to transactions of a specialist registered by a national securities exchange in securities for which it is registered as a specialist.

(3) The Commission may, upon written application, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any person, large trader, or broker or dealer that satisfies the Commission that application of this section is not necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this section.

(f) *Definitions.* For purposes of this section—

(1) The term *large trader* means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level.

(2) The term *publicly traded security* means any equity security, option on an individual equity security, or an option on a group or index of equity securities listed, or admitted to unlisted trading privileges, on a national securities exchange and all other national market system securities as defined by Rule 11Aa2–1 under the Securities Exchange Act of 1934.

(3) The term *identifying activity level* means:

(i) Aggregate transactions in publicly traded securities during any 24 hour period that are equal to or greater than the lesser of 100,000 shares or fair market value of $4,000,000; or

(ii) Any transaction or transactions that constitute program trading as defined in paragraph (f)(5) of this section.

(4) The term *reporting activity level* means:

(i) All transactions in publicly traded securities that are equal to or greater than the lesser of 1,000 shares or fair market value of $40,000, or other amount that may be established by order of the Commission from time to time; or

(ii) Any transaction or transactions that constitute program trading as defined in paragraph (f)(5) of this section.

(5) The term *program trading* means either index arbitrage or any trading strategy involving the related purchase or sale of a group or basket of 15 or more publicly traded securities that have a total fair market value of $1,000,000 or more.

(6) The term *index arbitrage* means a trading strategy involving the purchase or sale of a group or basket of publicly traded securities in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled option or futures contracts on a group or index of equity securities, or options on such futures contracts (collectively, derivative index products) in an attempt to profit from a difference between the price of a group or basket of equity securities and the price of a derivative index product through transactions that need not be executed contemporaneously.

(7) The term *person* shall mean those natural persons and entities specified in section 3(a)(9) of the Securities Exchange Act of 1934 and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.

(8) The term *transaction or transactions* for the purposes of this section shall not include:

(i) Any transaction which is part of an offering of securities by or on behalf of an issuer, or by an underwriter on behalf of an issuer, or an agent for an issuer, whether or not such offering is subject to registration under the Securities Act of 1933, provided, however, that this exemption shall not include an offering of securities effected through the facilities of a national securities exchange;

(ii) Any transaction made in reliance on Rule 144A under the Securities Act of 1933;

(iii) Any transaction that constitutes a gift; or

(iv) Any transaction made pursuant to the award, allocation, sale, grant or exercise of a publicly traded security, option or other right to acquire securities at a pre-established price pursuant to a plan which is primarily for the purpose of an issuer benefit plan or compensatory arrangement.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for part 249 continues to read as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

4. By adding § 249.327 to read as follows:

§ 249.327 Form 13H, information required of large traders of publicly traded securities pursuant to section 13(h) of the Securities Exchange Act of 1934 and rules thereunder.

This form shall be used by persons that are large traders which are required to furnish identifying information to the Commission pursuant to section 13(h)(1) of the Securities Exchange Act of 1934

(15 U.S.C. 78m(h)(1)) and Rule 13h–1(a) thereunder (§ 240.13h–1(a) of this chapter).

Dated: August 22, 1991.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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

Appendix A

United States Securities and Exchange Commission, Washington, DC 20549, Form 13H

Information required of large traders of publicly trades securities pursuant to section 13(h) of the Securities Exchange Act of 1934 and rules thereunder

Initial filing [ ]:

Date identifying transactions effected ——

Annual filing [ ]:

For calendar year ending ——————

Amended filing [ ]:

Specify items amended ——————

Name of Large Trader

Business Address

(Street)

(City) (State) (ZIP)

(____)-____-____

Telephone No.

(____)-____-____

Facsimile No.

This form, schedules, and continuation sheets must be submitted by a natural person who either is the Large Trader or is a person authorized by the Large Trader to make this submission and to respond to inquiries or other matters pertaining to information contained therein. If this natural person is anyone other than the Large Trader named above, complete the item immediately below:

Name and Title of natural person:

(Last) (First) (M.I.)

Relationship to Large Trader

Business Address

(Street)

(City) (State) (ZIP)

(____)-____-____

Telephone No.

(____)-____-____

Facsimile No.

Attention

Intentional misstatements or omissions of facts constitute Federal criminal violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a). Intentional misstatements or omissions of facts also may result in civil fines and other sanctions pursuant to section 20 of the Securities Exchange Act of 1934.

The Large Trader and natural person signing this form represent hereby that all information contained in the Form, Schedules, and Continuation Sheets is true, correct and complete. It is understood that all information, whether in the Form, Schedules or Continuation Sheets, is considered an integral part of this Form and that any amendment is previously submitted.

Pursuant to the Securities Exchange Act of 1934, the undersigned Large Trader has caused this report to be signed on its behalf in the City of ———— and State of ———— on the ———— day of ————, 19____.

Name of Large Trader

Signature of person authorized to submit this Form

Form 13h—Information Required of All Large Traders

Name of Large Trader ——————

Item 1. Business of the Large Trader (check one or more as applicable)

[ ] Private Pension Plan
[ ] Public Pension Fund
[ ] Insurance Company
[ ] Other Financial Institution
[ ] Commodities Pool Operator
[ ] Hedge Fund
[ ] Broker or Dealer
[ ] Investment Adviser
[ ] Investment Company
[ ] Government Securities Broker or Dealer
[ ] Municipal Securities Broker or Dealer
[ ] Futures Commission Merchant
[ ] Other (Specify)——————

Item 2. Type of Large Trader (check one only)

[ ] Corporation
[ ] Trust
[ ] Individual
[ ] Joint Tenant
[ ] Partnership
[ ] Other (Specify)——————

(a) If the Large Trader has checked individual, complete and submit Schedule 2–a with this form.

(b) If the Large Trader has checked joint tenant or partnership, complete and submit Schedule 2–b with this form.

(c) If the Large Trader has checked corporation or trust, complete and submit Schedule 2–c with this form.

Item 3. Securities and Exchange Commission identification numbers

(a) If the Large Trader already has been assigned a Large Trader identification number by the SEC, specify this number:

(b) Is the Large Trader otherwise registered under the Securities Exchange Act of 1934, the Investment Company Act of 1940 or Investment Advisers Act of 1940? Yes [ ] No [ ]

If yes, specify: ——————

(Use continuation sheets if necessary.)

Item 4. Commodity Futures Trading Commission registration numbers

(a) If the Large Trader is registered with the CFTC as a "registered trader" pursuant to section 4i and 9 of the Commodity Exchange Act of 1974, specify the registration number:

(b) Is the Large Trader otherwise registered under the Commodity Exchange Act of 1974? Yes [ ] No [ ]

If yes, specify: ——————

(Use continuation sheets if necessary.)

Form 13H—Information Required of all Large Traders

Name of Large Trader ——————

Item 5. Does the Large Trader control accounts that effect transactions in publicly traded securities that are owned by any other person? Yes [ ] No [ ]

If Yes, complete and submit Schedule 5 with this Form.

Item 6. On Schedule 6, designate each account owned or controlled by the Large Trader through which transactions in publicly traded securities are effected. Schedule 6 must be submitted with this Form.

Item 7. Does any other person guarantee the accounts owned or controlled by the Large Trader through which transactions in publicly traded securities are effected? Yes [ ] No [ ]

If Yes, complete and submit Schedule 7 with this Form.

Item 8. Does the Large Trader guarantee the accounts owned or controlled by any other person through which transactions in publicly traded securities are effected? Yes [ ] No [ ]

If Yes, complete and submit Schedule 8 with this Form.

Schedule 2–a to Form 13H.—For Large Traders Who are Individuals

Item 1. Name of Large Trader

(Last) (First) (M.I.)

Item 2. Designate the employment status of the Large Trader Self-employed [ ] Otherwise employed [ ] Retired or otherwise not employed [ ]

Item 3. Has there been a change in employment status for the Large Trader in the previous 12 months? Yes [ ] No [ ]

If yes, describe: ——————

Item 4. If the Large Trader is self-employed or otherwise employed or has been self-employed or otherwise employed within the previous 12 months, designate the following items for each employer within the previous 12 months: (Use continuation sheets if necessary)

No. ———— of ————.

1. ——————

Name or Title of Business

2. ——————

Business Address

(Street)

(City) (State) (ZIP)

(____) ____-____

Telephone Number

(____) ____-____

Facsimile Number

3. Description of Business

4. Large Trader's employment status at this business:

[ ] Self-Employed [ ] Otherwise Employed

Position at this Business (Specify) ——

From: ——————

(Month/Year)

To ______________
(Month/Year)
No. ______ of ______.
1. ______________
Name or Title of Business
2. ______________
Business Address
____
(Street)
____
(City) (State) (ZIP)
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number
3. Description of Business
____
4. Large Trader's employment status at this business:
[ ] Self-Employed [ ] Otherwise Employed
Position at this Business (Specify) ______
From: ______________
(Month/Year)
To ______________
(Month/Year)

Schedule 2–b to Form 13H.—For Large Traders Who Have Indicated Joint Tenant or Partnership

Page ___ of ___.
Name of Large Trader ______________
Item 1. Organization type (check one): Tenancy [ ] Partner [ ]
Item 2. Jurisdiction in which Large Trader is registered or organized:
____
Item 3. Description of business of tenancy or partnership:
____
Item 4. Complete for each tenant or partner: (Use continuation sheets if necessary)
No. ___ of ___.
Status: Joint Tenant [ ] General Partner [ ] Limited Partner [ ]
____
Name
____
Business Address
____
(Street)
____
(City) (State) (ZIP)
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number
If the person independently has been issued a Large Trader identification number, specify the Large Trader identification number: ______
If the person is registered with the commodity futures trading commission as a Reporting Trader, specify the Reporting Trader identification number: ______
No. ___ of ___.
Status: Joint Tenant [ ] General Partner [ ] Limited Partner [ ]
____
Name
____
Business Address
____
(Street)
____
(City) (State) (ZIP)
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number
If this person independently has been issued a Large Trader identification number, specify the Large Trader identification number: ______
If this person is registered with the commodity futures trading commission as a Reporting Trader, specify the Reporting Trader identification number: ______

Schedule 2–c to Form 13H.—For Large Traders Who Have Indicated Corporation or Trust

Page ___ of ___
Name of Large Trader ______________
Item 1. Organization type (check one): corporation [ ] trust [ ]
Item 2. Jurisdiction in which large trader is incorporated or organized:
____
Item 3. Description of business of corporation or trust:
____
Item 4. Provide the following information for each officer, director or trustee: (Use continuation sheet if necessary)
No. ___ of ___
Status: Office [ ] Director [ ] Trustee [ ]
____
Name
____
Business Address
____
(Street)
____
(City) (State) (ZIP)
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number
No. ___ of ___
Status: Office [ ] Director [ ] Trustee [ ]
____
Name
____
Business Address
____
(Street)
____
(City) (State) (ZIP)
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number
No. ___ of ___
Status: Office [ ] Director [ ] Trustee [ ]
____
Name
____
Business Address
____
(Street)
____
(City) (State) (ZIP)
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number

Schedule 5 to Form 13H.—To Be Completed if the Large Trader Controls Accounts, Through Which Transactions in Publicly Traded Securities Are Effected, That Are Owned by Other Persons

Page ___ of ___.
Name of Large Trader ______________
Complete one copy of this schedule for each person who owns an account controlled by the Large Trader
Item 1. Role of Large Trader in controlling transactions in this account (Check one only)
[ ] Broker
[ ] Registered Investment Adviser
[ ] Other Money Manager
[ ] Other (specify) ______________
Item 2. Identity of person who owns controlled account
____
Name of person who is owner of controlled Account
____
Business Address
____
(Street)
____
(City) (State) (ZIP)
____
Name of person to contact for inquiries
____
Title or relationship to owner of Controlled Account
(___) ___-________
Telephone Number
(___) ___-________
Facsimile Number
Item 3. Business of person who owns Controlled Account
[ ] Private pension or profit sharing plan or trust
[ ] Public pension plan or trust
[ ] Insurance Company
[ ] Other financial institution
[ ] Commodities pool
[ ] Hedge Fund
[ ] Other (Specify) ______________
Item 4. Organization type:
Individual [ ] Tenancy [ ] Partnership [ ] Corporation [ ] Trust [ ] Other [ ]
(Specify): ______________
Item 5. If this person independently has been issued a Large Trader identification number, specify the Large Trader identification number:
____
Item 6. If this person is registered with the Commodity Futures Trading Commission as a Reporting Trader, specify the Reporting Trader identification number: ______

Schedule 6 to Form 13H.—List of All Accounts Owned or Controlled by the Large Trader

Page ___ of ___
Name of Large Trader ______________
Provide the following information for each account: (Use continuation sheets if necessary) ___
Account No. ___ of ___
1. Designate the large trader's relationship to the account: Large trader: owns the account [ ] controls the account [ ]
2. ______________
Account Name

3. ____
Account number or indentifier

4. Broker-Dealer maintaining the account:

Name of Broker-Dealer

Address

(Street)

(City) (State) (Zip)

Name of account executive for this account

Name of person at Broker-Dealer to contact for inquiries
(____) ____-_____
Telephone number
Facsimile number
(____) ____-_____
Account No. ____ of _____
1. Designate the large trader's relationship to the account:
Large trader: owns the account [ ] controls the account [ ]
2. _____
Account name
3. _____
Account number or identifier
4. Broker-Dealer maintaining the account:

Name of Broker-Dealer

Address

(Street)

(City) (State) (Zip)

Name of account executive for this account

Name of person at Broker-Dealer to contract for inquiries:
(____) ____-_____
Telephone Number
(____) ____-_____
Facsimile number

Schedule 7 to form 13H.— To Be Completed if Any Other Person Guarantees Accounts Owned or Controlled by the Large Trader

Page ____ of ____
Name of Large Trader _____

Complete one copy of this schedule for each person who guarantees an account owned or controlled by the large trader:
Item 1. Describe the large trader's relationship to person who guarantees the account(s)

Item 2. Identity of person who guarantees account(s):

Name of person

Business address

(Street)

(City) (State) (Zip)

Name of person to contact for inquiries

Title or relationship to person who guarantees account(s)
(____) ____-_____
Telephone number
(____) ____-_____
Facsimile number
Item 3. Provide a brief desciption of the business of the person:

Item 4. Organization type:
Individual [ ] Tenancy [ ] Partnership [ ]
Corporation [ ] Trust [ ] Other [ ]
(Specify): _____
Item 5. If this person independently has been issued a large trader identification number, specify the large trader identification number:

Item 6. If this person is registered with the Commodity Futures Trading Commission as a reporting trader, specify the reporting trader identification number:

Item 7. Specify the account number (from schedule 6) for each account guaranteed by this person: (use continuation sheets if necessary)
Account No. ____ of _____
Account Number: _____
Account No. ____ of _____
Account Number: _____
Account No. ____ of _____
Account Number: _____
Account No. ____ of _____
Account Number: _____

Schedule 8 to Form 13H.—To Be Completed if the Large Trader Guarantees Accounts Owned or Controlled by Any Other Person

Page ____ of ____.
Name of large trader _____

Complete one copy of this schedule for each person whose accounts are guaranteed by the large trader:
Item 1. Describe the large trader's relationship to person whose accounts are guaranteed: _____

Item 2. Identity of person who owns or controls the accounts guaranteed by the large trader:

Name of person

Business address

(Street)

(City) (State) (Zip)

Name of person to contact for inquiries

Title or relationship to person
(____) ____-_____
Telephone number
(____) ____-_____
Facsimile number
Item 3. Describe the business of the person:—

Item 4. Organization type: Individual [ ] Tenancy [ ] Partnership [ ] Corporation [ ] Trust [ ] Other [ ]
(Specify): _____
Item 5. If this person independently has been issued a large trader identification number, specify the large trader identification number:

Item 6. If this person is registered with the Commodity Futures Trading Commission as a reporting trader, specify the reporting trader identification number:

Item 7. Specify the following information for each account owned or controlled by this person that is guaranteed by the large trader: (Use continuation sheets if necessary)
Account No. ____ of _____.
1. Designate the person's relationship to the account:
Owns the account [ ] Controls the account [ ]
2. _____
Account name
3. _____
Account number
4. Broker-dealer maintaining the account

Name of broker-dealer

Address

(Street)

(City) (State) (Zip)

Name of account executive for this account

Name of person at broker-dealer to contact for inquiries
(____) ____-_____
Telephone number
(____) ____-_____
Facsimile number

General Instructions

A. Persons Required to File Form 13H

Every person who is a Large Trader shall file a Form 13H with the U.S. Securities and Exchange Commission as required by Section 13(h)(1) of the Securities Exchange Act of 1934 ("Act") [15 U.S.C. § 78m(h)(1)] and Rule 13h–1(a) [17 CFR 240.13h–1] thereunder.

Large Traders. Pursuant to Rule 13h–1(f)(1), the term "Large Trader" means every person who owns or controls any account that effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or the mails, or any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level.

Ownership of Large Traders. Pursuant to Rule 13h–1(d)(2), a person shall be deemed to be owned or under common ownership of every officer, director, partner, trustee, or nominee of such person, and of any other person who directly or indirectly is the beneficial owner of more than a 10 percent financial interest in such person or the equity

in a publicly traded securities account of such person.

Control of Large Traders. Pursuant to Rule 13h–1(d)(3), a person shall be deemed to control or be under the common control of another when such person has received or assigned full or limited investment discretion or authority to direct transactions in publicly traded securities from or to such other person.

Large Trader Accounts. The purpose of Rule 13h–1 is to provide a system through which the Commission may efficiently identify large trading accounts, activity and the persons that own and control such accounts. Accordingly, when determining whether a person is a large trader particular attention should be focused on the person(s) that own and the person(s) that control a particular account or group of accounts. Note: Accounts maintained in the name of a nominee, custodian, or other fiduciary may be large trader accounts, and therefore, if such nominee, custodian, or other fiduciary is a large trader within the meaning of Rule 13h–1 it must file Form 13H, and all nominee large traders have a duty to advise all broker-dealers maintaining such accounts of any and all large trader identification numbers (LTIDs) of persons whose transactions are effected through such account(s).

B. Forms Required To Be Filed

All Large Traders must complete and submit Form 13H and Schedule 6. In addition, all Large Traders must complete and submit one of the following three Schedules, depending upon the organization type of the Large Trader:

(1) Individuals: Schedule 2–a.

(2) Joint Tenants or Partnerships: Schedule 2–b.

(3) Corporations or Trusts: Schedule 2–c.

Other Form 13H Schedules may be required to be completed and filed together with Form 13H, in accordance with the following Special Instructions.

C. Time Required for Filing Form 13H

Initial Filing. Form 13H and necessary Schedules shall be filed with the Commission within 10 business days after a person effects transactions that reach the "identifying activity level" as established by Rule 13h–1(f)(3).

Annual Filings. Form 13H and necessary Schedules shall be filed with the Commission within 45 calendar days after the end of the calendar year 1992 and each calendar year thereafter.

Amendments to Filings. Form 13H and necessary Schedules shall be amended by filing with the Commission within 10 business days after any event that causes the information included in Form 13H or Schedules to become inaccurate for any reason.

Filing of Form 13H and Schedules can be effected manually or via an electronic medium in accordance with such rules and regulations as the Commission may prescribe. If the filing is effected manually, the filing shall include three copies of Form 13H and Schedules.

D. Confidentiality

Pursuant to section 13(h)(7) of the Act [15 U.S.C. § 78m(h)(7)], the Commission shall not be compelled to disclose any information required to be kept or reported under Section 13(h). Section 13(h)(7) shall be considered a statute described in Section 552(b)(3)(B) of the Freedom of Information Act [5 U.S.C. § 552]. Nothing in Section 13(h)(7), however, shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

Special Instructions

I. Instructions for Form 13H, Items 1 through 8

Specify the type of the Form 13H filing by checking only one of the listed types of filings. If the filing is an Initial Filing indicate the first date on which transactions were effected that reached the identifying activity level and for Annual Filings indicate the date of the appropriate calendar year-end. If the filing is an Amended Filing indicate all Form 13H and Schedule item or sub-item numbers that are being amended.

Item 1. Specify the type of business of the Large Trader by checking one or more of the listed business types, or checking "Other" and providing a brief description if none of the listed types applies. Note that Large Trader banks, trust companies and thrift institutions should check "Other Financial Institution." If the Large Trader is engaged in more than one type of business, check each type that applies to the Large Trader. However, the question applies only to the Large Trader, and should be answered without regard for the type of business of any other person that the Large Trader is controlled by or that the Large Trader controls. For example, if the Large Trader is an investment adviser established as a separate corporate entity, check only "Investment Adviser" even though the Large Trader is a wholly-owned subsidiary of a registered broker-dealer.

Item 2. Specify the type of organization of the Large Trader by checking only one of the listed organization types, or checking "Other" and providing a brief description if none of the listed types applies.

Item 2(a). If "Individual" is checked in Item 2, complete and submit Schedule 2-a together with Form 13H.

Item 2(b). If "Joint Tenant" or "Partnership" is checked in Item 2, complete and submit Schedule 2-b together with Form 13H.

Item 2(c). If "Corporation" or "Trust" is checked in Item 2, complete and submit Schedule 2-c together with from 13H.

Item 3(a). If Form 13H is being used for an annual filing or amendment to a previous filing, the Large Trader Identification Number already assigned by the SEC should be specified in the space provided.

Item 3(b). Specify whether the Large Trader is registered under the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, by checking "Yes" or "No." If "Yes" is checked, specify the type of registration and the registration number. The question should be answered without regard to the registration of any other person that the Large Trader is controlled by or controls. For example, if the Large Trader is an investment adviser registered under the Investment Advisers Act of 1940, then the adviser would indicate "Investment adviser, registration number _____" even if the Large Trader investment adviser is a wholly-owned subsidiary of a registered broker-dealer.

Item 4(a). If the Large Trader is registered with the Commodity Futures Trading Commission as a "Reporting Trader" pursuant to Sections 4i and 9 of the Commodity Exchange Act of 1974, indicate the registration number in the space provided.

Item 4(b). Specify whether the Large Trader otherwise is registered under the Commodity Exchange Act of 1974 by checking "Yes" or "No." If "Yes" is checked, specify the type of registration and indicate the registration number.

Item 5. Specify whether the Large Trader controls accounts that effect transactions in publicly traded securities that are owned by any other person by checking "Yes" or "No," without regard to whether the other person also is a Large Trader. If "Yes" is checked, complete and submit Schedule 5 together with Form 13H.

Item 6. All Large Traders must complete and submit Schedule 6 together with Form 13H, describing in accordance with the headings provided each account owned or controlled by the Large Trader through which transactions in publicly traded securities are effected.

Item 7. Specify whether any other person guarantees the accounts owned or controlled by the Large Trader by checking "Yes" or "No," without regard to whether the owner of the accounts (if different from the Large Trader) or the other person guaranteeing the accounts also is a Large Trader. If "Yes" is checked, complete and submit Schedule 7 together with Form 13H.

Item 8. Specify whether the Large Trader guarantees the accounts owned or controlled by any other person by checking "Yes" or "No," without regard to whether the other person who owns or controls the accounts also is a Large Trader. If "Yes" is checked, complete and submit Schedule 8 together with Form 13H.

II. Instructions for Form 13H, Schedules 2–a through 8

Schedule 2–a.—For Large Traders Who Are Individuals

Item 1. Indicate the full name of the Large Trader (last name, first name, and middle initial).

Item 2. Designate the employment status of the Large Trader reporting as an individual, by checking "Self-Employed," "Otherwise Employed" or "Retired or Otherwise Not Employed." If the Large Trader is an employee of a corporation in which the Large Trader has an ownership interest, check "Self-Employed."

Item 3. Specify whether there has been any change in employment status during the previous 12 months by checking "Yes" or

"No." If "Yes" is checked, briefly describe the nature of the change. This would include changing from one employer to another employer or retirement from employment, but would not include changes in positions at the same employer (such as promotions or re-assignments at a single employer).

Item 4. If the Large Trader is retired or otherwise not employed and there has been no change in this status in the previous 12 months, then Item 4 does not need to be completed. If the Larger Trader is "Self-Employed" or "Otherwise Employed" or has been self-employed or otherwise employed during the previous 12 months, complete the following items for each employer during this period (use continuation sheets if necessary):

(1) full name of the business;

(2) full business address, telephone number, and facsimile number;

(3) a brief description of the business; and

(4) the Large Trader's employment status at this business, checking either "Self-Employed" or "Otherwise Employed," and specifying the Large Trader's position at this business and the beginning and ending dates (month and year) of the Large Trader's position at this business.

Schedule 2–b.—For Large Traders Who Have Indicated Joint Tenant or Partnership

Indicate the full name of the Large Trader at the top of the Schedule. If additional Schedule 2-b pages are completed, indicate on each page the individual page number and total number of Schedule 2-b pages.

Item 1. Specify the type of organization of the Large Trader by checking only one of the listed organization types.

Item 2. Specify the state, territory, possession, or other jurisdiction in which the Large Trader is registered or organized.

Item 3. Briefly describe the nature of the Large Trader's business activities.

Item 4. If information is provided for more than one tenant or partner, specify for each sub-item the individual sub-item number and total number of sub-items. For example, if a partnership consists of one general partner and two limited partners, three sub-items should be completed: the first of which should be specified as "No. 1 of 3," the second of which should be specified as "No. 2 of 3," and the last specified as "No. 3 of 3." Provide the following information as a separate sub-item for each tenant or partner (use continuation sheets if necessary):

(1) specify the status of the person by checking "Tenant," "General Partner" or "Limited Partner";

(2) specify the full name of the Tenant, General Partner or Limited Partner;

(3) specify the mailing address and telephone and facsimile numbers of the Tenant, General Partner or Limited Partner;

(4) if the Tenant, General Partner or Limited Partner has filed independently a Form 13H and has been issued a Large Trader Identification Number, indicate this person's Large Trader Identification Number in the space provided; and

(5) if the Tenant, General Partner or Limited Partner is registered with the Commodity Futures Trading Commission as a Reporting Trader, indicate the registration number in the space provided.

Schedule 2–c—For Large Traders Who Have Indicated Corporation or Trust

Indicate the full name of the Large Trader at the top of the Schedule. If additional Schedule 2-c pages are completed, indicate on each page the individual page number and total number of Schedule 2-c pages.

Item 1. Specify the type of organization of the Large Trader by checking one of the listed organization types.

Item 2. Specify the state, territory, possession, or other jurisdiction in which the Large Trader is registered or organized.

Item 3. Describe the nature of the Large Trader's business activities.

Item 4. If information is provided for more than one officer, director or trustee, specify for each sub-item the individual sub-item number and total number of sub-items. For example, if a trust has two trustees, two sub-items should be completed, the first of which should be specified as "No. 1 of 2" and the second of which should be specified as "No. 2 of 2." Provide the following information as a separate sub-item for each officer, director or trustee (use continuation sheets if necessary):

(1) specify the status of the person by checking "Officer," "Director" or "Trustee";

(2) specify the full name of the Officer, Director or Trustee; and

(3) specify the mailing address and telephone and facsimile numbers of the Officer, Director or Trustee.

Schedule 5.—To Be Completed if the Large Trader Controls Accounts, Through Which Transactions in Publicly Traded Securities Are Effected, That Are Owned by Other Persons

Indicate the full name of the Large Trader at the top of the Schedule. One copy of Schedule 5 should be completed for each person who owns an account controlled by the Large Trader. If additional Schedule 5 pages are completed, indicate on each page the individual page number and total number of Schedule 5 pages.

Item 1. Specify the role of the Large Trader in controlling transactions in this account by checking one of the listed categories or by checking "Other" and providing a brief description if none of the listed categories apply.

Item 2. Provide the following information concerning the identity of the person who owns the controlled account:

(1) the full name and address of the owner of the controlled account;

(2) the name of the person designated for contacts for inquiries (the person designated for contacts must be a natural person), if this is the same person as the owner of the controlled account, indicate "Same" in the space provided;

(3) if the designated contact person is different from the owner of the controlled account, specify the contact person's title or relationship to the owner, if the contact person is the same as the owner of the controlled account, indicate "Same" in the space provided; and

(4) specify the telephone and facsimile number of the owner or, if the designated contact person is different from the owner, the contact person.

Item 3. Specify the type of business of the owner of the controlled account by checking one of the listed business types or by checking "Other" and providing a brief description if none of the listed types apply.

Item 4. Specify the type of organization of the owner of the controlled account by checking only one of the listed organization types or by checking "Other" and providing a brief description if none of the listed types apply.

Item 5. If the owner of the controlled account has filed independently a Form 13H and has been issued a Large Trader Identification Number, indicate this person's Large Trader Identification Number in the space provided.

Item 6. If the owner of the controlled account is registered with the Commodity Futures Trading Commission as a Reporting Trader, indicate the registration number in the space provided.

Schedule 6.—List of All Accounts Owned or Controlled by the Large Trader

Indicate the full name of the Large Trader at the top of the Schedule. If additional Schedule 6 pages are completed, indicate on each page the individual page number and total number of Schedule 6 pages.

If information is provided for more than one account, specify for each sub-item the individual sub-item number and total number of sub-items. For example, if a Large Trader owns two accounts and controls another account, three sub-items should be completed, the first of which should be specified as "No. 1 of 3," the second of which should be specified as "No. 2 of 3," and the last specified as "No. 3 of 3." Provide the following information as a separate sub-item for each account owned or controlled by the Large Trader (use continuation sheets if necessary):

(1) designate the Large Trader's relationship to the account by checking either "Owns the Account" or "Controls the Account";

(2) specify the exact name of the account, if this is the same as the Large Trader, indicate "Same" in the space provided;

(3) specify the full account name and account number used by the broker-dealer maintaining the account; and

(4) provide the following information concerning the broker-dealer maintaining the account:

(a) full business name of the broker-dealer;

(b) full business address of the broker-dealer;

(c) full name of the account executive for this account;

(d) full name of the person at the broker-dealer who should be contacted regarding this account, if the contact person is the same as the account executive, indicate "Same" in the space provided [The contact person must meet the following qualifications: (i) the contact person must be a natural person; (ii) the contact person must be employed by or otherwise affiliated with the broker-dealer; (iii) the contact person must have personal knowledge of all orders and transactions involving this account or be in a position to obtain promptly this information from other persons who have such personal knowledge and who are associated with the broker-

dealer; and (iv) the contact person must be authorized by the Large Trader to use this information to respond promptly and accurately to any inquiries from the Commission or other regulatory staff concerning this account.]; and

(e) telephone and facsimile number of the account executive or, if the designated contact person is different from the account executive, the contact person.

Schedule 7.—To be Completed if Any Other Person Guarantees Accounts Owned or Controlled by the Large Trader

Indicate the full name of the Large Trader at the top of the Schedule. One copy of Schedule 7 should be completed for each person who guarantees an account owned or controlled by the Large Trader. If additional Schedule 7 pages are completed, indicate on each page the individual page number and total number of Schedule 7 pages.

Item 1. Briefly describe the relationship of the Large Trader to the person guaranteeing the account(s).

Item 2. Provide the following information concerning the identity of the person who guarantees the account(s).

(1) full name and address of the person who guarantees the account(s);

(2) name of the person designated for contacts for inquiries (the person designated for contacts must be a natural person), if this is the same person as the person who guarantees the account(s), indicate "Same" in the space provided;

(3) if the designated contact person is different from the person who guarantees the account(s), specify the contact person's title or relationship to the person who guarantees the account(s), if the contact person is the same as the person who guarantees the account(s), indicate "Same" in the space provided; and

(4) specify the telephone and facsimile number of the person who guarantees the account(s), or if the designated contact person is different from the person who guarantees the account(s), of the contact person.

Item 3. Briefly describe the business of the person guaranteeing the account(s).

Item 4. Specify the type of organization of the person guaranteeing the account(s) by checking only one of the listed organization types or by checking "Other" and providing a brief description if none of the listed types apply.

Item 5. If the person guaranteeing the account(s) has filed independently a Form 13H and has been issued a Large Trader Identification Number, indicate this person's Large Trader Identification Number in the space provided.

Item 6. If the person guaranteeing the account(s) is registered with the Commodity Futures Trading Commission as a Reporting Trader, indicate the registration number in the space provided.

Item 7. For each account owned or controlled by the Large Trader that is guaranteed by such other person, specify the full account name and account number used by the broker-dealer maintaining the account. This account name/account number should be the same as that indicated on Form 13H Schedule 6. Provide the account name/account number as a separate sub-item for each account owned or controlled by the Large Trader that is guaranteed by this person. If information is provided for more than one account, specify for each sub-item the individual sub-item number and total number of sub-items. For example, if a Large Trader owns four accounts and controls another ten accounts, but the person identified on this page of Schedule 7 guarantees only one of the owned accounts and two of the controlled accounts, three sub-items should be completed in Item 7 of this page of Schedule 7, the first of which should be specified as "No. 1 of 3" (regardless of the sub-item number appearing on Schedule 6), the second of which should be specified as "No. 2 of 3," and the last specified as "No. 3 of 3" (use continuation sheets if necessary). If the person identified on this page of Schedule 7 guarantees all of the accounts owned or controlled by the Large Trader that are listed on Schedule 6, indicate "All Accounts on Schedule 6" in the space provided in Item 7 of Schedule 7.

Schedule 8.—To be Completed if the Large Trader Guarantees Accounts Owned or Controlled by Any Other Person

Indicate the full name of the Large Trader at the top of the Schedule. One copy of Schedule 8 should be completed for each person who owns or controls accounts that are guaranteed by the Large Trader. If additional Schedule 8 pages are completed, indicate on each page the individual page number and total number of Schedule 8 pages.

Item 1. Briefly describe the relationship of Large Trader to the person who owns or controls the accounts.

Item 2. Provide the following information concerning the identity of the person who owns or controls the accounts that are guaranteed by the Large Trader:

(1) full name and address of the person who owns or controls the accounts that are guaranteed by the Large Trader;

(2) name of the person designated for contacts for inquiries (the person designated for contacts must be a natural person), if this is the same person who owns or controls the accounts that are guaranteed by the Large Trader, indicate "Same" in the space provided;

(3) if the designated contact person is different from the person who owns or controls the accounts that are guaranteed by the Large Trader, specify the contact person's title or relationship to the person who owns or controls the account, if the contact person is the same as the person who owns or controls the accounts that are guaranteed by the Large Trader, indicate "Same" in the space provided; and

(4) specify the telephone and facsimile number of the person who owns or controls the accounts that are guaranteed by the Large Trader, or, if the designated contact person is different from the person who owns or controls the accounts, specify the telephone and facsimile number of the designated contact person.

Item 3. Briefly describe the business of the person who owns or controls the accounts that are guaranteed by the Large Trader.

Item 4. Specify the type of organization of the person who owns or controls the accounts that are guaranteed by the Large Trader by checking only one of the listed organization types or by checking "Other" and providing a brief description if none of the listed types apply.

Item 5. If the person who owns or controls the accounts that are guaranteed by the Large Trader has filed independently a Form 13H and has been issued a Large Trader Identification Number, indicate this person's Large Trader Identification Number in the space provided.

Item 6. If the person who owns or controls the accounts that are guaranteed by the Large Trader is registered with the Commodity Futures Trading Commission as a Reporting Trader, indicate the registration number in the space provided.

Item 7. If information is provided for more than one account, specify for each sub-item the individual sub-item number and total number of sub-items. For example, if a Large Trader guarantees three accounts that are owned or controlled by the person identified on this page of Schedule 8 (with this person owning two accounts and controlling another account), three sub-items should be completed for this page of Schedule 8, the first of which should be specified as "No. 1 of 3," the second of which should be specified as "No. 2 of 3," and the last specified as "No. 3 of 3." Provide the following information as a separate sub-item for each account that is guaranteed by the Large Trader but that is owned or controlled by the person identified on this page of schedule 8 (use continuation sheets if necessary):

(1) designate the relationship of the person identified on this page of Schedule 8 to this account by checking either "Owns the Account" or "Controls the Account";

(2) specify the exact name of the account, if this is the same as the person identified on this page of schedule 8, indicate "Same" in the space provided;

(3) specify the full account name and account number used by the broker-dealer maintaining the account; and

(4) provide the following information concerning the broker-dealer maintaining the account:

(a) full business name of the broker-dealer;

(b) full business address of the broker-dealer;

(c) full name of the account executive for this account;

(d) full name of the person at the broker-dealer who should be contacted regarding this account, if the contact person is the same as the account executive, indicate "Same" in the space provided [The contact person must meet the following qualifications: (i) the contact person must be a natural person; (ii) the contact person must be employed by or otherwise affiliated with the broker-dealer; (iii) the contact person must have personal knowledge of all orders and transactions involving this account or be in a position to obtain promptly this information from other persons who have such personal knowledge and who also are associated with the broker-dealer; and (iv) the contact person must be authorized by the Large Trader to use this

information to respond promptly and accurately to any inquiries from the Commission or other regulatory staff concerning this account.]; and

(e) telephone and facsimile number of the account executive or, if the designated contact person is different from the account executive, the contact person.

[FR Doc. 91-20579 Filed 8-27-91; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 142

[RIN 1515-AB08]

Line Release

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by providing a new method of processing entries of merchandise entering the U.S. It is proposed that this new method, Line Release, which is designed to release and track repetitive shipments through bar code technology, may be used as a form of entry or immediate delivery at certain land border locations approved by Customs. Line Release processing will result in expedited release of repetitive shipments.

DATES: Comments must be received on or before October 28, 1991.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. Comments relating to the information collection aspects of the proposal should be directed to U.S. Customs, 1301 Constitution Avenue NW., Paperwork Management Branch or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: William Nolle, Office of Automated Commercial Systems (202) 566-7907.

SUPPLEMENTARY INFORMATION:

Background

When merchandise is imported into the U.S., it must be entered pursuant to 19 U.S.C. 1484. After arrival, merchandise is kept in Customs custody and may not be released until an entry has been filed with sufficient documentation to enable the appropriate Customs officer to determine whether it may be released. Entry means filing the documentation required by § 142.3, Customs Regulations (19 CFR 142.3). The documentation required includes Customs Form 3461, or CF 3461 Alt in the case of merchandise imported from Canada or Mexico with a Inward Cargo Manifest, Customs Form 7533; evidence of the right to make entry; a commercial invoice, pro forma invoice, or other acceptable documentation; a packing list and other documents required for a particular shipment.

Generally, Customs will review the entry package to determine if all the necessary information is included and is accurate and will determine if an examination is required. After the documentation has been reviewed and/or the examination conducted, Customs will authorize the delivery of the merchandise, if appropriate.

Entry summary documentation (CF 7501) must be filed within 10 working days after the time of entry. Unless the filer uses the Automated Clearinghouse method of payment, payment must accompany the submission of the entry summary documentation. If an entry summary is filed at the time of entry, Customs Form 3461 or 7533 is not required. Merchandise for which an entry summary serves as both an entry and an entry summary will not be released until a bond on Customs Form 301 containing the conditions set forth in 19 CFR 113.62 has been filed.

Because the entry process may take some time to complete and release could be delayed, 19 U.S.C. 1448(b) authorizes the Secretary of the Treasury to provide by regulation for the issuance of special permits for delivery of merchandise when immediate delivery is necessary. Customs Regulations regarding immediate delivery are set forth in §§ 142.21 *et seq.* An Appropriate bond is required for immediate delivery privileges. Merchandise for which a special permit is issued is considered in Customs custody until the filing of an entry summary for consumption with estimated duties. Documentation must be filed and estimated duties, if any, deposited within 10 working days after the merchandise or any part of it is authorized for release under a special permit for immediate delivery.

Line Release

Customs has now developed an automated method to expedite the release of certain shipments. The method is known as Line Release. Line Release is designed for the release and tracking of highly repetitive, high volume shipments through the use of personal computers and bar code technology. Line Release will be both faster and require less paperwork than other entry methods.

Use of Bar Code Technology

Line Release allows Customs to identify high volume and repetitive shipments. Customs officers at the port of entry will identify these shipments by means of a bar code which appears on the invoice that is submitted. The bar code contains the elements necessary to uniquely identify a routine import transaction: a shipper/manufacturer code, an importer code, the national entry filer code and a product code. The bar code is called the Common Commodity Classification Code or the C-4 Code.

An entry filer (a broker or importer filing its own entries) who believes that shipments imported into a particular land border port would qualify for Line Release because they are routine, repetitive, high-volume shipments with a history of invoice accuracy, may apply to participate in Line Release by providing Customs with certain information, including shipper or manufacturer name, address and manufacturer identification (MID), importer name, address and importer of record number, entry filer name, importer of record number, a product description, unit of measure, HTSUS subheading number or subheading number range and a representative sample of a commercial invoice for the shipments.

In order to parallel existing release systems (CF 3461 and CF 3461 ALT, Entry/Immediate Delivery Application), Line Release applicants must also indicate on the Line Release application if the release applied for is an entry or immediate delivery. Any application which fails to state whether the release is to be an entry or immediate delivery will be returned.

Upon receipt of a complete application, the District Director will determine if the combination of elements qualifies for Line Release. If the elements qualify, Customs Headquarters will assign a C-4 Code. The entry filer must then have the C-4 Code printed in bar code format.

The C-4 Code in bar code format and other required identifying data must be either printed on labels which are thereafter affixed to the invoices used for the described merchandise or preprinted directly on the invoices.

All releases which use the C-4 Code will be considered either an entry or an immediate delivery as elected by the Line Release applicant. Should the applicant wish to change the entry or immediate delivery indicator, a written

request must be made to the district director where the C–4 Code is used. If a temporary change is desired, the request must state the date the C–4 Code is to be returned to the originally requested release type. For those applications that have already been approved and C–4 Codes issued, unless customs is notified in writing to the contrary, the following will apply: All releases which use already issued C–4 Codes at the northern border will be considered immediate deliveries; all releases based on already issued C–4 Codes at other locations will be considered entries.

Procedure When Merchandise Is Imported Through Line Release

When shipments which have qualified for Line Release are imported at a land border port, the carrier, importer or filer presents Customs with an invoice containing the bar code. In addition to the invoice with bar code, the carrier, importer or filer shall present the manifest documentation which reflects the location and the method of transportation, and any other documentation required. The Customs inspector will scan the bar code using a computer and verify that the system data agrees with the information on the documentation.

The inspector will key in the quantity. An entry number will be assigned automatically to the transaction. For the purposes of Line Release, "entry number" when the release is an immediate delivery refers merely to the Line Release transaction number. This number does not become the actual entry number until an entry for the merchandise released under the immediate delivery procedure is filed. Release data will be printed on the back of the invoice and the manifest document. The invoice will be returned to the entry filer and the manifest document will be retained by Customs.

Examinations

If there is no discrepancy in documentation and the inspector has determined that neither the conveyance nor the merchandise warrants additional examination, the merchandise generally will not be examined.

Random system-generated examinations, however, will occur. Also, if there is a discrepancy in documentation or the documentation does not appear to accurately reflect the merchandise being imported, the inspector may order an examination. Further, examinations may be ordered even if the Line Release data and/or documents are consistent, if the inspector determines that the driver, conveyance or merchandise warrants additional examination.

In certain instances when there is an examination, the shipment is removed form Line Release processing, does not receive an entry number, and the entry filer is required to file a CF 3461 or CF 3461 ALT. In other instances, the Line Release assigned entry number is retained pending the result of the examination.

Whenever there is an examination, the carrier may not proceed until Customs has completed the examination.

Notification of Release of Merchandise

When the Customs officer at the Line Release site determines that a shipment is ready for release, release data, consisting of the entry number, the date and time of release, the inspector's badge number, the quantity and unit of measure, and the C–4 Code will be printed on the invoice and the manifest document. The invoice shall be returned to the entry filer and the manifest document shall be retained by Customs. The returned invoice with the printed release data shall be the release notification to non-ABI participants. If the Line Release entry filer is an operational ABI participant, the filer also shall receive an electronic notification of the release consisting of the importer of record number, district/port of entry, filer code, entry number, date and time of release, manufacturer code, quantity and unit of measure, release site, HTSUS subheading number(s), C–4 Code and country or countries of origin.

Entry filers have 10 working days from the date of release in which to file the entry summary, CF 7501, or file an entry if the merchandise was released pursuant to an immediate delivery.

Benefits of Line Release

The use of Line Release requires less document preparation by the entry filer. Merchandise thus moves faster and there are significant savings in labor for Customs and the trade community. Further, when Line Release data is transmitted to the ACS computer, the Line Release transmission creates standard entry records and these records are written to the entry master file. The entry records assist the Line Release sites and entry control units in tracking Line Release transactions.

Proposal

It is proposed to amend part 142, Customs Regulations, to set forth the requirements for Line Release. A new subpart D would be added to part 142 defining Line Release and explaining the procedures for participants.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Avenue NW., Washington, DC.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3540(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the U.S. Customs Service at the address previously specified.

The collection of information in this regulation is in § 142.42. The information is necessary to determine eligibility to participate in the Line Release program. The likely respondents are business or other for-profit institutions.

Estimated total annual reporting and/or recordkeeping burden: 4200 hours.

Estimated average annual burden per respondent and/or recordkeeper: 25 hours.

Estimated number of respondents: 168.

Estimated annual frequency of responses: 100.

Part 178, Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and control numbers assigned by OMB, would be amended accordingly if this proposal is adopted.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 142

Customs duties and inspection, Imports.

Proposed Amendments

It is proposed to amend part 142, Customs Regulations (19 CFR part 142), as set forth below.

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. Part 142 is amended by adding a new subpart D to read as follows:

Subpart D—Line Release

Sec.

Subpart D—Line Release

§ 142.41 Line Release.

Line Release is an automated system designed to release and track repetitive shipments. It is a method of entry or immediate delivery extended to importers of merchandise which Customs deems to be repetitive and high volume. Line Release may be used only at those land border locations approved by Customs for handling Line Release.

§ 142.42 Application for Line Release processing.

In order to obtain approval for processing import transactions through Line Release, a broker or importer filing its own entries (entry filer) must submit an application to the District Director, signed by the entry filer, in a format described as a Line Release Data Loading Sheet. The application must be accompanied by a representative sample of an actual commercial invoice for the products sought to be processed under Line Release. The Line Release Data Loading Sheet must contain the following information with each information element appearing on a separate line.

(a) District or Port where Application is being made.

(b) Initiating Company Information: Name, address, city, state, contact person, phone number of contact person, and signature.

(c) Listing of all districts in which the initiating company has filed a similar application for Line Release.

(d) Country of origin codes (ISO codes from Annex B of HTSUS) for the merchandise.

(e) Shipper or manufacturer information: Name, address, city, province/state, country, postal code, indication by noting "M" or "S" whether this information relates to a manufacturer (M) or a shipper (S), and manufacturer identification number of the shipper or manufacturer.

(f) Importer information (if importer is different than filer): Name, address, city, state and country, zip code, importer number, bond number, and surety code.

(g) Entry filer information: name, importer number, filer code, bond number, and surety code.

(h) Product information: product description, manifest unit of measure, HTSUS number for particular product or range of HTSUS numbers for multiple products for which Line Release is sought.

(i) Election of whether the Line Release transaction is to be considered an entry or an immediate delivery.

§ 142.43 Line Release application approval process.

(a) *District review.* The District Director shall review each Line Release application to determine whether the shipments qualify for Line Release processing. The District Director may contact the applicant for further information, if necessary. An application that fails to elect whether the Line Release transaction is to be considered an entry or an immediate delivery will be returned to the applicant. If all required information is submitted, the application will be forwarded to Headquarters for final processing.

(b) *Assignment of C–4 Codes.* A C–4 Code (Common Commodity Classification Code), which is a unique code identifying the shipper or manufacturer, importer, entry filer, and the product for each Line Release shipment, shall be assigned by Headquarters to each application approved for Line Release. Headquarters shall annotate each approved application with a C–4 Code and return the application to the District Director who shall return the approved application to the entry filer.

(c) *Denial of Line Release application.* An application for Line Release denied by a District Director shall be forwarded to Headquarters to determine whether the application has been approved in other districts. If approved in other districts, Headquarters shall note on the application the districts where approved and return the application to the district director for reconsideration. A denied application shall be returned to the entry filer by a District Director; such an application shall not be annotated with a C–4 Code and shall be noted denied.

§ 142.44 Entry number range.

After an application for Line Release has received final approval from Headquarters, filers must provide the District Director, in writing, with a range of entry numbers for use in the system so that an entry number can be assigned automatically to each Line Release transaction. For the purposes of this subpart, "entry number" when the release is an immediate delivery merely refers to the Line Release transaction number; this number does not become the actual entry number until an entry for the merchandise released under the immediate delivery procedure is filed. A separate range must be provided for each Line Release site in the district. These entry numbers shall be used for assignment within the Line Release system. Entry filers shall not assign these numbers to other entry transactions.

§ 142.45 Use of bar code by entry filer.

(a) *Printing of C–4 Code.* Upon receipt of an approved Line Release application, the entry filer, in accordance with instructions from the District Director, shall preprint invoices with the C–4 Code in bar code and alpha-numeric format or print labels with the necessary information. Bar codes shall be printed in accordance with the specifications stated in Customs Publication 561 (*Line Release Overview*). Labels or preprinted

invoices also shall state the name of the shipper or manufacturer of the product and the name of the importer of record, if other than the entry filer, above the bar code and the name of the entry filer and a product description below the bar code.

(b) *Multiple commodity processing.* Multiple commodity processing allows more than one product to be released under one entry number. The shipper/manufacturer, importer of record and the entry filer must be the same. The product description is the only variable allowed. The commodities should be listed on one invoice with C–4 Code labels for each commodity attached to the invoice.

(c) *Distribution of labels.* If labels are used, the labels shall be affixed to the invoices in accordance with instructions from the District Director. The entry filer may either affix the labels or distribute the labels to the shippers/manufacturers and instruct them in the use and placement of the labels.

§ 142.46 Presentation of invoice and assignment of entry number.

(a) *Presentation of invoice.* When merchandise that has been approved for Line Release is imported at a Line Release site, the carrier, importer or filer shall present Customs with an invoice with the bar code or codes printed or affixed and, according to the method of transportation, the appropriate manifest document.

(b) *Verification of data.* If after scanning the bar code at the Line Release site, the Customs officer verifies the data on the bar code with the information on the invoice, he will key the quantity on the invoice and an entry number will be automatically assigned to the transaction. If there are any differences between the system data and the invoice and bar code, including any differences in entry filer, the Customs officer shall order an examination.

(c) *Other agency documentation.* If the Line Release shipment requires other agency documentation, the Customs officer at the Line Release site will be alerted to that requirement electronically when he verifies the data on the bar code with the information on the invoice. If the required form is presented to the officer with the documentation package, the shipment may be released.

§ 142.47 Examinations of Line Release transactions.

(a) *General.* Merchandise imported under Line Release generally may be released without further Customs processing. Customs, however, may choose to inspect any Line Release shipment. Examinations may be either specifically ordered by the Customs officer or random.

(b) *Voiding of Line Release Transaction.* Customs may void a Line Release transaction because of an examination. If this occurs, Customs will return the invoice to the carrier, and the entry filer, in order to enter merchandise, shall prepare and submit either a CF 3461 or 3461 Alternate.

§ 142.48 Release procedure.

(a) *General.* When the Customs officer at the Line Release site determines that a shipment is ready for release, release data, consisting of the entry number, the date and time of release, the inspector's badge number, the quantity and unit of measure, and the C–4 Code will be printed on the invoice and the manifest document. The invoice shall be returned to the entry filer and the manifest document shall be retained by Customs.

(b) *Notification to non-ABI participants.* The returned invoice with the release data shall be the release notification to non-ABI participants.

(c) *Notification to ABI participants.* If the Line Release entry filer is an operational ABI participant, the filer shall receive an electronic notification of the release consisting of the importer of record number, the district/port of entry, the filer code, the entry number, the date and time of release, the manufacturer code, the quantity and unit of measure, the release site, the HTSUS number(s), the C–4 Code and the country or countries of origin.

§ 142.49 Deletion of C–4 Code.

(a) *By Customs.* A District Director may temporarily or permanently delete an entry filer's C–4 Code without providing the participant with any justification and without prior notification in cases of willfulness or when public health, interest or safety so requires, thereby revolving the filer's use of Line Release.

(b) *By entry filer.* Entry filers may delete C–4 Codes from Line Release by notifying the District Director in writing on a Deletion Data Loading Sheet. Such notification shall state the C–4 Code which is to be deleted, the district or port where the C–4 Code is to be deleted and the reason for the requested deletion. A copy of the originally approved Data Loading Sheet must be submitted with the Deletion Data Loading Sheet. If only a temporary deletion is desired, the filer shall state the requested effective date for the deletion and the date the C–4 Code is requested to be returned to Line Release processing.

§ 142.50 Line Release data base corrections or changes.

The applicant shall notify the District Director of any changes in names, importer or filer numbers or bond information on a Line Release Data Loading Sheet as soon as possible. Notification shall be accomplished by the submission of a copy of the original loading sheet with a Correction Data Loading Sheet.

§ 142.51 Changing election of entry or immediate delivery.

An applicant who has already received a C–4 Code and wishes to change the election chosen on his Line Release application as to whether the release should be considered an entry or an immediate delivery must submit a letter requesting such change to the district director where the C–4 Code is used. This letter must include the C–4 Code to be changed and the date the change is to be effective. If the requested change is for a temporary time period, the letter shall include the date the releases are to return to the release type originally requested. Applications that fail to state the effective dates of the changes requested will be returned to the applicant.

§ 142.52 District-wide and multiple district acceptance of Line Release.

(a) *District-wide processing.* If a C–4 Code has been approved by a district, the C–4 Code may be used at any Line Release site in the district.

(b) *Multiple district processing.* In order for a C–4 Code approved in one district to be used in another district, the entry filer must submit an application to the District Director of the other district. While uniform criteria shall be applied to approving similar shipments for Line Release in all districts, a District Director may exercise his discretion to deny Line Release in a district even though a similar shipment may be approved in another district.

Approved: July 19, 1991.

Peter K. Nunez,

Assistant Secretary of Treasury.

Carol Hallett,

Commissioner of Customs.

[FR Doc. 91–20441 Filed 8–27–91; 8:45 am]

BILLING CODE 4820–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL-3990-2]

Notice of Open Meeting of the Negotiated Rulemaking Advisory Committee; Lead Acid Battery Recycling Rule

AGENCY: Environmental Protection Agency.

ACTION: Announcement of negotiated rulemaking; committee meeting.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of the final meeting of the Advisory Committee to negotiate a rule to recycle lead acid batteries. The meeting is open to the public without advance registration.

The purpose of the meeting is to discuss recent data generated by EPA and to further determine whether the committee should continue work towards reaching a consensus on a rule to promote recycling of lead acid batteries.

DATES: The meeting will be held on September 17, 1991 from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Hyatt Regency, Crystal City, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the lead acid battery recycling rule should call Nancy Laurson, Office of Toxic Substances, U.S. EPA. (202) 382-3865. Persons needing further information on administrative matters such as committee arrangements or procedures should contact Deborah Dalton, EPA Regulatory Negotiation Project, (202) 382-5495 or the Committee's facilitator, John McGlennon, (617) 742-8228.

Dated: August 22, 1991

Deborah Dalton,

Designated Federal Official Deputy Director, Consensus and Dispute Resolution Staff, Office of Policy, Planning and Evaluation.

[FR Doc. 91-20622 Filed 8-27-91; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[CA-12-10-5237; FRL-3989-8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Sacramento Metropolitan Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval of revisions to the California State Implementation Plan (SIP) adopted by the Sacramento Metropolitan Air Quality Management District (SMAQMD) on August 21, 1990. The California Air Resources Board submitted these revisions to EPA on April 5, 1991. The revisions concern SMAQMD's Rule 452, Can Coating, which controls the emission of volatile organic compounds (VOCs) from can coating operations, and SMAQMD's Rule 443, Leaks from Synthetic Organic Chemical and Polymer Manufacturing, which controls the emission of VOCs from chemical plants. EPA has evaluated the revisions found in Rule 452 and 443, and is proposing a limited approval under sections 110(k)(3) and 301(a) of the Clean Air Act Amendments of 1990 (CAAA) because these revisions strengthen the SIP.

DATES: Comments must be received on or before September 27, 1991.

ADDRESSES: Comments may be mailed to: Colleen McKaughan, State Implementation Plan Section (A-2-3), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814.

Sacramento Metropolitan Air Quality Management District, 8475 Jackson Road, suite 215, Sacramento, CA 95826.

FOR FURTHER INFORMATION CONTACT: Doris Lo, State Implementation Plan Section (A-2-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1187, FTS: 484-1187.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act that included the SMAQMD (43 FR 8962). Because it was not possible for the District to reach attainment by the statutory attainment date of December 31, 1982, California requested, and EPA approved, an extension of the attainment date for ozone in the SMAQMD to December 31, 1987. The SMAQMD had not attained the standard by the extended attainment date. On May 26, 1988, EPA notified the Governor of California that the SMAQMD's portion of the California State Implementation Plan (SIP) was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Public Law 101-549, 104 Stat. 1399, codified at 42 U.S.C. SS7401-7671q. In section 182(a)(2)(A) of the CAAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient RACT rules and established a deadline of May 15, 1991, for states to submit corrections of those deficiencies.

SMAQMD was subject to that May 15, 1991, deadline. The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on April 5, 1991. This notice addresses EPA's proposed action for SMAQMD's Rule 452, Can Coating, and SMAQMD's Rule 443, Leaks from Synthetic Organic Chemical and Polymer Manufacturing. Both submitted rules were found to be complete on May 21, 1991, and are being proposed for limited approval. Rule 452 controls the emission of volatile organic compounds (VOCs) from can coating operations, and Rule 443 controls the emission of VOCs from leaks in equipment used in the manufacturing of certain organic chemicals. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of SMAQMD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised to achieve further emission reductions and in response to the SIP-Call and the section 182(a)(2)(A) CAAA requirement. The following is EPA's evaluation and proposed action for SMAQMD's Rule 452 and Rule 443.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule

for consistency with the requirements of the CAAA and EPA policy. These requirements are found in section 110 and part D of the CAAA and in 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (RACT) for major stationary sources of VOC emissions. This requirement was carried forth from the preamended Act. For the purpose of assisting states and locals in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents which specify the minimum requirements that a rule must contain in order to be approved in the SIP. Under the amended Act, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A).

The CTG applicable to Rule 452 is entitled, "Surface Coating (Volume II—Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks)", EPA document #EPA–450/2–77–008. The CTG applicable to Rule 443 is entitled, "Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment", EPA document #EPA–450/3–83–006. Further EPA policy requirements are also found in the document entitled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 Federal Register" (a.k.a. the "Blue Book"). In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SMAQMD's submitted Rule 452, Can Coating, includes the following revisions from the current SIP rule:

—Clarifying language which specifies that clean-up operations previously regulated by District Rule 441, Organic Solvents, are now regulated by Rule 452, Can Coating;
—Deletion of an alternative control provision which was pointed out by EPA as a deficiency;
—Clarification of Can Coating and End Sealing Compound definitions;
—Revision of the VOC definition for consistency with EPA requirements;
—Revision of coating limits for Two Piece Can Exterior End Coating and Two Piece Can Interior Body Spray to reflect the most stringent limits found in California district rules;
—Clarification of control device requirements;
—Addition of surface preparation and cleanup and solvent usage requirements for the cleanup of can assembly equipment which should lead to 0.02 tons/day of emission reductions;
—Addition to requirements for Operation and Maintenance Plans to ensure continued efficient operation of emission control devices;
—Specification of test methods for compliance determinations;
—Specification of recordkeeping requirements for coatings and solvents;

SMAQMD's submitted Rule 443, Leaks from Synthetic Organic Chemical and Polymer Manufacturing, includes the following revisions from the current SIP rule:

—Deletion of exemptions for components in natural gas or hydrogen gas service;
—Revision of the definition of inaccessible components and addition of an annual inspection requirement for these components for consistency with EPA requirements;
—Revision of the scope of the rule to expand the types of equipment being regulated;
—Addition of an exemption from routine monitoring for components handling VOCs with low vapor pressure which is consistent with EPA requirements;
—Addition of new terms to further clarify the rule;
—Revision of the definition of a leak for consistency with EPA requirements;
—Revision of the VOC definition for consistency with EPA requirements;
—Revision of the inspection frequency and repair requirements for consistency with EPA requirements;
—Deletion of an alternative inspection provision which was pointed out by EPA as a deficiency;
—Addition of test method requirements;
—Revision of recordkeeping requirements for consistency with EPA requirements.

EPA has evaluated the submitted Rules 452 and 443 for consistency with EPA requirements and has found that the revisions address and correct many of the deficiencies previously identified by EPA. Furthermore, both rules should achieve further emission reductions. Emissions should be reduced through the additional cleanup solvent requirements in Rule 452, and through improved inspection requirements and fewer exemptions in Rule 443. These revisions make the submitted Rules 452 and 443 stronger and more enforceable than the current SIP Rules 452 and 443. Thus, the submitted Rules 452 and 443 should be approved in order to strengthen the SIP.

Although the approval of Rules 452 and 443 will strengthen the SIP, neither rule meets all the applicable requirements under part D of the CAAA [1], and thus, EPA cannot grant full approval of these rules pursuant to section 110(k)(3). Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAAA, EPA cannot grant partial approval of the rules pursuant to section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. Thus, in order to strengthen the SIP, EPA is proposing a limited approval of submitted Rules 452 and 443 under sections 110(k)(3) and 301(a) of the CAAA. The approval is limited in the sense that the rules are not being fully approved under 110(k)(3) and part D of the CAAA since they do not meet the section 182(a)(2)(A) requirement found under part D of the CAAA. In a future notice, within the timeframe specified under section 110(k) of the CAAA, EPA will propose a limited disapproval for submitted Rules 452 and 443 for not meeting the part D requirement unless the State submits revisions which correct the part D deficiencies.

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

Regulatory Process

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional

[1] Each rule still contains two provisions that cannot be approved by EPA under part D of the CAAA ("deficiencies"). These deficiencies involve an inadequate capture efficiency test method and the allowance of "equivalent" test methods. These provisions are unapprovable because they are not consistent with the guidance found in the aforementioned "Blue Book" and may lead to rule enforceability problems. These deficiencies were required to be corrected under section 182(a)(2)(A) of the CAAA. EPA is currently working with the District in order to correct these deficiencies.

Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1991, the Office of Management and Budget extended the waiver of Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642

Dated: August 20, 1991.

John Wise,

Acting Regional Administrator.

[FR Doc. 91–20623 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 0E3844/P526; FRL–3933–3]

RIN 2070–AC18

Pesticide Tolerance for 2-(2-Chlorophenyl)Methyl-4,4-Dimethyl-3-Isoxazolidinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone (also referred to as clomazone) in or on the raw agricultural commodity winter squash. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 0E3844/P526], must be received on or before September 27, 1991.

ADDRESSES: By mail, submit written comments to: Public Information Branch, 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, CM#2, 1921 Jefferson Davis Highway, 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 may be disclosed publicly by EPA without prior notice. 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, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 0E3844 to EPA on behalf of the IR-4 and the Agricultural Experiment Stations of New Jersey, North Carolina, and Tennessee.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), propose the establishment of a tolerance for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone in or on the raw agricultural commodity winter squash at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 1-year feeding study in dogs fed diets containing 100, 500, 2,500, and 5,000 parts per million (ppm) with a no-observed-effect level (NOEL) of 500 ppm (equivalent to 12.5 milligrams (mg)/kilogram (kg)/day) based on increased absolute and relative liver weights in male and female dogs.

2. A development toxicity study in rats with NOEL's for maternal and fetotoxic effects of 100 mg/kg/day, and no developmental toxicity observed at the highest dose level tested (600 mg/kg/day).

3. A development toxicity study in rabbits with NOEL's for maternal and fetotoxic effects of 240 mg/kg/day, and no developmental toxicity observed at the highest dose level tested (700 mg/kg/day).

4. A 2-year feeding/carcinogenicity study in rats fed diets containing 20, 100, 500, 1,000, and 2,000 ppm with a systemic NOEL of 100 ppm (equivalent to 4.3 mg/kg/day) based on elevated cholesterol, in absolute and relative liver weights, and in the incidence of liver cytomegaly. There were no carcinogenic effects observed under the conditions of the study at any dosage level tested.

5. A 2-year feeding/carcinogenicity study in mice fed diets containing 20, 100, 500, 1,000, and 2,000 ppm with a NOEL of 100 ppm (equivalent to 15 mg/kg/day) for systemic effects based on an increase in white blood cell count. The study was negative for carcinogenic effects at all dosage levels tested.

6. Mutagenic studies: including unscheduled DNA synthesis, negative; reverse mutation (two studies in *Salmonella*), both negative with/without activation; point mutation (CHO/HGPT), weakly positive without activation; and *in vivo* cytogenetic (chromosomal aberration), negative for mutagenicity.

The reference dose (RfD), based on the 2-year feeding study in rats (NOEL of 4.3 mg/kg/day) and using an uncertainty factor of 100, is calculated to be 0.043 mg/kg body weight (bw)/day. The theoretical maximum residue contribution (TMRC) from existing tolerances is calculated to be 0.000028 mg/kg/day. Published tolerances and the proposed tolerances for winter squash utilize less than 1.0 percent of the RfD for the overall U.S. population.

The nature of the residue is adequately understood. An adequate analytical method, gas chromatography using nitrogen/phosphorus detector, is available for enforcement purposes. Prior to its publication in the Pesticide Analytical Manual (PAM), Vol. II., the enforcement methodology is being made available in the interim to anyone interested in pesticide residue enforcement when requested from: By mail, Calvin Furlow, Public Information Branch, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm. 1128, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-4432.

No secondary residues in meat, milk, poultry, or eggs are expected since winter squash is not considered a livestock feed commodity. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.425 would protect the public health.

Therefore, it is proposed that the 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, [PP 0E3844/P526]. All written comments filed in response to this petition will be available in the Public Information 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, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 1991.

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 180.425 is amended in the table therein by adding and alphabetically inserting the raw agricultural commodity winter squash, to read as follows:

§ 180.425 2-(2-Chlorophenyl)methyl-4,4-dimethy-3-isoxazolidinone; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Squash, winter	0.1
* * * * *	

[FR Doc. 91-20513 Filed 8-27-91; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP's 9E3810, 9E3813, and 0E3912/P530; FRL-3939-6]

RIN 2070-AC18

Pesticide Tolerances for Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the insecticide esfenvalerate [[(S)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate), the S,S isomer of fenvalerate [cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate]) and its R,R; R,S; and S,R isomers in or on the raw agricultural commodities bok choy, cardoon, and sweet potatoes. The proposed regulations to establish maximum permissible levels for residues of the insecticide in or on the commodities were requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP's 9E3810, 9E3813, and 0E3912/P530], must be received on or before September 27, 1991.

ADDRESSES: By mail, submit written comments to: Public Information Branch, 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, CM#2, 1921 Jefferson Davis Highway, 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 may be disclosed publicly by EPA without prior notice. 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, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4, (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 9E3810 to EPA on behalf of the IR-4 and the Agricultural Experiment Stations of Florida and Ohio; PP 9E3813 on behalf of the Agricultural Experiment Stations of Oklahoma, Texas, Puerto Rico, California, North Carolina, and Louisiana; and PP 0E3912 on behalf of the Agricultural Experiment Station of California.

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of tolerances for residues of the insecticide esfenvalerate [(S)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate], the principal isomer, and its enantiomer (R)-cyano(3-phenoxyphenyl)methyl-(R)-4-chloro-alpha-(1-methylethyl)benzeneacetate and its diastereomers, (S)-cyano(3-phenoxyphenyl)methyl-(R)-4-chloro-alpha-(1-methylethyl)benzeneacetate, and (R)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate, in or on the raw agricultural commodities as follows:

1. *PP 9E3810.* In or on bok choy at 1.0 part per million (ppm).

2. *PP 9E3813.* In or on sweet potatoes at 0.05 ppm.

3. *PP 0E3912.* In or on cardoon at 1.0 ppm.

The petitioner proposed that use of esfenvalerate on bok choy be limited to east of the Mississippi River and that use of esfenvalerate on cardoon be

limited to California. These geographical restrictions on the registration of esfenvalerate for use on bok choy and cardoon are based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above. The IR-4 initially requested that the tolerance for esfenvalerate in or on sweet potatoes be set at 0.02 ppm. However, at the Agency's suggestion, this request was revised to 0.05 ppm to permit harmonization with the already established Codex maximum residue limit (MRL) for esfenvalerate in or on root and tuber vegetables.

Technical esfenvalerate consists of about 85 percent of S,S isomer with smaller amounts of each of the other isomers. All four isomers would be regulated by the proposed tolerances fo. bok choy, cardoon, and sweet potatoes.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances include:

1. A 90-day oral feeding study in rats with a no-observed-effect level (NOEL) for systemic effects (neurological signs) of 125 ppm (equivalent to 7.2 mg/kg/day).

2. A 12-month feeding study in dogs fed diets containing 0, 25, 50, 100, and 200 ppm of fenvalerate with a NOEL of 200 ppm (equivalent to 5 mg/kg/day).

3. A 20-month feeding/carcinogenicity study in mice fed diets containing 0, 10, 30, 100, and 300 ppm of fenvalerate with a systemic NOEL of 30 ppm (equivalent to 4.5 mg/kg/day). The lowest-effect level (LEL) was established at 100 ppm (equivalent to 15 mg/kg/day) based on decreased red blood cells and increased microgranulomatous changes in liver, spleen, and lymph nodes. No carcinogenic effects were observed under the conditions of the study at any dosage level tested.

4. A 2-year feeding/carcinogenicity study in rats fed diets containing 1, 5, 25, and 250 ppm of fenvalerate with a systemic NOEL of 250 ppm (equivalent to 12.5 mg/kg/day). No carcinogenic effects were observed under the conditions of the study at any dosage level tested.

5. A three-generation reproduction study in rats using fenvalerate with a maternal NOEL of 25 ppm (equivalent to 1.25 mg/kg/day) based on decreased body weight. No reproductive effects were observed at any dosage level including the highest dose tested (250 ppm, equivalent to 12.50 mg/kg/day).

6. Developmental toxicity studies in mice and rabbits using fenvalerate which were both negative at the highest doses tested (50 mg/kg/day).

The reference dose (RfD), based on the 20-month feeding study in mice (NOEL of 4.5 mg/kg/day) and using an uncertainty factor of 100, is calculated to be 0.045 mg/kg body weight/day. The total dietary exposure from previously established tolerances using anticipated residue data is estimated at 44 percent of the RfD for the U.S. population and 156 percent of the RfD for nonnursing infants. The proposed use of esfenvalerate on bok choy, cardoon, and sweet potatoes would utilize less than 1 percent of the RfD for all populations of consumers, a negligible increase in dietary exposure.

Toxicology studies required to complete the data base for this pesticide include dermal sensitization, a 21-day dermal study, a neurotoxicity screening battery, mutagenicity studies (including gene mutation, structural chromosomal aberration, other genotoxic effects), and general metabolism.

The nature of the residue is adequately understood and an adequate analytical method, gas chromatography, is available in the Pesticide Analytical Manual (PAM), Vol. II, for enforcement purposes. No secondary residues in meat, milk, poultry, or eggs are expected since bok choy, cardoon, and sweet potatoes are not considered livestock feed commodities. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.379 would protect the public health. Therefore, it is proposed that the tolerances 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, [PP's 9E3910, 9E3813, and 0E3912/P530]. All written comments filed in response to these petitions will be available in the Public Information 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, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 1991.

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 § 180.379, by adding new paragraphs (c) and (d), to read as follows:

§ 180.379 Cyano(3-phenoxy)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate; tolerances for residues.

* * * * *

(c) Tolerances are established for residues of the insecticide (S)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate, the principal isomer, and its enantiomer (R)-cyano(3-phenoxyphenyl)methyl-(R)-4-chloro-alpha-(1-methylethyl)benzeneacetate and its diastereomers, (S)-cyano(3-phenoxyphenyl)methyl-(R)-4-chloro-alpha-(1-methylethyl)benzeneacetate, and (R)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate, in or on the following raw agricultural commodities:

Commodity	Parts per million
Sweet potatoes	0.05

(d) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the insecticide (S)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate, the principal isomer, and its enantiomer (R)-cyano(3-phenoxyphenyl)methyl-(R)-4-chloro-alpha-(1-methylethyl)benzeneacetate and its diastereomers, (S)-cyano(3-phenoxyphenyl)methyl-(R)-4-chloro-alpha-(1-methylethyl)benzeneacetate, and (R)-cyano(3-phenoxyphenyl)methyl-(S)-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the following raw agricultural commodities:

Commodity	Parts per million
Bok choy	1.0
Cardoon	1.0

[FR Doc. 91-20514 Filed 8-27-91; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[PP 1E3926/P527; FRL-3933-4]

RIN 2070-AC18

Pesticide Tolerance for Metalaxyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for combined residues of the fungicide metalaxyl and its metabolites in or on the raw agricultural commodity ginseng. The proposed regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 1E3926/P527], must be received on or before September 27, 1991.

ADDRESSES: By mail, submit written comments to: Public Information Branch, 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, CM#2, 1921 Jefferson Davis Highway, 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 may be disclosed publicly by EPA without prior notice. 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, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 1E3928 to EPA on behalf of the Agricultural Experiment Stations of North Carolina and Virginia.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), propose the establishment of a tolerance for residues of the fungicide metalaxyl [N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxy methyl-6-methyl)-N-(methoxyacetyl)-alanine methyl ester in or on the raw agricultural commodity ginseng at 3.0 parts per million.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A 6-month feeding study in dogs fed diets containing 50, 250, and 1,000 parts per million (ppm) with a no-observed-effect level (NOEL) of 250 ppm (equivalent to 6.25 milligrams (mg)/kilogram (kg)/day) based on increased serum alkaline phosphatase activity and liver-to-brain weight ratios.

2. A 3-month feeding study in rats fed diets containing 50, 250, and 1,250 ppm with a NOEL of 250 ppm (equivalent to 12.5 mg/kg/day) based on decreased food consumption.

3. A developmental toxicity study in rats given gavage doses of 50, 250, and 400 mg/kg/day with no developmental toxicity observed under the conditions of the study.

4. A developmental toxicity study in rabbits with a NOEL of 300 mg/kg/day (highest dose tested). Metalaxyl did not cause developmental toxicity, even in the presence of maternal toxicity (slight body weight loss at 300 mg/kg/day).

5. A three-generation reproduction study in rats fed diets containing 50, 250, and 1,250 ppm with a NOEL for reproductive effects of 1,250 ppm (equivalent to 62.5 mg/kg/day). There were no reproductive effects observed under the conditions of the study.

6. Metalaxyl did not induce gene mutations in bacteria, yeast, and lymphoma cells in vitro with or without metabolic activation. Metalaxyl did not cause structural or numerical chromosomal aberrations in yeast, hamsters (in vivo nucleus anomaly assay), or mice (a dominant lethal assay). No DNA damage was observed in bacteria, and no unscheduled DNA synthesis was noted in rat primary hepatocytes or human fibroblasts in vitro as a result of exposure to metalaxyl.

7. A 2-year carcinogenicity study in mice fed diets containing 50, 250, and 1,250 ppm with no systemic or compound-related carcinogenic effects observed under the conditions of the study.

8. A 2-year chronic feeding/carcinogenicity study in rats fed diets containing 50, 250, and 1,250 ppm with a systemic NOEL of 250 ppm (equivalent to 12.5 mg/kg/day) based on an increase in liver weight to body weight ratios. There were no compound-related carcinogenic effects observed under the conditions of the study.

Because of concerns raised over an equivocal increase in tumor incidence in the male mouse liver and the male rat adrenal medulla, and the female rat thyroid, the two carcinogenicity studies were submitted to the Environmental Pathology Laboratories (EPL) for an independent reading of the microscopic slides. The pathological evaluation by EPL and the original reports of the rat and mouse oncogenicity studies were then both submitted for review to EPA's Carcinogen Assessment Group (CAG). A final review of the carcinogenicity studies and related material was performed by the Peer Review Committee of the Toxicology Branch of the Office of Pesticide Programs (OPP).

The four major issues evaluated by CAG and the peer review group include. (1) perifollicular cell adenomas in the thyroid of female rats; (2) adrenal medullary tumors (pheochromocytomas) in male rats; and (3) liver tumors in male

mice; and (4) whether the highest dose tested (1,250 ppm) in the rat and mouse studies represented the maximum tolerated dose (MTD).

Regarding the thyroid tumors in female rats, the peer review group concluded that the increased incidence of thyroid tumors in females of treated groups was not compound related. This conclusion was based on the following: (1) There was no progression of benign tumors (adenomas) to malignancy (carcinomas); (2) there was no increase in hyperplastic changes; and (3) there was no dose-response relationship.

The issue of a possible treatment-related increase of adrenal medullary gland tumors (pheochromocytomas) in the male rat was also reassessed by both CAG and the Peer Review Committee. Both concluded that the data, especially in view of the reevaluation of the microscopic slides performed by EPL, did not support a compound-related increase of adrenal medullary tumors; the incidence of pheochromocytomas more accurately represented spontaneous variations of a commonly occurring tumor in the aged rat.

The analysis of the significance of the equivocal increase in the incidence of liver tumors in male mice was very similar to that performed for the rat thyroid and adrenal gland tumors. The original pathological reading of the tissue slides reported an elevated incidence of tumors in some treatment groups; however, these increases were not evident after a reevaluation of the microscopic slides was performed by an independent EPL pathologist and by the reading of a CAG pathologist. The Peer Review Committee concurred that the reevaluation of the slides is reliable and does not show any compound-related increase in the incidence of liver tumors in the mouse.

The Agency believes that the data from the rat and mouse long-term studies are sufficient to support the conclusion that metalaxyl does not show a carcinogenic potential in laboratory animals. This conclusion is supported by the following: (1) The doses tested in both the rat and mouse long-term studies approached an MTD based on compound-related changes in liver weight and/or liver histology; (2) extensive available mutagenic evidence indicates no potential genotoxic activity which correlates with the negative carcinogenic potential demonstrated in long-term testing; (3) metalaxyl is not structurally related to known carcinogens; and (4) under the conditions of the rat and mouse tests, no indications of compound-related carcinogenic effects were noted at any of the treatment doses, sexes, or species.

The reference dose (RfD) based on the 6-month feeding study in dogs (NOEL of 6.25 mg/kg/day) and using a hundredfold uncertainty factor is calculated to be 0.06 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) for existing uses of metalaxyl utilizes only 19 percent of the RfD for the overall U.S. population. The proposed tolerance for ginseng would result in a negligible increase in dietary exposure to residues of metalaxyl.

The nature of the residue is adequately understood, and an adequate analytical method, capillary gas chromatography using nitrogen/phosphorus detector in nitrogen mode, is available for enforcement purposes. An analytical method for enforcing this tolerance has been published in the Pesticide Analytical Manual (PAM), Vol. II. No secondary residues in meat, milk, poultry, or eggs are expected since ginseng is not considered a livestock feed commodity. There are currently no actions pending against the continued registration of this chemical.

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, [PP 1E3926/P527]. All written comments filed in response to this petition will be available in the Public Information 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, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 1991.

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 § 180.408, in paragraph (a) in the table therein, by adding and alphabetically inserting the raw agricultural commodity ginseng, to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Ginseng	3.0
* * * * *	
* * * * *	

[FR Doc. 91-20516 Filed 8-27-91; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300235; FRL-3933-5]

RIN 2070-AC18

Definitions and Interpretations; Lettuce, Head Lettuce and Leaf Lettuce

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended to add EPA's interpretations for the application of tolerances and exemptions from the requirement of a tolerance established for pesticide chemicals in or on the raw agricultural commodities lettuce, head lettuce, and leaf lettuce. The proposed amendments to 40 CFR 180.1(h) are based, in part, on recommendations of the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [OPP–300235], must be received on or before September 27, 1991.

ADDRESSES: By mail, submit written comments to: Public Information Branch, 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, CM #2, 1921 Jefferson Davis Highway, 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 may be disclosed publicly by EPA without prior notice. 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, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: Section 180.1(h) of the Code of Federal Regulations (40 CFR 180.1(h)) provides a listing of general commodity terms and EPA's interpretation of the application of those terms as it applies to tolerances and exemptions from the requirement of a tolerance for pesticide chemicals under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a). The general commodities are listed in column A of 40 CFR 180.1(h) and the corresponding specific commodities, for which tolerances and exemptions from the requirement of a tolerance established for the general commodity apply, are listed in column B.

The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has requested that 40 CFR 180.1(h) be amended as follows:

1. Add the commodity term "lettuce" to the general category of commodities in column A, and add the corresponding specific commodities "head lettuce and leaf lettuce," to column B.

2. Add the term "head lettuce" to the general category of commodities in column A, and add the corresponding specific commodities "tight-heading varieties of lettuce, including crisphead and butterhead varieties, and radicchio red chicory, Italian chicory)" to column B.

3. Add the commodity term "leaf lettuce" to the general category of commodites in column A, and add the corresponding specific commodities "leaf lettuce, cos (romaine), endive (escarole) and stem lettuce (asparagus lettuce, celtuce)" to column B.

EPA has completed an evaluation of the proposed amendments and has reached the following conclusions:

1. Tolerances established for the raw agricultural commodity lettuce are considered adequate to cover pesticide residues from the same pesticide in or on head lettuce and leaf lettuce.

Lettuce, *Lactuca sativa*, has four subspecies: *L. sativa* var. *capitata*, butterhead and crisphead (iceberg); *L. sativa* var. *longifolia*, cos (romaine); *L. sativa* var. *asparagina*, stem lettuce; and *L. sativa* var. *crispa*, leaf or loose leaf. EPA currently considers tolerances established for lettuce to include all of the subspecies of lettuce described above, excluding *L. sativa* var. *asparagina*. Stem lettuce is excluded as a specific commodity for the general commodity "lettuce," since residue data on the edible stem and the leaves are needed to support a tolerance for stem lettuce. Endive and raddichio must also be excluded as specific commodities for the general commodity term "lettuce." Endive and raddichio belong to the genus *Chicorum*, which is botanically different from lettuce. The Agency is unable to determine that all tolerances established for lettuce are adequate to cover residues that might result from use of the same pesticide on endive and raddichio.

Applications of pesticides to leafy varieties of lettuce generally result in higher residues than the same pesticides applied to head lettuce. Pesticide tolerances for lettuce are established at sufficient levels to cover pesticide residues that are expected to occur on both leaf and head varieties of lettuce. Tolerances established for lettuce are, therefore, expected to be adequate to cover pesticide residues on leaf and head lettuce, as described below.

2. Tolerances established for leaf lettuce are considered adequate to cover pesticide residues from use of the same pesticide on leaf lettuce, cos (romaine), and butterhead varieties.

Residue data in support of a tolerance for leaf lettuce are generally required from a true leaf lettuce variety (*L. sativa* var. *crispa*). Although cos and butterhead varieties of lettuce form a very loose head, they are grown as a leaf lettuce, often interplanted with other leaf lettuce varieties. Residues from pesticides applied to cos and butterhead varieties of lettuce are not expected to exceed tolerances established for the same pesticide chemical on leaf lettuce varieties (*L. sativa* var. *crispa*).

3. Tolerance established for head lettuce are considered adequate to cover pesticide residues from use of the same pesticide on crisphead varieties only.

Based on the above information, the Agency concludes that the general commodities lettuce, leaf lettuce, and head lettuce should be interpreted for tolerance purposes to include the corresponding specific commodites, as follows:

General commodities	Specific commodities
Lettuce	Head lettuce and leaf lettuce
Head lettuce	Head lettuce; crisphead varieties only
Leaf lettuce	Leaf lettuce; cos (romaine), butterhead varieties

Therefore, it is proposed that the changes to 40 CFR 180.1(h) be made as set forth below.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP–300235]. All written comments filed in response to this petition will be available in the Public Information 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, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: August 15, 1991.

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 180.1(h) is amended in the table therein by adding and alphabetically inserting the general commodities in column "A" and the corresponding specific commodities in column "B" to read as follows:

§ 180.1 Definitions and interpretations.

* * * * * *

(h) * * *

A	B
* * * * *	
Lettuce	Lettuce, head; and lettuce, leaf
Lettuce, head	Lettuce, head; crisphead varieties only
Lettuce, leaf	Lettuce, leaf; cos (romaine), butterhead varieties
* * * * *	

* * * * * *

[FR Doc. 91-20518 Filed 8-27-91; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 9E3721/P529; FRL-3934-8]

RIN 2070-AC18

Pesticide Tolerance for Ethyl 3-Methyl-4-(Methylthio)Phenyl (1-Methylethyl) Phosphoramidate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for the combined residues of the nematicide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate (also referred to in this document as fenamiphos) and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities (RACs) coffee beans at 0.2 part per million (ppm) and cantaloupe at 0.05 ppm imported from Mexico. This proposal to establish maximum permissible levels of combined residues of the pesticide and certain of its metabolites in or on these commodities was requested by Mobay Corporation.

DATES: Comments, identified by the document control number, must be received on or before September 27, 1991.

ADDRESSES: Written objections may be submitted to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information "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. 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, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-8540.

SUPPLEMENTARY INFORMATION: The Mobay Corporation, P.O. Box 4913, Kansas City, MO 64120-0013, has submitted pesticide petition (PP) 9E3721 to EPA. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of a tolerance for the combined residues of the nematicide fenamiphos and its cholinesterase-inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl)phenyl (1-methylethyl) phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl) phenyl (1-methylethyl) phosphoramidate in or on the RACs coffee beans at 0.2 ppm and cantaloupe at 0.05 ppm imported from Mexico.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A 2-year dog feeding study with a no-observed-effect level (NOEL) for cholinesterase inhibition (ChE) at 1 ppm (equivalent to 0.025 milligram/kilogram (mg/kg) day) and no systemic effects at 10 ppm (the highest dose tested [HDT]).

2. A 2-year feeding/carcinogenicity study in rats with a NOEL for ChE at less than 2.0 ppm (equivalent to 0.1 mg/kg/day) and no systemic effect at 10 ppm (equivalent to 0.5 mg/kg/day). The study was negative for carcinogenic effects under the conditions of the study at all feeding levels.

3. An 18-month carcinogenicity study in mice with feeding levels of 2, 10, and 50 ppm (equivalent to 0.3, 1.5, and 7.5 mg/kg/day), which was negative for carcinogenic effects under the conditions of the study at all levels tested.

4. A three-generation reproduction study with no reproductive effects at 30 ppm (HDT).

5. A teratology study in rabbits with developmental and maternal NOEL's at 0.5 mg/kg.

6. A teratology study in rats with a maternal NOEL of 0.85 mg/kg and a developmental NOEL of 3.0 mg/kg (HDT).

7. A neurotoxicity study in hens with no neurotoxicity damage at 12.5 mg/kg (HDT).

8. In a metabolism study in rats, fenamiphos was metabolized to its sulfoxide and sulfone analogs with 50 percent excreted in the urine within 12 to 15 hours.

9. Genotoxicity studies including an Ames test (negative), a dominant-lethal test in mice (negative), an in vitro assay in Chinese hamster ovary cells (negative).

The reference dose (RfD), based on the 2-year feeding study in dogs with a NOEL for ChE at 1.0 ppm (0.025 mg/kg/day) and using a uncertainty factor of 100, is calculated to be 0.00025 mg/kg of body weight (bwt)/day. The theoretical maximum residue contribution (TMRC) is 0.000110 mg/kg bwt/day for existing tolerances for the overall U.S. population. The current action will increase the TMRC by 0.000011 mg/kg bwt/day (4.6 percent of the RfD). These tolerances and previously established tolerances utilize a total of 844.7 percent of the RfD for the overall U.S. population. For U.S. subgroup populations, nonnursing infants and

children aged 1 to 6, the current action and previously established tolerances utilize, respectively, a total of 2805.6 and 2261.9 percent of the RfD, assuming that residue levels are at the established tolerances and that 100 percent of the crop is treated.

The Agency believes that actual residues to which the public is likely to be exposed are considerably less than indicated by the TMRC for the following reasons:

1. Not all the planted crop for which a tolerance is established is normally treated with the pesticide.

2. Most treated crops have residue levels which are below the established tolerance level at the time of consumption.

To take these factors into account, the Agency used percent of the crop treated and the anticipated residues in the RfD analysis. In particular, anticipated residues for beets (0.03 ppm) and peaches (0.03 ppm) were used in the analysis. Also, the upper range of percent of the crop treated with fenamiphos (40 percent of pineapples, 1.6 percent of citrus crops, 10 percent of peaches, 50 percent of beets, 3.7 percent of grapes, 0.4 percent of apples, 3.8 percent of cherries, 4.8 percent of peppers, 33.7 percent of brussel sprouts, 7.4 percent of cabbage, 28.6 percent of Chinese cabbage, 7 percent of garlic, 5.3 percent of peanuts, 17.5 percent of okra, 0.1 percent of cotton, 0.2 percent of soybeans, and 80 percent of bananas/plantains) was used in the analysis. Following these adjustments, the estimate of total exposure from the previously established tolerances plus the proposed tolerances is 0.000121 mg/kg bwt/day, which utilizes 49 percent of the RfD for the overall U.S. population. For the U.S. subgroup populations, nonnursing infants and children aged 1 to 6, respectively, 86.9 and 87.4 percent of the RfD is utilized.

The nature of the residues is adequately understood for the use of fenamiphos on coffee beans and cantaloupe imported from Mexico. Magnitude of the residue studies from crop trials are required to expand the usage to the United States by registration under section 3 or section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. Data requirements for registration of fenamiphos are identified in a Registration Standard for the chemical, which was issued in June 1987.

The nature of the residues is adequately understood, and an adequate analytical method, gas chromatography using a thermionic detector, is available in the Pesticide Analytical Manual, Vol. II, for enforcement purposes. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.349 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under 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 FFDCA section 408(e).

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 9E3721/P529]. All written comments filed in response to this petition will be available in the Public Docket and Freedom of Information Section, 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, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements

Dated: August 21, 1991.

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 § 180.349, by amending paragraph (a) in the table therein by adding and alphabetically inserting the raw agricultural commodities cantaloupes and coffee beans, and adding a new sentence at the end of the paragraph, to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cantaloupes	0.05
* * * * *	
Coffee beans	0.2
* * * * *	

There are no U.S. registrations as of (insert date of publication in the Federal Register) for cantaloupes and coffee beans.

* * * * *

[FR Doc. 91-20631 Filed 8-27-91; 8:45 am]
BILLING CODE 6560-50-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

RIN 0970—AA87

45 CFR Parts 232 and 302

Standards for Program Operations

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

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the timeframes for distributing $50.00 pass-through payments made by State IV–A agencies and other child support collections to families receiving Aid to Families with Dependent Children (AFDC) and certain collections in title IV–E foster care cases contained in 45 CFR 302.32(f). These changes will enable the States to operate their programs in a more efficient and effective manner.

DATES: Your comments will be considered if we receive them no later than October 28, 1991.

ADDRESSES: Comments should be submitted in writing to the Deputy Director, Office of Child Support Enforcement, Department of Health and Human Services, or delivered to the Office of Child Support Enforcement, Fourth Floor, Aerospace Building, 370 L'Enfant Promenade, SW., Washington,

DC 20447 between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with Ms. Lourdes Henry, (202) 401–5440.

FOR FURTHER INFORMATION CONTACT: Ms. Lourdes Henry, Fourth Floor, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447, (202) 401–5440.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule does not require information collection activities, and, therefore, no approvals are necessary under the Paperwork Reduction Act.

Background

Since the inception of the Child Support Enforcement (IV–D) program in 1975, States have been required to locate absent parents, establish paternity, obtain support orders and collect support payments. However, despite Federal and State efforts in the 15 years since the inception of the IV–D program, the child support problem continues to grow. On October 13, 1988, the Family Support Act of 1988 (Pub. L. 100–485) was signed into law. This law addresses the injustice of parents failing to assume responsibility for their children's support. Section 121 of Pub. L. 100–485 requires the Secretary of Health and Human Services (HHS) to establish time limits within which States must accept and respond to requests for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity and initiate proceedings to establish and collect support awards. Section 122 of Pub. L. 100–485 requires the Secretary of HHS to establish time limits governing the period within which a State must distribute amounts collected as child support. Final regulations to implement these provisions were published in the **Federal Register** dated August 4, 1989 (54 FR 32284).

Statutory Authority

This proposed rule is published under the authority of sections 452 (a)(1) and (a)(2), and (i), 454(13), and 1102 of the Social Security Act (the Act).

Sections 452(a) (1) and (2) require the Secretary to establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child and spousal support as he determines to be necessary to assure that such programs will be effective, and to establish minimal organizational and staffing requirements for State units engaged in carrying out such programs. Section 452(i) of the Act, added by section 122 of Pub. L. 100–485, requires the Secretary to establish time limits governing the period or periods within which a State must distribute amounts collected as child support. Section 454(13) of the Act requires States to comply with such requirements and standards as the Secretary of HHS determines to be necessary for the establishment of an effective IV–D program. Section 1102 of the Act requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Proposed Regulatory Provisions

$50 Pass-Through Payments in AFDC Cases

Effective October 1, 1990, § 302.32(f) establishes timeframes within which States must send child support collections to families. The proposed § 302.32(f)(2)(i), published April 19, 1989 (54 FR 15876), would have required States to send any payment under § 302.51(b)(1), i.e., the $50 pass-through payment, to the AFDC family within 15 working days of the date of initial receipt in the State. Commenters on that proposal were quick to point out that this could require as many as four incremental payments during a month if the support was ordered to be paid weekly. In response to the April 19 proposed regulations, most commenters urged that we require States to send payments to AFDC families within 15 days of the end of the month of collection, thereby maintaining consistency with the normal monthly AFDC payment and accounting cycle. To quote the preamble to the final regulations published on August 4, 1989, at 54 FR 32294:

> Almost every comment we received from a State or local IV–D agency objected to the proposal that payments to the AFDC family under § 302.51(b)(1) be made within 15 working days of the date of initial receipt in the State. Commenters strongly urged that IV–D agencies not be required to pay multiple pass-through payments until $50 is collected in cases in which payments are made weekly. Commenters suggested the timeframe for sending the $50 pass-through to families be tied to the end of the month of collection or the date at least $50 is collected. In addition, commenters indicated that, if finalized, the proposal would require daily distribution of collections which has proven in at least one State to be confusing to AFDC recipients and difficult to administer.

In response to those comments, the final rules at § 302.32(f)(2)(i), published August 4, 1989, require, effective October 1, 1990:

> When the IV–D agency sends payments to the family under § 302.51(b)(1) of this part, payments to the family must be sent to the family within 15 calendar days of the date of initial receipt in the State of the first $50 of support collected in a month, or, if less than $50 is collected in a month, within 15 calendar days of the end of the month in which the support was collected. When the IV–A agency sends payments to the family under § 302.51(b)(1) of this part, the IV–D agency must forward any amount due the family under § 302.51(b)(1) to the IV–A agency within 15 calendar days of the date of initial receipt in the State of the first $50 of support collected in a month, or, if less than $50 is collected in a month, within 15 calendar days of the end of the month in which the support was collected.

Since publication of this requirement, States have expressed their strong belief, and have presented data gathered through a national survey conducted by the American Public Welfare Association, that the requirement in the final regulation to distribution the first $50 of support within 15 calendar days of the date of the initial receipt in the State would, certainly for the next several years, place an unreasonable administrative burden on State agencies with no compelling benefit to families to warrant varying the longstanding practice which ties assistance payments, accounting and distribution of collections in AFDC cases to a monthly cycle.

In response to this overwhelming reaction to the requirement in the program standards final rule, buttressed by the survey information, we have reexamined our position and believe the concerns have merit. From all indications, sending $50 pass-through payments to the family within a set number of days after the end of the month of collection is the most practical approach when the IV–A agency sends the payment to the family. Therefore, we propose to amend § 302.32(f)(2)(i) to require that, when the IV–A agency sends payments to the family under § 302.51(b)(1), the IV–D agency must forward any amount due to the family under § 302.51(b)(1) to the IV–A agency within 15 calendar days of the end of the month in which the support was initially received in the State.

In addition, we are proposing a change to § 232.20(d) to require IV–A agencies which send $50 pass-through payments to AFDC families to do so within 25 calendar days of the end of the month in which the support was initially received in the State. This timeframe would ensure that, in States where the IV–A agency sends the $50 pass-through payments to AFDC families, the IV–A agency has a minimum of 10 calendar

days to send the payments to AFDC families.

However, we intend to maintain the current requirement in § 302.32(f)(2)(i) that, if the IV–D agency sends the payment to the family on behalf of the IV–A agency, payments to the family must be sent to the family within 15 calendar days of the date of initial receipt in the State of the first $50 of support collected in a month or, if less than $50 is collected in a month, within 15 calendar days of the end of the month in which the support was collected. In this way, States may choose whether to have the IV–A or IV–D agency send $50 pass-through payments to families, allowing use of existing methods of monthly payment under the IV–A program or more frequent payments under the IV–D program.

Other Payments to Families in AFDC Cases

Effective October 1, 1990, § 302.32(f)(2)(ii) requires that, except as specified under paragraph (f)(2)(iv), collections for the month after the month the family receives its last assistance payment and collections distributed under § 302.51(b)(3) and (5) must be sent to the family within 15 calendar days of the date of initial receipt in the State of a collection for the first month of ineligibility. We are aware of instances in which families which continue to be eligible for AFDC are entitled to payments under § 302.51(b)(3) and (5). For example, a custodial parent and child receive $200 a month in Aid to Families with Dependent Children (AFDC) and the child's absent parent has a monthly support obligation of $270. The absent parent sends $270 to the IV–D agency in January. The $50 pass-through payment required under § 302.51(b)(1) is made to the family. The IV–A agency uses the remaining $220 in March in redetermining the family's eligibility for an assistance payment in April. The IV–A agency determines that, due to the recent loss of a part-time job, the custodial parent and child are eligible for a grant of $260 in April. The IV–A agency notifies the IV–D agency that the family remains eligible for AFDC. Of the $220 used to redetermine the family's eligibility for assistance, $200 is retained by the State to reimburse the State and Federal government for January's assistance payment in accordance with § 302.51(b)(2), and the remaining $20 is paid to the family under § 302.51(b)(3). Due to instances such as this, we believe that it is necessary to revise § 302.32(f) to address timeframes for distribution of such payments to the family. Therefore, we propose to amend § 302.32(f)(2)(ii) to require, except as specified under paragraph (f)(2)(iv), that: (A) Collections distributed under § 302.51(b)(3) and (5) must be sent to the family within 15 calendar days of the end of the month in which the amount of the collection which represents payment on the required support obligation was used to redetermine the family's eligibility for an assistance payment under the State's title IV–A plan; and (b) collections for the month after the month the family receives its last assistance payment must be sent to the family within 15 calendar days of the date of initial receipt in the State.

Payments in Title IV–E Foster Care Cases

Effective October 1, 1990, § 302.32(f)(2)(iii) requires that, except as specified under paragraph (f)(2)(iv), collections in IV–E foster cases under § 302.52(b)(2) and (4) must be distributed within 15 calendar days of the date of initial receipt in the State. Since the distribution requirements regarding child support collections made in title IV–E foster care cases require the use of a monthly support obligation, and collections distributed under § 302.52(b)(2) and (4) are paid to the State foster care agency, distribution should be accomplished on a monthly basis. Therefore, we propose to amend § 302.32(f)(2)(iii) to require, except as specified under paragraph (f)(2)(iv), collections in IV–E foster care cases under §§ 302.52(b)(2) and (4) must be distributed within 15 calendar days of the end of the month in which the support was initially received in the State.

Executive Order 12291

In accordance with Executive Order 12291, we are required to prepare a Regulatory Impact Analysis for any "major rule". A major rule is one that is likely to result in:

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

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

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

This proposed rule meets none of these criteria. In addition, this proposed rule would likely result in administrative cost savings to the Federal and State governments because the $50 pass-through payment and most collections made in title IV–E foster care cases would be distributed on a monthly basis rather than incrementally throughout the month.

Regulatory Flexibility Analysis

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

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

List of Subjects

45 CFR Part 232

Aid to families with dependent children, Child support, Grant programs—social programs.

45 CFR Part 302

Child support, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation.

Dated: January 23, 1991.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

Approved: July 24, 1991.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR parts 232 and 302 are proposed to be amended as follows:

PART 232—[AMENDED]

1. The authority citation for part 232 continues to read as follows:

Authority: 42 U.S.C. 1302.

2. Section 232.20(d) is revised to read as follows:

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the title IV–A Program.

* * * * *

(d) The State plan must provide that the IV–A agency, on behalf of the IV–D agency, will send to the family the sum disregarded under § 302.51(b)(1) within 25 calendar days of the end of the month in which the support was initially received in the State.

PART 302—[AMENDED]

3. The authority citation for part 302 continues to read as follows:

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

4. Section 302.32 is amended by revising the second sentence of paragraph (f)(2)(i), and paragraphs (f)(2)(ii) and (iii) are revised to read as follows:

§ 302.32 Collection and distribution of support payments by the IV–D agency.

* * * * *

(f) * * *

(2) * * *

(i) * * * When the IV–A agency sends payments to the family under § 302.51(b)(1) of this part, the IV–D agency must forward any amount due the family under § 302.51(b)(1) to the IV–A agency within 15 calendar days of the end of the month in which the support was initially received in the State.

(ii) Except as specified under paragraph (f)(2)(iv) of this section:

(A) Collections distributed under § 302.51(b) (3) and (5) of this part must be sent to the family within 15 calendar days of the end of the month in which the amount of the collection which represents payment on the required support obligation was used to redetermine the family's eligibility for an assistance payment under the State's title IV–A plan.

(B) Collections for the month after the month the family receives its last assistance payment must be sent to the family within 15 calendar days of the date of initial receipt in the State.

(iii) Except as specified under paragraph (f)(2)(iv) of this section, collections in IV–E foster care cases under §§ 302.52(b) (2) and (4) of this part must be distributed within 15 calendar days of the end of the month in which the support was initially received in the State.

* * * * *

[FR Doc. 91–20546 Filed 8–27–91; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF ENERGY

48 CFR PART 970

Acquisition Regulation Amendment

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy is proposing to amend the Department of Energy Acquisition Regulation to clarify and emphasize environmental protection and safety and health requirements for management and operating contractors. The proposed rule provides policy and general provision clauses to be used in the Department's contracts and solicitations for the management and operation of its facilities.

DATES: Comments must be received on or before September 27, 1991.

ADDRESSES: Comments should be addressed to the U.S. Department of Energy, Procurement Policy Division (PR–121), 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: P. Devers Weaver, Procurement Policy Division (PR–121), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone (202) 586–8250.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Energy (DOE) wishes to more clearly communicate the importance of the protection of the environment and the furtherance of safety and health considerations. It also wishes to enhance compliance with applicable environmental protection and safety and health laws, codes, ordinances, and regulations by contractors operating facilities of the Department. Accordingly, the Department of Energy Acquisition Regulation (DEAR) is proposed to be revised as discussed below.

At sections 970.2302–2 and 970.5204–2, the *Safety and health* clause and its prescription are proposed to be revised to have safety and health subcontract clause coverage, which is appropriately specific, be developed by the prime contractor and approved by the contracting officer, rather than have the existing clause at 970.5204–2 flowed down to subcontractors. This approach will identify requirements for subcontractors more specifically and be more conducive to cost estimation for subcontract price proposal purposes. Section 970.7104–21 is proposed to be amended to achieve consistency with this revision.

At section 970.5204–29, the *Permits and licenses* clause is proposed to be revised to clarify the fact that, except as directed by the contracting officer, management and operating contractors are responsible for obtaining required permits and licenses and are required to comply with laws, codes, ordinances, and regulations applicable to the performance of work under a management and operating contract.

At sections 970.2303–2 and 970.5204–60, a new clause, *Environmental Protection,* is proposed for use which specifies, in regulation, environmental protection requirements for contractors that have been communicated in a less formal manner in the past. The clause provides for identification of those laws, codes, ordinances, regulations, and directives by which the Department intends to monitor compliance. The listing is intended to emphasize the Department's commitment to compliance with environmental requirements and should not be construed as necessarily identifying every possible applicable requirement. Listing of a requirement under clause paragraph (a) or (b) shall not be construed as precluding the Department from determining whether a contractor is responsible for complying with a requirement directly, or for assisting the Department in complying with a requirement. Such determinations may need to be made on a case-by-case basis.

II. Procedural Requirements

a. Review Under Executive Order 12291

The Department has concluded that this proposed rule is exempt from the requirement for review by the Office of Management and Budget (OMB) under Executive Order 12291, pursuant to an exemption for procurement regulations as discussed in OMB Bulletin No. 85–7 of December 14, 1984.

b. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–345), which requires preparation of a regulatory flexibility analysis for any rule expected to have significant economic effect on a substantial number of small entities. The Department has concluded that this proposed rule is expected to have no significant effect on interest rates, tax policy or liabilities, the cost of goods or services, or other direct economic considerations. Nor is it expected to have a significant effect on indirect economic considerations. The Department certifies that this proposed rule will not have a significant economic effect on a s ıbstantial number of small

entities and, therefore, no regulatory flexibility analysis has been prepared.

c. Review Under the Paperwork Reduction Act

The Department has concluded that no new information collection or recordkeeping requirements are imposed by this proposed rule and, therefore, an OMB clearance, as provided for at section 350(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), is not required.

d. Review Under the National Environmental Policy Act

Pursuant to Council on Environmental Quality regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432, *et seq.* (1976)). Section D of the Department of Energy NEPA Guidelines (52 FR 47661) normally excludes from the need for preparation of either an environmental impact statement or an environmental assessment "[p]romulgation of rules and regulations which are clarifying in nature, or which do not substantially change the effect of the regulations being amended." The Department has concluded that this proposed rule is in that excluded category.

e. Review Under Executive Order 12612

The Department has concluded that this proposed rule does not involve issues which are expected to have substantial direct effect on traditional state functions or their institutional interest and, thus, the "federalism" assessment requirements of Executive Order 12612 (52 FR 41685, October 30, 1987) do not apply.

f. Public Hearing

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law, nor should it have a substantial effect on the nation's economy or large numbers of individuals or businesses. Therefore, a public hearing on this proposed rule is not planned.

III. Public Comments

Interested persons are invited to participate in this rulemaking process by submitting written comments, including data, views, or arguments, with respect to this proposed rule. Written comments should be submitted to the address set forth above and will be considered prior to issuance of the final rule. All timely comments will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

List of Subjects in 48 CFR Part 970

Government contracts, DOE management and operating contracts.

For the reasons set forth in this preamble, chapter 9 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, DC August 15, 1991.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254), sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

2. Section 970.2303–2 is proposed to be amended by revising paragraph (a) and by adding paragraph (e) as follows:

970.2303–2 Clauses.

(a) When work under management and operating contracts and subcontracts thereunder is to be performed at a facility where DOE will exercise its statutory authority to enforce occupational safety and health standards applicable to the working conditions of the contractor and subcontractor employees at such facility, and if conditions (a)(1) and (a)(2) of this section are satisfied, the clause at 970.5204–2 shall be inserted in such contracts:

(1) The facility is Government-owned, or leased by or for the account of the Government; and

(2) DOE work is segregated from the contractor's or subcontractor's other work.

* * * * *

(e) The clause at 970.5204–57 shall be included in management and operating contracts.

3. Section 970.5204–2 is proposed to be amended by updating the date following the clause title *(Safety and health (Government-owned or -leased facility) (date TBE))*, by adding the designation letter "(a)" at the beginning of the text of the paragraph of the clause, by removing the last sentence of the paragraph, now designated "(a)," by adding a new paragraph (b), and by adding a note following the end of paragraph (b) as follows:

970.5204–2 Safety and health (Government-owned or -leased facility) (Date TBE).

* * * * *

(b) The contractor shall submit for approval to the DOE, through the contracting officer, its policies, procedures and provisions for including appropriate safety and health requirements, including reporting requirements, in subcontracts, with respect to work to be performed on-site at a DOE-owned or -leased facility. These safety and health requirements shall be in accordance with applicable DOE regulations, directives, and other DOE requirements. The subcontract provisions shall provide that no claim shall be made for adjustment in the subcontract amount or the performance schedule, or for damages, by reason of a stop work order issued for failure to comply with safety and health regulations or requirements of DOE. The approved subcontract provisions shall be included in subcontracts as appropriate.

Note: In contracts not covered by the provisions of part 970 (DOE management and Operating Contracts) in which this clause is inserted pursuant to 952.223–71, at the end of paragraph (a) of the clause, and the following sentence: "No claim shall be made by the contractor (or a subcontractor) for adjustment in the contract (or subcontract) amount or the performance schedule, or for damages, by reason of such work stoppage."

4. Section 970.5204–29 is proposed to be revised to read as follows:

970.5204–29 Permits or licenses.

When the contracting officer knows at the time of preparation of the contract that the DOE will be obtaining certain of the permits or licenses, the following clause may be supplemented to indicate this.

Permits or Licenses (Date TBE)

(A) Except as notified in writing by the contracting officer, the contractor shall obtain any necessary permits and licenses required by laws, codes, ordinances, and regulations of the United States, a state or territory, and a municipality or other political subdivision, and which are applicable to the performance of work under this contract. This includes, but is not necessarily limited to, identifying if such permits and licenses are required, compiling the information and data required for applications to obtain permits and licenses, filing any application required to obtain permits and licenses, and providing any additional information or data required.

(b) When notified by the contracting officer that the DOE will obtain certain permits or licenses, the contractor shall provide all reasonable assistance requested, including providing information or data, that is required for obtaining such permits or licenses.

(c) The contractor shall comply with all laws, codes, ordinances, and regulations of the United States, a state or territory, and a municipality or other political subdivision, and that are applicable to the performance of work under this contract.

5. Section 970.5204–60 is proposed to be added as follows:

970.5204–60 Environmental protection

Environmental Protection (Date TBE)

In addition to complying with the requirements set forth in the "Clean Air and Water" clause, in the performance of this contract the contractor—

(a) shall comply, as applicable, with the following:

(1) The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011, *et seq.*);

(2) The Department of Energy Organization Act (42 U.S.C. 7101, *et seq.*);

(3) The Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901, *et seq.*);

(4) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9601, *et seq.*);

(5) The Safe Drinking Water Act, as amended (42 U.S.C. 300, *et seq.*);

(6) The Toxic Substances Act, as amended (15 U.S.C. 2601, *et seq.*);

(7) The Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136, *et seq.*);

(8) The Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, *et seq.*);

(9) The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, *et seq.*);

(10) The Coastal Barrier Resource Act of 1982 (16 U.S.C. 3501, *et seq.*);

(11) The Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101, *et seq.*);

(12) The Low-Level Radioactive Waste Policy Act, as amended (42 U.S.C. 2021, *et seq.*);

(13) The Uranium Mill Tailings Radiation Control Act of 1978, as amended (42 U.S.C. 7901, *et seq.*);

(14) Title 40 of the Code of Federal Regulations, part 61, subpart H (National Emission Standard for Radionuclide Emissions from Department of Energy Facilities), chapter I, subchapter F (Radiation Protection Programs), and parts 247 through 253 (Solid Wastes, Guidelines for procurement of certain products that contain recycled/recovered materials);

(15) Code of Federal Regulations, title 10 (Energy), parts involving environmental protection and related requirements for contractors;

(16) DOE directives (i.e., Orders and Notices) numbered in the series between 1540 and 1541 (Materiels), between 5000.2 and 5000.4 (Unusual Occurrence Reporting), in the series between 5400 and 5500 (Environmental Quality and Impact), and between 5820.1 and 5820.3 (Radioactive Waste Management), and involving requirements for contractors; and

(17) Other, Federal and non-Federal, environmental protection laws, codes, ordinances, regulations, and requirements in directives, as identified in writing by the contracting officer. Failure to list a law above, or to identify a requirement having the force and effect of law, shall not be construed as waiving a requirement for the contractor to comply with such law or requirement.

(b) shall assist the Department of Energy in complying, as applicable, with the following:

(1) The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, *et seq.*);

(2) The Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*);

(3) The Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661, *et seq.*);

(4) The Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*);

(5) The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470, *et seq.*);

(6) The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1273, *et seq.*);

(7) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201, *et seq.*);

(8) Executive Order 11988 of May 24, 1977, Floodplain Management;

(9) Executive Order 11990, of May 24, 1977, Protection of Wetlands;

(10) Executive Order 12088 of October 13, 1978, Federal Compliance with Pollution Control Standards;

(11) Executive Order 12580 of January 23, 1987, Superfund Implementation;

(12) Office of Management and Budget (OMB) Circular No. A–106 of December 31, 1974, Reporting Requirements in Connection with the Prevention, Control, and Abatement of Environmental Pollution of Existing Federal Facilities; and

(13) Other, Federal and non-Federal, environmental protection laws, codes, ordinances, regulations, and directives, as identified in writing by the contracting officer.

(c) shall with regard to the environmental protection laws, codes, ordinances, regulations and directives described in the clause entitled, "Clean Air and Water," or included in or covered by paragraphs (a) and (b) of this section:

(1) Research these laws, codes, ordinances, regulations and directives on an ongoing basis and, for changes therein, adjust contract performance, as necessary, to assure continuing compliance;

(2) Identify, and inform the contracting officer in writing, of any inconsistencies among these laws, codes, ordinances, regulations and directives which would affect or preclude the contractor's ability to perform; and

(3) Include consideration of these laws, codes, ordinances, regulations and directives in all planning activities performed under this contract; and

(d) Shall set forth appropriate environmental protection requirements in subcontracts with respect to work to be performed on-site at a DOE-owned or-leased facility.

970.7104–21 [Amended]

66. Section 970.7104–21 is proposed to be amended by deleting the citation "970.5204–2," in the second sentence of the section.

[FR Doc. 91–20415 Filed 8–27–91; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

48 CFR Parts 328 and 352

Acquisition Regulation: Insurance—Liability to Third Persons

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is proposing to amend its acquisition regulation (48 CFR chapter 3) by modifying the Federal Acquisition Regulation (FAR) clause at 52.228–7, Insurance—Liability to Third Persons, to limit the Government's liability under the clause to the Limitation of Cost or Limitation of Funds clause of cost reimbursement contracts. The FAR Secretariat authorized agencies to prescribe their own contract clauses in accordance with agency regulations in the final rule published in the Federal Register at 55 FR 52782 dated December 21, 1990 (see 48 CFR 28.311–3). We also

are deleting the clause at HHSAR 352.228–70, Required Insurance.

DATES: Comments must be received by October 15, 1991.

ADDRESSES: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulations may do so by filing them with Norman Audi, Division of Acquisition Policy, room 513D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Norman Audi (202) 245–0326.

SUPPLEMENTARY INFORMATION: The proposed regulation will provide a new "Insurance—Liability to Third Persons" clause in all cost reimbursement contracts. The General Accounting Office (GAO), in its decision B–201072, dated May 12, 1983, reaffirmed that the predecessor to the FAR clause at FAR 52.228–7 would violate the Anti-deficiency Act, 31 U.S.C. 1341, unless it was modified to limit Government liability. Although paragraph (d) of the current FAR clause does limit the Government's liability to the availability of appropriated funds at the time a contingency occurs, we agree with GAO's observation that, "Since the potential liability of the Government created by open-ended, indefinite indemnification clauses is so great, we think that any authority should be viewed from the basic legislative policy that no Government agency should enter into financial commitments, even though contingent in nature, without an appropriation to cover them." As a result of the GAO position, the Department plans to modify, for use in its cost reimbursement contracts, paragraphs (c) and (d) of FAR 52.228–7 to limit the Government's liability in any contract to the amounts available under the Limitation of Cost or Limitation of Funds clause of the contract. This revision is consistent with the Department's practices in the past. We are further revising paragraph (d) to make clear that liability is based on final judgments or settlements approved in writing by the Government. This will result in a definitive determination of the amount of the liability.

This proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

This document does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

The provisions of this proposed regulation will be issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of subjects in 48 CFR Parts 328 and 352

Government procurement.

It is proposed to amend 48 CFR chapter 3 in the manner set forth below.

Dated: August 20, 1991.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

1. Part 328, Bonds and Insurance, is proposed to be added consisting of subpart 328.3, Insurance, to read as follows:

PART 328—BONDS AND INSURANCE

Subpart 328.3—Insurance

Sec.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 328.3—Insurance

328.301 Policy.

(a) It is the policy of this Department to limit the Government's reimbursement of its contractors' liability to third persons for claims not covered by insurance in cost-reimbursement contracts to the Limitation of Funds or Limitation of Cost clause of the contract.

(b) In addition to the limitations in paragraph (a) of this section, the amount of the Government's reimbursement will be limited to final judgments or settlements approved in writing by the Government.

328.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

328.311–2 Contract clause.

(a) The contracting officer shall insert the clause at 352.228–7, Insurance—Liability to Third Persons, in all solicitations and resulting cost-reimbursement contracts, in lieu of the clause at FAR 52.228–7.

2. Part 352, Subpart 352.2, is proposed to be amended by adding 352.228–7 as follows:

(1) PART 352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 352.2—Texts of Provisions and Clauses

352.228–7 Insurance—Liability to Third Persons.

As prescribed in 328.311–2, contracting officers shall include the following clause in all cost-reimbursement contracts, in lieu of the clause at FAR 52.228–7:

Insurance—Liability to Third Persons (Date)

(a)(1) Except as provided in subparagraph (2) immediately following, or in paragraph (h) of this clause (if the clause has a paragraph (h)), the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting Officer may require under this contract.

(2) The Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

(3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with insurers approved by the Contracting Officer.

(b) The Contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other insurance that is maintained by the Contractor in connection with performance of this contract and for which the Contractor seeks reimbursement.

(c) Except as provided in paragraph (h) of this clause (if the clause has a paragraph (h)), the Contractor shall be reimbursed—

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract, and (ii) required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise within the funds available under the Limitation of Cost or the Limitation of Funds clause of this contract. These liabilities must arise out of the performance of this contract, whether or not caused by the negligence of the Contractor or of the Contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Government. These liabilities are for—

(i) Loss of or damage to property (other than property owned, occupied, or used by the Contractor, rented to the Contractor, or in the care, custody, or control of the Contractor); or

(ii) Death or bodily injury.

(d) The Government's liability under paragraph (c) of this clause is limited to the amounts reflected in final judgments, or

settlements approved in writing by the Government, but in no event to exceed the funds available under the Limitation of Cost or Limitation of Funds clause of this contract. Nothing in this contract shall be construed as implying that, at a later date, the Government will request, or the Congress will appropriate, funds sufficient to meet any deficiencies.

(e) The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities)—

(1) For which the Contractor is otherwise responsible under the express terms of any clause specified in the Schedule or elsewhere in the contract;

(2) For which the Contractor has failed to insure or to maintain insurance as required by the Contracting Officer; or

(3) That result from willful misconduct or lack of good faith on the part of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The provisions of paragraph (e) of this clause shall not restrict the right of the Contractor to be reimbursed for the cost of insurance maintained by the Contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; *provided*, that such cost is allowable under the Allowable Cost and Payment clause of this contract.

(g) If any suit or action is filed or any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the Contractor shall—

(1) Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;

(2) Authorize Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and

(3) Authorize Government representatives to settle or defend the claim and to represent the Contractor in or to take charge of any litigation, if required by the Government, when the liability is not insured or covered by bond. The Contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation.

(End of clause)

Alternate I (APR 1984). If the solicitation includes the provision at 52.228–6, Insurance-Immunity from Tort Liability, and the successful offeror represents in the offer that the offeror is partially immune from tort liability as a State agency or as a charitable institution, add the following paragraph (h) to the basic clause:

(h) Notwithstanding paragraphs (a) and (c) of this clause—

(1) The Government does not assume any liability to third persons, nor will the Government reimburse the Contractor for its liability to third persons, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract under this contract; and

(2) The contractor need not provide or maintain insurance coverage as required by paragraph (a) of this clause; *provided*, that the Contractor may obtain any insurance coverage deemed necessary, subject to approval by the Contracting Officer as to form, amount, and duration. The Contractor shall be reimbursed for the cost of such insurance and, to the extent provided in paragraph (c) of this clause, to liabilities to third persons for which the contractor has obtained insurance coverage as provided in this paragraph, but for which such coverage is insufficient in amount.

(End of clause)

Alternate II (APR 1984). If the solicitation includes the provision at 52.228–6, Insurance-Immunity from Tort Liability, and the successful offeror represents in the offer that the offeror is totally immune from tort liability as a State agency or as a charitable institution, substitute the following paragraphs (a) and (b) for paragraphs (a) through (g) of the basic clause:

(a) The Government does not assume any liability to third persons, nor will the Government reimburse the Contractor for its liability to third persons, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract under this contract.

(b) If any suit or action is filed, or if any claim is made against the Contractor, the cost and expense of which may be reimbursable to the Contractor under this contract, the Contractor shall immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received by the Contractor. The Contractor shall, if required by the Government, authorize Government representatives to settle or defend the claim and to represent the Contractor in or take charge of any litigation. The contractor may, at its own expense, be associated with the Government representatives in any such claim or litigation

(End of clause)

3. The clause at HHSAR 352.228–70, Required Insurance, is proposed to be removed in its entirety.

[FR Doc. 91–20607 Filed 8–27–91; 8:45 am]
BILLING CODE 4150–04–M

DEPARTMENT OF ENERGY

48 CFR Part 970

Acquisition Regulation

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) today proposes a rule which will require management and operating (M&O) contractors to have, and maintain, systems of management and quality controls in order to discourage waste, fraud and abuse. This proposal provides guidance and a standardized contract clause to be used in DOE solicitations for, and awards of, M&O contracts. The intended effect of this proposal is to enhance the effectiveness of such systems, thereby increasing the likelihood that instances of waste, fraud or abuse are identified and eliminated, and components, products and services provided the DOE meet specifications.

DATES: Written comments must be received by September 27, 1991.

ADDRESSES: Written comments must be addressed to James J. Cavanagh, Director, Business and Financial Policy Division, PR–122, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:
James J. Cavanagh, Business & Financial Policy Division (PR–122), Office of Procurement, Assistance and Program Management, Department of Energy, Washington, DC 20585, (202) 586–8173.
Mary Ann Masterson, Office of the Assistant General Counsel for Procurement and Finance (GC–34), Department of Energy, Washington, DC 20585, (202) 586–1900.

SUPPLEMENTARY INFORMATION:

I. Background

A. Discussion

As a result of an internal management assessment, the DOE has determined that, while all of the DOE's M&O contractors have established some form of management and quality controls, greater DOE emphasis on, and oversight of, such systems can enhance the effectiveness of the contractor's systems of controls. The enhanced effectiveness of those controls will increase the

likelihood that instances of waste, fraud, or abuse are identified and eliminated, and components, products and services provided the DOE meet specification. Internal Departmental guidance assigns appropriate Departmental elements the responsibility for monitoring, ensuring and considering the integrity and efficiency of the M&O contractor operations under their cognizance. While this oversight is presently being performed, there is no explicit Department of Energy Acquisition Regulation (DEAR) clause requirement for establishment of such controls. The DOE does not necessarily envision the mandatory creation of a separate oversight system; rather, the effective coordination and integration of the components of existing systems may suffice. The DOE proposes to amend the DEAR to implement appropriate DOE policies, procedures and requirements for systems of controls by the DOE's M&O contractors.

B. Section-By-Section Analysis

Part 970

Two changes are proposed to be made to subpart 970 consisting of:

A new section 970.0901 is added to provide policy guidance concerning the DOE requirements regarding systems of management controls. The DOE requires, among other things, that such systems cover both programmatic and administrative functions; that they provide reasonable assurance that Government resources are safeguarded against theft, fraud, waste, mismanagement, loss and abuse; that they promote efficient and effective operations; that they provide for quality assurance controls, standards and assessment techniques; and that they be documented and satisfactory to the DOE. The Subpart also requires a Management controls clause to be placed in an M&O contract awarded pursuant to Federal Acquisition Regulation 17.6 and DEAR 917.6.

A new subsection, 970.5204–20, is added which provides the text of the Management Control clause which, when included in a contract, will implement the DOE requirements regarding systems of management and quality controls to be used as required by 970.0901.

II. Procedural Requirements

A. Review Under Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared prior to promulgation of a "major rule." The DOE has concluded that this proposed rule is not a "major rule" because its promulgation will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete in domestic or export markets. Pursuant to Office of Management and Budget (OMB) Circular 85–7, dated December 14, 1984, procurement regulations, other than those specifically named, are not subject to OMB regulatory review. The DOE has determined that this proposed rule is not subject to the OMB's regulatory review.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. The DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this proposed rulemaking. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

D. Review Under the National Environmental Policy Act

The DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. *et seq.* (1976)), or the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and the DOE guidelines (10 CFR part 1021), and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41285 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's proposed rule, when finalized, will revise certain policy and procedural requirements. However, the DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of States.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed DEAR amendments set forth in this notice. Three copies of written comments should be submitted to the address indicated in the "**ADDRESSES**" section of this notice. All comments received will be available for public inspection in the DOE Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. All written comments received by September 27, 1991 will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule. Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. The DOE reserves the right to determine the confidential status of the information and to treat it according to our determination.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law, and that the proposed rule should not have substantial impact on the Nation's economy or a large number of individuals or businesses. Therefore, pursuant to Public Law 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 48 CFR Part 970

DOE Management and operating contracts.

For the reasons set out in the preamble, chapter 9 of title 48 of the

Code of Federal Regulations is proposed to be amended as set forth below.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

Title 48 CFR chapter 9 is proposed to be amended as set forth below:

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act Pub. L. 95–91 (42 U.S.C. 7254), sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

2. Part 970 is proposed to be amended by adding a new section 970.0901, Management Controls, to read as follows:

970.0901 Management controls.

(a) As a management and operating contractor, the contractor shall develop and maintain systems of management and quality control to discourage waste, abuse and fraud and to ensure components, products and services provided the DOE meet specifications.

(b) As a part of the required overall management structure, the contractor must maintain management control systems which:

(1) Are documented and satisfactory to the DOE;

(2) Ensure that all levels of management are accountable for effective management systems and internal controls within their areas of assigned responsibility;

(3) Cover both programmatic and administrative functions;

(4) Provide reasonable assurance that Government resources are safeguarded against theft, fraud, waste and unauthorized use;

(5) Promote efficient and effective operations;

(6) Ensure that all obligations and costs incurred are in compliance with the contract's terms and conditions and intended purposes;

(7) Properly record, manage and report all revenues, expenditures, transactions and assets;

(8) Maintain financial, statistical and other reports necessary to maintain accurate, reliable and timely accountability and management control;

(9) Are periodically reviewed to ensure they are adequate to provide reasonable assurance that the objectives of the system are being accomplished and that these controls are working effectively;

(10) Are in accordance with the Comptroller General's standards for internal controls.

(c) As a management and operating contractor, the contractor shall also develop and maintain a baseline program of quality assurance that will implement documented performance and quality standards, and management control and assessment techniques to ensure components, services, and products meet the DOE, design agency and other governing and applicable specifications.

3. A new section 970.5204–20 is proposed to be added to read as follows:

970.5204–20 Management controls.

(a) The contractor shall be responsible for maintaining, as an integral part of its organization, effective systems of management controls for both administrative and programmatic functions. Management controls comprise the plan of organization, methods and procedures adopted by management to reasonably ensure that: The mission and functions assigned to the contractor are properly executed; efficient and effective operations are promoted; resources are safeguarded against theft, fraud, waste and unauthorized use; all obligations and costs that are incurred under the contract are in compliance with applicable clauses and other current terms, conditions and intended purposes; all revenues, expenditures and all other transactions and assets are properly recorded, managed and reported; and financial, statistical and other reports necessary to maintain accountability and managerial control are accurate, reliable and timely. The systems of controls employed by the contractor shall be documented and satisfactory to the DOE. Such systems shall be an integral part of the contractor's management functions, including defining specific roles and responsibilities for each level of management, and holding employees accountable for the adequacy of the management systems and internal controls in their areas of assigned responsibility. The contractor shall, as part of the internal audit program required elsewhere in this contract, periodically review the management systems and internal controls employed in programs and administrative areas to ensure that they are adequate to provide reasonable assurance that the objectives of the system are being accomplished and that these systems and controls are working effectively.

(b) The contractor shall be responsible for maintaining, as a part of its operational responsibilities, a baseline quality assurance program that implements documented performance, quality standards, and control and assessment techniques.

[FR Doc. 91–20468 Filed 8–27–91; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 251

[Docket No. 910765–1165]

Financial Aid Program Procedures; Fishery for Surf Clams

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes to end the conditional fishery status for the surf clam fishery. Conditional fishery status restricts the normal availability of NOAA's fisheries financing programs based on fisheries management, conservation, and protection considerations. The surf clam has been classified as a conditional fishery since 1977. Management of the surf clam fishery has, however, now progressed to the point at which this restriction is unnecessary.

DATES: Written comments will be received through September 27, 1991.

ADDRESSES: Send written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, F/TS1, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper (Financial Services Division, NMFS), 301–427–2396. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would remove § 251.25 (Fishery for surf clam) from subpart B (Conditional Fisheries) of 50 CFR part 251.

Regulations governing NOAA's financial aid programs (50 CFR part 251) restrict the normal availability of these programs in fisheries where their normal availability would be inconsistent "with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources." A fishery so restricted is a "conditional fishery." The

fishery for surf clams has been a conditional fishery since July 11, 1977.

The fisheries financing programs restricted by the conditional fisheries rules are the Fisheries Obligation Guarantee and Fishing Vessel Capital Construction Fund programs.

The Fisheries Obligation Guarantee Program, codified in 50 CFR part 255, gives the fishing industry access to the normal private market for long-term debt capital. This program provides financing or refinancing of the debt portion (up to 80 percent) of the cost of constructing, reconstructing, reconditioning, or (under limited circumstances) purchasing fishing vessels or fisheries shoreside facilities. The program generates lending capital in the private market by providing a Federal guarantee of 100 percent of the debt involved. The program is self supporting.

The Capital Construction Fund Program, codified in 50 CFR part 259, provides tax deferrals that help the fishing industry fund the equity portion of its long-term capital needs. Taxation may be deferred on fishing vessel income deposited in a Capital Construction Fund and reserved for paying the equity portion of the cost of fishing vessel construction, reconstruction, or acquisition costs. All deferred taxes are eventually recaptured by reductions in the depreciation basis, for tax purposes, of vessels funded under this program.

Conditional fishery status makes new fishing vessel construction ineligible under both programs unless the new vessel replaces equivalent harvesting capacity (see 50 CFR 255.5(c) and 50 CFR 259.32).

Ending the conditional fishery status of the surf clam fishery would allow fishermen in the surf clam fishery to use both programs without regard to whether newly constructed surf clam vessels replace older vessels already harvesting surf clams.

The total allowable catch of surf clams is annually established consistent with the conservation and management needs of the surf clam resource. Before Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) became fully effective by implementing regulations on September 30, 1990 (published at 55 FR 24184, June 14, 1990), vessel operating times were heavily restricted and there was a moratorium on the entry of additional vessels into the Mid-Atlantic surf clam fishery. Regulations implementing Amendment 8 to the FMP established individual transferable quotas (ITQs) in the surf clam fishery. An ITQ is an allocated share of the annual total allowable catch (quota) and is transferable from one person to another. Surf clam ITQs were initially issued to those parties who historically participated in this fishery on the basis of each fishing vessel's history and harvesting capacity. Each ITQ holder may annually harvest only his/her allocated portion of the annual quota, but may do so in the most efficient and economical manner.

Harvesters of common property fishery resources have an incentive to construct as many fishing vessels as possible so that they presumably can harvest a greater quantity of those resources more quickly than their competitors. This often leads to excess harvesting capacity, which is economically inefficient. The holders of surf clam ITQs have, instead, an incentive to construct the fewest fishing vessels needed to harvest (economically) their allocation of surf clams. Rather than increasing, the number of fishing vessels in the surf clam fishery is expected to decrease.

Since no holder of a surf clam ITQ will have incentive to construct any more vessels than are needed to harvest his/her allocated quota of surf clams, it is no longer necessary to classify the surf clam fishery as a conditional fishery. Normal availability of NOAA fishery financing programs is no longer inconsistent with management, protection, and conservation of the surf clam resource. Normal availability of NOAA's fisheries financing programs can, consequently, now contribute to the financial stability and industrial safety and efficiency of the surf clam fishing industry. Well-financed, safe, and efficient surf clam fishing vessels will be better able to accommodate surf clam fishery management measures both now and in the future. Moreover, restriction of the normal availability of these programs is not authorized unless required by the management, conservation, and protection needs of the fisheries resources involved.

Expected Effect of Proposed Rule

If this proposed rule is adopted as final, both the Fisheries Obligation Guarantee and Capital Construction Fund Programs would become available to participants in the surf clam fishery without regard to (a) whether fishing vessels newly constructed for the surf clam fishery replace other ones already in this fishery or (b) whether the vessels being reconstructed, reconditioned, acquired, or purchased under the applicable program have operated in this fishery for the requisite time period (see regulations at 50 CFR 255.5(c) and 50 CFR 259.32).

Comments Invited

NOAA invites interested parties to participate in this proposed rulemaking by submitting any written views, data, arguments, or suggestions they believe may be helpful. Comments will not be individually answered. Comments will, however, be reviewed and considered and may cause this proposed rulemaking to be changed. Those desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Classification

This action is categorically excluded, by NOAA Directive 02–10, from the requirement to prepare an environmental assessment.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291 because it will not result in an annual effect on the economy of $100 million or more; will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and will not result in e significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it relates to financial assistance programs in which participation is voluntary and does not impose any cost, economic burden, or reporting burden on the industry. As a result, a regulatory flexibility analysis was not prepared.

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

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

List of Subjects in 50 CFR Part 251

Administrative practice and procedure, Fisheries, Fishing vessels, Loan programs—business, Natural resources.

Dated: August 21, 1991.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 251 is proposed to be amended as follows:

PART 251—FINANCIAL AID PROGRAM PROCEDURES

1. The authority citation for part 251 continues to read as follows:

Authority: Sec. 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742); Title XI, Merchant Marine Act, 1936, as amended (46 U.S.C. 1271–1279); sec. 607, Merchant Marine Act, 1936, as amended (46 U.S.C. 1177); National Environmental Policy Act (42 U.S.C. 4321–4347); and Reorganization Plan No. 4 of 1970, 86 Stat. 909.

§ 251.25 [Removed]

2. Section 251.25 is removed and reserved.

[FR Doc. 91–20578 Filed 8–27–91; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 167
Wednesday, August 28, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARMS CONTROL AND DISARMAMENT AGENCY

The President's General Advisory Committee on Arms Control and Disarmament; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces the following Presidential Committee meeting:

Name: General Advisory Committee on Arms Control and Disarmament.

Date: October 3–4, 1991.

Time: 8:30 a.m.

Place: State Department Building. Washington, DC.

Type of Meeting: Closed.

Contact: Robert M. Meissner, Executive Director, General Advisory Committee on Arms Control and Disarmament, room 5927, Washington, DC 20451. (202) 647–5178

Pupose of Advisory Committee: To advise the President, the Secretary of State, and Director of the Arms Control and Disarmament Agency respecting matters affecting arms control, disarmament, and world peace.

Agenda: The Committee will review specific national security policy and arms control issues. Members will be briefed on several alternative approaches to classic arms control negotiation. The purpose of the meeting will be to review what arms control initiatives should or can be pursued in the next ten years.

Reason from Closing: The GAC members will be reviewing and discussing matters specifically required by Executive Order to be kept secret in the interest of national defense and foreign policy.

Authority to Close Meeting: The closing of this meeting is in accordance with a determination by the Director of the Arms Control and Disarmament Agency dated December 5, 1990, made pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act as amended.

William J. Montgomery,

Committee Management Officer.

[FR Doc. 91–20609 Filed 8–27–91; 8:45 am]

BILLING CODE 6820–92–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Senior Executive Service; Performance Review Board Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic Development Administration Senior Executive Service (SES) Performance Appraisal System: Craig M. Smith, John E. Corrigan, Charles E. Oxley, George Muller, David Farber, Hugh M. Farmer.

Edward A. McCaw,

Executive Secretary, Economic Development Administration, Performonce Review Board.

[FR Doc. 91–20551 Filed 8–27–91; 8:45 am]

BILLING CODE 3510–BS–M

Bureau of Export Administration

Subcommittee on Export Administration of the President's Export Council; Notice of Partially Closed Meeting

A meeting of the President's Export Council Subcommittee on Export Administration will be held September 13, 1991, at 9:30 a.m., in the U.S. Department of Commerce, Herbert C. Hoover Building, room 6029, 14th Street and Constitution Avenue, NW., Washington, DC. The meeting will be partially closed to the public pursuant to Executive Order 12610 and 522b(c) of the Federal Advisory Committee Act as amended. The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United State policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

Agenda: General Session

1. Opening Remarks by the Chairman.
2. BXA Policy Overview.
3. Export Administration Issues Overview.
4. Export Enforcement Issues Overview.
5. Report on Work of Previous PECSEA.

Executive Session

6. Discussion of matters properly classified under Executive Order 12610, dealing with the U.S. and COCOM control programs 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. A Notice of Determination to close meetings, or portions of meetings, of the subcommittee to the public on the basis of 5 U.S.C. 552b(c) was approved October 13, 1989, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information, contact Ms. Betty A. Ferrell (202) 377–2583.

Dated: August 23, 1991.

James LeMunyon,

Acting Assistant Secretary for Export Administration.

[FR Doc. 91–20656 Filed 8–27–91; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–588–818]

Antidumping Duty Order: Personal Word Processors from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Ross Cotjanle, Office of Countervailing Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230: (202) 377–5055 or (202) 377–3534.

Order

On July 9, 1991, we published a final determination of sales at less than fair value for one class or kind of merchandise, personal word processors ("PWPs"), as currently provided for under subheading 8469.10.00 of the Harmonized Tariff Schedule (HTS). We found that the overall weighted average dumping margin on all sales was 58.71 percent.

On August 19, 1991, in accordance with section 735(d) of Tariff Act of 1930, as amended (19 U.S.C. 1673d) ("the

Act"), the International Trade commission ("ITC") notified the Department that imports of PWPs are materially injuring a U.S. industry. The ITC also notified the Department that office typing systems constitute a separate like product and that imports of office typing systems are not materially injuring, or threatening material injury to, U.S. industry. Accordingly, we are excluding office typing systems from the scope of our order. For purposes of our final determination, we used the best information available for the entire class or kind of merchandise. Therefore, there is no need to recalculate the weighted-average dumping margin by excluding the margin attributable to the products for which the ITC made a negative injury determination.

Scope of the Order

The merchandise covered by this investigation consists of integrated personal word processing systems and major finished units thereof ("word processors"), which are defined as devices designed principally for the composition and correction of text. All word processors within the scope of this investigation have the following essential features: (1) A customized operating system designed exclusively for a manufacturer's word processor product line which is unable to run commercially available software and which is permanently installed by the manufacturer before or after importation; (2) a word processing software/firmware program which is designed exclusively for the word processor product line and which is permanently installed by the manufacturer before or after importation; and (3) internal memory (both read-only memory ("ROM") and read-write random access memory ("RAM")) for word processing.

In addition, word processors may include one or more of the following features: (1) An auxiliary memory storage device, whether internal (*e.g.*, RAM storage) and/or external (*e.g.*, which accepts floppy diskettes, RAM cards, or other nonvolatile media); (2) software/firmware designed or modified for use exclusively on a line of word processors (*e.g.*, a spreadsheet or word processing-assist program); (3) an interface permitting the transfer of information to other word processors, telecommunication links, computers, and the like; and (4) a type mode, which permits the word processor to function as a typewriter by typing characters directly onto paper. However, the inclusion or exclusion of one or more of these features from a word processor is not dispositive as to whether merchandise is within the scope of this investigation.

All word processors included within the scope of this investigation contain the following three units: (1) A keyboard for the entry of characters, numerals and symbols; (2) a video display; and (3) a chassis or frame containing the essential word processing features listed above. These units may either be integrated into one word processing system or be combined by the user into one working system. Word processors may include, as a fourth unit, a printer with a platen (or equivalent text-to-paper transfer system) and printing mechanism to permit the printing of text on paper. However, word processors which do not include a printer as one of the major units are also included within the scope of the investigation.

Word processors may be imported as integrated systems, or the major finished units may be imported separately. With respect to major finished units, only the major finished units listed above are covered by this investigation. Keyboards and chassis/frames are included in this investigation if they are designed for use in word processors. Printers and video displays are included in this investigation only if they are dedicated exclusively for use in word processors.

Printers and video displays are included in this investigation only if they are dedicated exclusively for use in word processors.

Major finished units are distinguished from parts or subassemblies in that they do not require any additional manufacturing before functioning as a complete unit of a word processor. Neither parts nor subassemblies are included in the scope of this investigation.

Word processing devices which meet all of the following criteria are excluded from the scope of this investigation: (1) Easily portable, with a handle and/or carrying case, or similar mechanism to facilitate its portability; (2) electric, regardless of source of power; (3) comprised of a single, integrated unit; (4) have a keyboard embedded in the chassis or frame of the machine; (5) have a built-in printer; (6) have a platen to accommodate paper; and (7) only accommodate their own dedicated or captive software. (See also final Scope Ruling: Portable Electronic Typewriters from Japan (55 FR 47358, November 13, 1990).)

Specifically excluded from the scope of this investigation are automatic typewriters with one- or two-line displays.

Also excluded from the scope of this investigation are personal commuters ("PCs"), including those PCs which are capable of word processing. PCs are a class of automatic data processing machines. Unlike automatic data processing machines, word processing machines cannot make the logical decision during processing to modify the execution of a program, *i.e.*, the user of a word processor cannot use the word processor to create new software or to modify the program code of existing computer programs. PCs are also distinguished from the word processors subject to this investigation by reason of their operating systems, which are capable of running a variety of "off-the-shelf" software programs installed by the purchaser. In addition, PCs generally have significantly higher memory storage capacities and often contain major finished units which are interchangeable with units manufactured by several producers.

Office typing systems are specifically excluded from the scope of this investigation by virtue of the ITC determining that there is no injury with respect to that like product.

Word processors are currently classified under HTS subheading 8469.100.00. The video displays covered by this order are currently classified under HTS subheading 8473.10.00107. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Suspension of Liquidation

In accordance with section 735(a) of Act, on July 9, 1991, the Department published its final determination that PWPs from Japan are being sold at less than fair value (56 FR 31101). On August 19, 1991, in accordance with section 735(d) of the Act, the ITC notified the Department that imports of PWPs materially injure a U.S. industry and that imports of office typing systems do not materially injure, or threaten material injury to, a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of PWPs from Japan. These antidumping duties will be assessed on all unliquidated entries of PWPs from Japan, entered or withdrawn from warehouse, for consumption on or after April 22, 1991, the date on which the

Department published its preliminary determination notice in the Federal Register.

On or after the date of publication of this notice in the Federal Register, Customs officers must require, at the same time as importers would normally deposit estimated duties, the following cash deposits for the subject merchandise:

Manufacturer/producer/exporter	Deposit rate (percent)
Brother Industries, Ltd. and all related companies	58.71
Kyushu Matsushita Electric Co., Ltd. and all related companies	58.71
All others	58.71

In accordance with section 735(c)(2)(A) of the Act, we are directing Customs officers to terminate the suspension of liquidation of all entries of office typing systems from Japan that were entered, or withdrawn from warehouse, for consumption, on or after April 22, 1991. Accordingly, all bonds and estimated duties deposited on entries of these office typing systems should be refunded.

This notice constitutes an antidumping duty order with respect to PWPs from Japan, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: August 23, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-20690 Filed 8-26-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-559-001]

Certain Refrigeration Compressors From the Republic of Singapore; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. We preliminarily determine that the signatories have complied with the terms of the suspension agreement during the period April 1, 1989 through March 31, 1990. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Megan Pilaroscia or Jeffrey Laxague, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 51167) a notice of suspension of countervailing duty investigation regarding certain refrigeration compressors from the Republic of Singapore. On November 13, 1990, the Department published a notice of "Opportunity to Request Administrative Review" (55 FR 47370) of this case. On November 30, 1990, the petitioner, Tecumseh Products Company, requested an administrative review of the suspension agreement. We initiated the seventh review, covering the period April 1, 1989 through March 31, 1990, on December 17, 1990 (55 FR 51742). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act"). The final results of the last administrative review in this case were published in the Federal Register on December 26, 1990 (55 FR 53028).

Scope of Review

Imports covered by this review are shipments of hermetic refrigeration compressors rated not over one-quarter horsepower from Singapore. This merchandise is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 8414.30.40. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one producer and one exporter of the subject merchandise, Matsushita Refrigeration Industries (Singapore) Pte. Ltd. (MARIS) and Asia Matsushita Electric (Singapore) Pte. Ltd. (AMS), respectively. These two companies, along with the Government of Singapore, are the signatories to the suspension agreement. The review covers the period April 1, 1989 through March 31, 1990, and two programs.

Analysis of Programs

(1) The Economic Expansion Incentives Act—Part VI

The Economic Expansion Incentives Act was renumbered in 1985 and the Production for Export Program now falls under part VI of the Act. This program allows a 90 percent tax exemption on a company's profits if the company is designated as an export enterprise. MARIS is so designated and used this tax exemption during the period of review.

MARIS receives this benefit on the production of refrigeration compressors and compressor parts, as well as other non-compressor related products. These products are exported through MARIS and AMS. To calculate the benefit, we divided MARIS' tax savings under this program by the f.o.b. value of total exports of products receiving the benefit, for the period of review. On this basis, we preliminarily determine the benefit from this program, during the review period, to be 4.05 percent of the f.o.b. value of the merchandise.

MARIS also reported in the response that it deducted export charges in calculating its taxable profit during the review period. Under the suspension agreement, the amount of the net bounty or grant determined by the Department to exist with respect to the subject product is to be offset completely. The Department has offset the deduction of the export charges in the review period by adding the deduction amount back to MARIS' profit figure, using the revised figure to determine MARIS' tax savings for the above benefit calculation.

(2) Financing through the Monetary Authority of Singapore

The suspension agreement prohibits MARIS and AMS from applying for or receiving any financing provided by the rediscount facility of the Monetary Authority of Singapore for shipments of the subject refrigeration compressors to the United States. We determined during verification that neither the signatory producer nor exporter received any financing through the Monetary Authority on the subject compressors exported to the United States during the review period. Therefore, we preliminarily determine that both companies have complied with this clause of the agreement.

(3) Other Programs

Although not covered by the suspension agreement, we examined the following programs at verification and preliminarily determine that neither MARIS nor AMS received

countervailable benefits from them during the review period:

Operational Headquarters Program.

Tax exempt treatment of technical assistance fee payments.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the signatories have complied with the terms of the suspension agreement, including the payment of the provisional export charge of 4.95 percent for the period April 1, 1989 through March 31, 1990. We also preliminarily determine the net bounty or grant to be 4.05 percent of the f.o.b. value of the merchandise for the April 1, 1989 through March 31, 1990 review period. The suspension agreement states that the Government of Singapore will offset completely with an export charge the net bounty or grant calculated by the Department.

Following the methodology outlined in section B.4 of the agreement, the Department preliminarily determines that, for the period April 1, 1989 through March 31, 1990, a negative adjustment may be made to the provisional export charge rate in effect. This rate, established in the notice of the final results of the third administrative review of the suspension agreement (53 FR 25647, July 8, 1988), is 4.95 percent. For this period, the Government of Singapore may refund the difference to the companies.

The Department intends to notify the Government of Singapore that the provisional export charge on all exports to the United States with Outward Declarations filed on or after the date of publication of the final results of this administrative review shall be 4.05 percent of the f.o.b. value of the merchandise.

The agreement can remain in force only as long as shipments from the signatories account for at least 85 percent of imports of the subject Singaporean refrigeration compressors into the United States. Our information indicates that the two signatory companies accounted for over 90 percent of imports into the United States of this merchandise during the review period.

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 a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday following. Rebuttal briefs and rebuttals to written comments, limited to issues in those comments, must be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: August 13, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-20658 Filed 8-27-91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an Amended Export Trade Certification of Review, Application No. 88-3A016.

SUMMARY: The Department of Commerce, has issued an amendment to the Export Trade Certificate of Review granted to the Wood Machinery Manufacturers of America. Notice of issuance of the Certificate was published in the Federal Register on June 5, 1991 (56 FR 25671).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (the Act) (15 U.S.C. sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the grounds that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 88-00016 was issued to the Wood Machinery Manufacturers of America (WMMA) on February 3, 1989. Notice of issuance of the Certificate was published in the Federal Register on February 9, 1989 (54 FR 6312). An amendment to the Certificate was issued on June 26, 1990, and the notice of issuance of that amendment was published in the Federal Register on July 2, 1990 (55 FR 27292). Another amendment was submitted, withdrawn, and resubmitted as this application.

WMMA has amended its Certificate to add the following companies as "Members" of the Certificate: Carter Products Co., Inc. of Grand Rapids, MI; Fletcher Machine Co. of Lexington, NC; Unique Machine & Tool Co. of Tempe, AZ; and VETS, Inc. of Fridley, MN.

EFFECTIVE DATE: May 22, 1991.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

Dated: August 22, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-20592 Filed 8-27-91; 8:45 am]

BILLING CODE 3510-DR-M

The University of Michigan, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments. None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91-072. *Applicant:* The University of Michigan, Ann Arbor, MI 48109-2122. *Instrument:* Fourier Transform Interferometer. *Manufacturer:* Bomem, Canada. *Intended Use:* See notice at 56 FR 25412, June 4, 1991. *Reasons:* The foreign instrument provides an unapodized resolution of 0.0026 cm^{-1}, and a wavelength range from 800 to 4000 cm^{-1}. *Advice Submitted By:* National Institutes of Standards and Technology, July 15, 1991.

Docket Number: 91–036. *Applicant:* Northwestern University Medical School, Chicago, IL 60611. *Instrument:* 2 Vertical Electrode Pullers, Model PE–2. *Manufacturer:* Narishige Scientific Instrument Laboratory, Japan. *Intended Use:* See notice at 56 FR 13625, April 3, 1991. *Reasons:* The foreign instrument provides capability for producing multibarrel microelectrodes for delivery of chemical reagents to tissue. *Advice Submitted By:* National Institutes of Health, July 11, 1991.

Docket Number: 91–037. *Applicant:* U.S. Department of Agriculture, Grand Forks, ND 58202–7166. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad PQ2. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 13625, April 3, 1991. *Reasons:* The foreign instrument provides capability to aspirate aqueous samples directly into an argon plasma for a sensitivity to 0.1 nanogram per milliliter. *Advice Submitted By:* National Institutes of Health, July 11, 1991.

Docket Number: 91–046. *Applicant:* University of California, Santa Barbara, Santa Barbara, CA 93106. *Instrument:* Automated ^{15}N and ^{15}C Analysis, Mass Spectrometer System, Tracermass 78–00000. *Manufacturer:* Europa Scientific, United Kingdom. *Intended Use:* See notice at 56 FR 14930, April 12, 1991. *Reasons:* The foreign instrument provides continuous-flow Dumas combustion sample preparation with a precision of 0.0003 atom percent for 10 micromole samples of nitrogen and can perform 50-100 analyses per day on board a research vessel. *Advice Submitted By:* National Institutes of Health, July 11, 1991.

Docket Number: 91–044. *Applicant:* Penn State University, University Park, PA 16802. *Instrument:* Two (2) Insect Suction Traps, Model Johnson & Taylor 9". *Manufacturer:* Burkard Manufacturing Co., Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 14930, April 12, 1991. *Reasons:* The foreign instrument provides capability to separate catches at pre-selected intervals and selectivity for small insects. *Advice Submitted By:* National Institutes of Health, July 11, 1991.

Docket Number: 91–045. *Applicant:* Arizona State University, Tempe, AZ 85287. *Instrument:* Measuring Gas Cooler Unit/Dew-Point Mirror Measuring Head. *Manufacturer:* Heinz Walz GmbH, West Germany. *Intended Use:* See notice at 56 FR 14930, April 12, 1991. *Reasons:* The foreign instrument provides precise humidity measurement in the 90 to 100% range and air cooling with accuracy of 0.1°C. *Advice Submitted By:* National Institutes of Health, July 11, 1991.

The National Institutes of Health and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91–20657 Filed 8–27–91; 8:45 am]

BILLING CODE 3510–DS–M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on September 20, 1991, at 9 a.m. in Los Angeles, California (location to be determined).

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Departments's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of Minutes
III. Visa Waiver Update
IV. Review of Current Legislative Issues
V. Current Policy Issues
VI. Research Initiatives
VII. International Marketing Initiatives
VIII. USTTA Fee Update
IX. Miscellaneous
X. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, room 1860, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202–377–1904) will respond to public requests for information about the meeting.

John G. Keller, Jr.,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 91–20660 Filed 8–27–91; 8:45 am]

BILLING CODE 3510–11–M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information; Survey of Children's Garment Industry

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a survey of manufacturers and importers of children's garments to determine compliance with regulations banning small parts on articles intended for children younger than three years of age. The requested expiration date is September 30, 1992.

Regulations issued under provisions of the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) and codified at 16 CFR 1500.18(a)(9) and part 1501 ban any article intended for children younger than three years of age having small parts which present a choking, aspiration, or ingestion hazard. This rule is applicable to decorative items such as beads, sequins, and non-functional buttons, which could present a choking hazard if they became detached from garments intended for children younger than three years of age.

This survey of the children's garment industry is part of a comprehensive plan to assess compliance by regulated industries with 70 rules enforced by the Commission. The Commission will use the information obtained from this

survey of manufacturers and importers of children's garments to establish priorities for enforcement of mandatory standards and regulations which the Commission administers.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Small Parts—Apparel Survey of Compliance with the Small Parts Requirement.

Type of request: Approval of a new plan.

Frequency of collection: One time.

General description of respondents: Manufacturers and importers of garments intended for children three years of age or younger.

Total number of respondents: 100.

Hours per response: 6.

Total hours for all respondents: 600.

Comments: Comments about this request for approval of a collection of information should be addressed to Elizabeth Harker, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Copies of the request for approval of a collection of information are available from Francine Shacter, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6416.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 21, 1991.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 91–20589 Filed 8–27–91; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of a Record of Decision for the Presidio of San Francisco, CA, Base Closure

AGENCY: DOD, U.S. Army.

SUMMARY: The Presidio of San Francisco, including Letterman Army Medical Center, was recommended for closure by the Defense Secretary's Commission on Base Realignment and Closure. The Commission specifically recommended: The relocation of Headquarters, Sixth Army to Fort Carson, CO; the Letterman Army Institute of Research to Fort Detrick, MD; and redistribution of the medical assets of Letterman Army Medical Center throughout the Army medical force structure. This document focuses upon the environmental and socioeconomic impacts and mitigations associated with the planned closure of the Presidio of San Francisco and realignment activities at Fort Bragg, NC; Fort Carson, CO; Fort Detrick, MD; Fort Gordon, GA; Fort Lewis, WA; Fort Ord, CA; Fort Shafter, HI; Letterkenny Army Depot, PA; Oakland Army Base, CA; Walter Reed Army Medical Center, Washington, DC; Fitzsimons Army Medical Center, CO; Fort Benning, GA; Travis Air Force Base, CA; Fort Campbell, KY; Fort Sam Houston, TX; Fort Irwin, CA; Fort Jackson, SC; Fort Knox, KY; and Fort Leonard Wood, MO.

There is one significant socioeconomic impact associated with the closure of the Presidio that cannot be fully mitigated. Letterman Army Medical Center supports a large patient population of military retirees and their family members or survivors. The capacity for space available military health care will be reduced in the Bay area for these eligible beneficiaries. While CHAMPUS and MEDICARE will partially offset health care costs, the closure of Letterman Army Medical Center will result in increased health care costs to military retirees and their dependents. All other potentially significant impacts can be mitigated to less than significant.

No long-term adverse environmental impact is expected at the Presidio as a result of realignment and closure implementation. A continuing concern for future use of the Presidio is the protection of the historic properties, designated a National Historic Landmark. The excessed Presidio property will be restored, to include remediation of toxic and hazardous contaminants, to protect public health and the environment.

The Record of Decision (ROD) is available. The public can obtain a copy of the ROD by writing to: Commander; U.S. Army Corps of Engineers, Sacramento District; ATTN: Installation Support Section (Mr. Bob Verkade); 650 Capitol Mall; Sacramento, California 95814–4794, or by calling Mr. Bob Verkade at (916) 551–2254.

James R. Wiles, Col, GS,

Deputy Assistant Secretary of the Army. (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 91–20588 Filed 8–27–91; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Record of Decision To Contract for Geothermal Development at Naval Air Station Fallon, NV

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR part 1500–1508), the Department of the Navy announces its decision to pursue development of the geothermal resource at Naval Air Station (NAS) Fallon, Nevada, via a third party public/private venture contract. This action was identified as the preferred alternative in the Draft Programmatic Environmental Impact Statement that was distributed to the public on June 15, 1990. This action is also the environmentally preferred alternative. This decision includes plans to proceed with a contract to explore the geothermal resource beneath NAS Fallon, but does not include final decisions on the siting or scope of power generation and transmission facilities at NAS Fallon. Those decisions will be made as each aspect of the project is defined by knowledge gained in the previous steps.

The action to be taken under this decision involves geophysical studies and drilling of shallow (500 to 1,000 feet deep), narrow bore (four to six inches wide) temperature gradient holes (TGH). Up to 20 TGHs may be drilled to define the resources temperature at various locations around the geothermal field. TGHs are drilled using small truck mounted portable drill rigs. Beyond a stand pipe for instrumentation, these activities cause no permanent surface disturbance. This action is part of a proposed multi-phased development envisioned by the Navy which could result in the generation of up to 160 megawatts of electrical power at facilities constructed on NAS Fallon.

The Navy has pursued since 1978 an active program to explore and develop geothermal resources on lands within its jurisdiction. The principal reasons for such development are to lessen dependence on foreign sources of fossil fuels; to provide secure, dependable sources of energy for the Navy; and, to ensure maximum protection from encroachment on Navy facilities by developers conducting operations outside of Navy control, thereby endangering the primary mission of NAS Fallon.

Development of geothermal resources for electrical power generation generally occurs in the following sequence:

Exploration, delineation drilling, and facility development.

Environmental analyses of possible geothermal development at NAS Fallon began in 1981 with the preparation of a categorical exclusion for initial exploration of the resource present. An environmental assessment was prepared in 1984 addressing drilling of three exploratory wells to better delineate the extent and nature of the resource. The nature of geothermal exploration and development lend themselves best to a phased evaluation process as a large part of the data necessary to make full analysis of all potential impacts and mitigation measures is not available until the resources are drilled and tested. The programmatic environmental impact statement (EIS) further analyzed impacts from resource delineations and initial development. Subsequent documents tiered to this programmatic EIS for facility development decisions will be prepared at a later time as subsequent proposals are defined in scope and timing.

If a high-grade geothermal resource is developable, power will be generated via a conventional single flash or double flash steam driven turbine system. Implementation of this action will result in the continued protection of the NAS Fallon mission from encroachment by non-compatible development scenarios and the establishment of a low-cost secure energy resource for base operations. Electricity produced beyond the current and projected needs of NAS Fallon would be available for sale to public utilities.

The power plant technology envisioned by the Navy would be a series of 30 megawatt turbine generators operating as a flash type power plant. A flash system power cycle uses geothermal fluids directly to drive the turbines. A portion of the produced fluids are "flashed" to vapors inside separator vessels by reducing the pressure of the fluids in a step function. The resultant steam is routed to the turbines, and, depending on the nature of the geothermal fluids, the remaining hot water is either flashed again to provide additional steam, or the liquids are injected with condensed vapors back into the reservoir. The steam is condensed back to liquid after it exits the turbines by a cooling loop using mechanical draft cooling towers.

Subsequent tiers of the programmatic EIS will address exploratory drilling of deep (6,000 feet and greater), large bore (12 to 16 inches) wells. These wells require well pads of up to 5.5 acres each, which accommodate drilling up to five directionally-drilled wells per pad. Where none exist, roads would be constructed to access the sites. Should the geothermal resource warrant, exploratory wells could be used as production or injection wells in field development. Should the project proceed for production of 160 megawatts of electricity, as many as 100 large bore wells may be required to supply the power plants. Once the resource is proved, subsequent tiers of the programmatic EIS would analyze drilling of additional production and injection wells, and siting and construction of pipelines, power plants, and transmission lines. Siting of these facilities would be consistent with airfield safety criteria (e.g., glide slopes, approach and departure patterns, instrument and visual flight rules).

Five alternatives to the proposed development scenario were evaluated, which include no action, reduced power generation, use of binary technology, hybrid flash-binary system, and air-cooled power plant facilities. Under the no action alternative the Navy would not conduct further geothermal exploration or development for the purpose of power production. A clean energy source would not be developed and all benefits to the Navy would be forgone. The threat of encroachment on the NAS Fallon mission by private development not under Navy control would continue. Reduced power generation would reduce the magnitude of expected impacts by causing less surface disturbance and reduced geothermal resource utilization; this would most likely lessen the amount of power available to be sold to utilities and it would diminish the amount of offset for other Navy facilities. Binary technology involves a closed production system. Whereas a flash system, the preferred alternative, allows some contact by the geothermal fluids and gases with the atmosphere, a binary system operates as a "closed loop" using the geothermal fluids to heat a contained working fluid, such as isobutane, which operates the turbine by heat exchange. Such a closed system would allow the geothermal fluids to be collected, used and reinjected without emission of gases and no net loss of geothermal fluids in the reservoir. The disadvantages of a binary system are expense, containment and handling of the secondary working fluid, attaining adequate cooling, and inefficiency of heat transfer. Environmental impacts from a binary system would be similar to the preferred flash system. A hybrid flash-binary system would be powered by a steam cycle using steam produced by allowing the geothermal fluids to flash and routing the remaining liquid resource through a binary cycle heat exchanger before reinjection to the reservoir. Depending on resource characteristics, this system could be more effective at extracting energy and could be more cost-effective in using lower-temperature liquids prior to injection. While surface impacts would be similar to the preferred flash system, air quality impacts would be greater due to the potential for release of the secondary working fluid. Air-cooled power plant facilities would prevent the loss of water to the atmosphere through evaporation and the potential generation of steam plumes through the use of a system similar to an automobile radiator. However, large amounts of energy would be required to drive the cooling fans. Compared to the water-cooled flash system, the air-cooled system is much less efficient. Some doubt exists that the air-cooled system would be practicable in the high summer temperatures in the Fallon area.

Mitigation measures that will be implemented as part of this action, and throughout all subsequent project phases include: Treating all ungraveled work areas with water to reduce fugitive dust during construction. All access roads and well pad areas will be treated with Environmental Protection Agency and State of Nevada approved dust palliatives, which include but are not limited to lignin mixtures and magnesium chloride. Fugitive dust control will be practiced throughout project construction and operation. Air emission mitigation to reduce hydrogen sulfide releases during drilling and testing operations will involve the use of Best Available Control Technology; which includes reinjection of geothermal gases with spent brines, chemical treatment to break gases down into non-hazardous components, or a combination of both. Impacts of hydrogen sulfide releases on sensitive receptors will be minimized by monitoring and warning devices, personnel protective gear, and comprehensive emergency contingency plans. In the unlikely event of a "blowout", any hydrogen sulfide present would be quickly dispersed to non-hazardous levels by the blowout process. Workers near the affected area will be protected by federally mandated personnel protection equipment. Follow-on tiers of the programmatic EIS will assess potential release of hydrogen sulfide based on data obtained in the previous states of the project as it proceeds. Geothermal fluid losses are primarily due to evaporation and the percentage lost is generally minor compared to total volume of fluids

produced; follow-on tiers of the programmatic EIS will assess potential geothermal fluid losses based on data obtained in the previous stages of the project as it proceeds. Actions to be taken by the decision to pursue geothermal development at NAS Fallon will not impact cultural or historic resources listed, or determined eligible for listing, on the National Register of Historic Places, or federally protected wetlands or endangered species. Follow-on tiers of the programmatic EIS will address cultural and historic resources, endangered species, and wetlands once project sites for power generation and transmission have been identified. If appropriate, the Navy will enter into a Memorandum of Agreement with the Nevada State Historic Preservation Office in compliance with the National Historic Preservation Act, and will enter into consultation with the U.S. Fish and Wildlife Service in compliance with the Endangered Species Act. Wetlands will be avoided when possible; however, in the unlikely event wetlands must be impacted, appropriate approvals and permits will be obtained.

Geothermal resource development, from exploration through facility installation, may take place on fee simple lands currently leased for agricultural purposes. To the extent possible, these lands will remain in agricultural use and required improvements and modifications will be made to provide coexistant use. Follow-on tiers of the programmatic EIS will address the interface of the agricultural outleases with geothermal resource development.

The Navy distributed a Draft Programmatic Environmental Impact Statement for Geothermal Energy Development at NAS Fallon on June 15, 1990. Comments received from the public included concerns about cultural resources, surface hydrology and water quality, air quality (i.e., fugitive dust and hydrogen sulfide), identification of wetlands, biological resources, and land use compatibility (potential impacts on other geothermal projects in the region, and on existing infrastructures) issues. These comments were addressed and new data included in the Final Programmatic Environmental Impact Statement that was distributed on May 17, 1991.

The Navy believes that there are no outstanding issues to be resolved with respect to this project. Questions regarding the environmental impact statement prepared for this action may be directed to Geothermal Program Office, Naval Weapons Center, China Lake CA 93555–6001 (Attn: Ms. Carolyn Shepherd), telephone (619) 939–2700.

Dated: August 22, 1991.

Nancy S. Stehle,

Deputy Director Environment, Office of Assistant Secretary of the Navy, (Installations and Environment).

[FR Doc. 91–20543 Filed 8–27–91; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance, Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of the opportunity to attend.

DATES AND TIMES: September 16, 1991 beginning at 8:30 a.m. and ending at 5 p.m.; and September 17, 1991 beginning at 8:30 a.m. and ending at 12 Noon.

ADDRESSES: The Wyndham Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, room 4600, ROB–3, 7th & D Streets, SW., Washington, DC 20202–7582 (202) 708–7439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, and conducting a study of institutional lending in the Stafford Student Loan Program. The Congress has also directed the Advisory Committee to provide assistance in preparing for the reauthorization of the Higher Education Act.

The Advisory Committee will meet in Washington, DC from 8:30 a.m. to 5 p.m. on September 16; and from 9 a.m. to 12 Noon on September 17.

The proposed agenda of the meeting includes (a) an update on activities related to reauthorization of the Higher Education Act; (b) discussion of program integrity, eligibility and certification, accreditation and state licensing; and (c) discussion of the *Tipton* v. *Alexander* decision and implications for the Stafford Loan Program. The Committee also will discuss other issues related to reauthorization as well as future Advisory Committee activities.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, room 4600, 7th and D Streets SW., Washington, DC from the hours of 9 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: August 22, 1991.

Dr. Brian K. Fitzgerald,

Staff Director, Advisory Committee an Student Financial Assistance.

[FR Doc. 91–20611 Filed 8–27–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Chicago Operations Office; Noncompetitive Award of Financial Assistance, Morehouse College

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Chicago Operations Office, through the Atlanta Support Office, announces that pursuant to DOE Financial Assistance Rules 10 CFR 600.7(b)(2), it intends to award a grant to Morehouse College. The award represents the initial funding under the Memorandum of Understanding between the Department of Energy and Morehouse College which proposes to develop a formal relationship with a Historically Black College or University (HBCU). Executive Order 12677 of April 28, 1989 supports the establishment of Federal Programs in order to advance the development of human potential to strengthen the capacity of HBCUs to provide quality education and to

increase opportunities for HBCUs to participate in and benefit from Federal Programs.

FOR FURTHER INFORMATION CONTACT: Warren Zurn, U.S. Department of Energy, Atlanta Support Office, 730 Peachtree Street NE., Atlanta, Georgia 30308, (404) 347-1047.

SUPPLEMENTARY INFORMATION: Morehouse College is an independent four-year undergraduate liberal arts college for men located in Atlanta, Georgia and is approaching its 125th year, having been founded in 1867. Its graduates have distinguished themselves in many professions. Morehouse is in the forefront of educational and social development of young Black men with interests and aptitudes in the areas of political science, religion, engineering, communications, music, chemistry, business or international studies.

The grant application is being accepted by DOE because of the unique combination of resources and experiences possessed by Morehouse College. The initial project period for the grant award is a one-year period, expected to begin in September 1991. DOE plans to provide initial funding in the amount of $115,000 for this project.

Issued in Chicago, Illinois on August 15, 1991.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 91-20649 Filed 8-27-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 503-009 Idaho]

Idaho Power Co.; Availability of Environmental Assessment

August 22, 1991.

In accordance with the National Environment Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to amend the license for the Swan Falls Project to construct a new operators village consisting of five single family homes. The project is located on the Upper Snake River in Ada and Owyhee Counties, Idaho. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20564 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2806-000, 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 Company

[Docket Nos. CP91-2806-000, CP91-2807-000]

August 20, 1991

Take notice that on August 16, 1991, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP88-316-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Southern and is summarized in the attached appendix.

Comment date: October 4, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2806-000 (8-16-91)	Amoco Energy Trading Corporation (Marketer).	35,000 35,000 12,775,000	OTX, OLA, TX, LA, MS, AL.	GA, SC	6-7-91, IT, Interruptible.	ST91-9453-000, 6-22-91.
CP91-2807-000 (8-16-91)	Harbert Oil & Gas Corporation (Producer).	30,000 2,739 1,000,000	OTX, OLA, TX, LA, MS, AL.	LA, MS	5-20-91, IT, Interruptible.	ST91-9451-000, 6-19-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

2. CNG Transmission Corporation, et al.

[Docket Nos. CP91-2801-000, CP91-2802-000, CP91-2803-000]

August 20, 1991

Take notice that CNG Transmission Corporation, 445 West Main Street, Clarksburg, West Virginia 26302-2450, and Columbia Gulf Transmission Company, P.O. Box 683, Houston, Texas 77001, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP86-311-000 and Docket No. CP86-239-000, respectively, pursuant to section 7 of the Natural Gas Act, as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transporation

[2] These prior notice requests are not consolidated.

service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: October 4, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (dated filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points [1]	Delivery points	Contract date rate schedule, service type	Related docket, start up date
CP91-2801-000 (8-15-91)	Meridian Marketing & Transmission Corp. (Marketer).	[2] 2,400 1,307 477,055	WV, PA, NY	NY	5-6-91, TI, Interruptible.	ST91-9885, 6-1-91. ST91-9886, 6-2-91.
CP91-2802-000 (8-15-91)	Kerr-McGee Corporation (Producer).	40,000 32,000 14,600,000	OLA	LA	2-1-91, ITS-2, Interruptible.	ST91-9702, 5-1-91.
CP91-2803-000 (8-15-91)	Transco Energy Marketing Company (Marketer).	75,000 60,000 27,375,000	LA, OLA	LA, OLA	7-1-87, ITS-2, Interruptible.	ST91-9694, 7-2-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] Measured in dt equivalent.

3. Questar Pipeline Company

[Docket No. CP91-2794-000]

August 20, 1991

Take notice that on August 15, 1991, Questar Pipeline Company (Questar Pipeline), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP91-2794-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Presidio Gas Resources, Inc., a shipper, under the blanket certificate issued in Docket No. CP88-650-000 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.

Questar Pipeline states that, pursuant to an agreement dated July 23, 1991, under its Rate Schedule T-2, it proposes to transport up to 25,000 MMBtu per day equivalent of natural gas. Questar Pipeline indicates that the gas would be transported from Wyoming, and would be redelivered in Utah. Questar Pipeline further indicates that it would transport 25,000 MMBtu on an average day and 9,125,000 MMBtu annually.

Questar Pipeline advises that service under § 284.223 (a) commenced July 1, 1991, as reported in Docket No. ST91-9795-000.

Comment date: October 4, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Company

[Docket No. CP91-2798-000]

August 20, 1991

Take notice that on August 15, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP91-2798-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Quivira Gas Company, an intrastate pipeline, under the blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that, pursuant to an agreement dated June 11, 1987, as amended, under its Rate Schedule IT, it proposes to transport up to 200,120 Dth per day equivalent of natural gas. Tennessee indicates that it would transport 200,120 Dth on an average day and 73,043,800 Dth annually. Tennessee further indicates that the gas would be transported from various points of receipt and would be redelivered to various delivery points.

Tennessee advises that service under § 284.223(a) commenced July 8, 1991, as reported in Docket No. ST91-9827-000.

Comment date: October 4, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Texas Gas Transmission Corporation

[Docket No. CP91-2770-000]

August 20, 1991

Take notice that on August 13, 1991, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP91-2770-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon by removal of a sales meter station used for service to Western Kentucky Gas Company (WKG) in Logan County, Kentucky, under Texas Gas' blanket certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that WKG, an existing sale for resale customer of Texas Gas, has requested the removal of the meter station, which was authorized by the Commission in Docket No. CP89-947-000. It is asserted that the meter station was installed for WKG to provide gas service for a greenhouse complex which was never built, and that, therefore, the meter station was never used and is not needed.

Comment date: October 4, 1991, in accordance with Standard Paragraph G at the end of this notice.

6. Northern Natural Gas Company

[Docket No. CP91-2772-000]

August 20, 1991.

Take notice that on August 13, 1991, Northern Natural Gas Company (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP91-2772-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate two additional delivery points for transportation service for Iowa Electric Light and Power Company (Iowa Electric) to provide natural gas service for the communities of Zearing and Casey, Iowa, under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the NGA, 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 provides transportation service for Iowa Electric pursuant to Northern's existing CD–1, SS–1, and PS–1 Rate Schedules. It is asserted that the proposed volumes to be delivered at the Zearing delivery point would be 507 Mcf on a peak day and 56,000 Mcf on an annual basis and that the proposed volumes to be delivered at the Casey delivery point would be 442 Mcf on a peak day and 51,500 Mcf on an annual basis. It is explained that the proposed deliveries would be within Iowa Electric's currently authorized entitlements from Northern, with the volumes coming from the firm entitlement currently assigned to the community of Ames, Iowa. It is stated that the proposal would enable Iowa Electric to more fully utilize its currently authorized entitlements and to provide natural gas service to communities not currently served by natural gas. It is asserted that Northern has sufficient capacity to accommodate the proposed changes with detriment or disadvantage to its other customers.

Comment date: October 4, 1991, in accordance with Standard Paragraph G at the end of this notice.

7. United Gas Pipe Line Company

[Docket No. CP91–2790–000]

August 21, 1991.

Take notice that on August 14, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP91–2790–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a certain transportation service to Sea Robin Pipeline Company (Sea Robin) provided under its Rate Schedule X–75, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement between United and Sea Robin dated April 10, 1979, as amended, up to 56,100 Mcf per day produced from certain West Cameron Blocks, Offshore Louisiana, were transported to Vermillion Parish, Louisiana. United states that the service was originally authorized in Docket No. CP76–469, and subsequently, in Docket No. CP88–516–000, the Commission authorized a reduction in contract demand for Rate Schedule X–75 from 56,100 Mcf per day to 600 Mcf per day. United requests complete abandonment of the remaining transportation service, effective April 1, 1991, citing an interrelated abandonment of transportation service by Stingray Pipeline Company which was approved by the Commission in Docket No. CP91–392–000 (54 FERC 62,001). United advises that it has transported no gas under the transportation agreement since June 1988. It is stated that the proposed abandonment would release Sea Robin's related obligation to pay demand charges as of the effective date of termination of service.

United further states that no abandonment of facilities is proposed in conjunction with the abandonment of this transportation service. Upon receipt of the requested abandonment authority. United states that it would file appropriate tariff sheets to cancel Rate Schedule X–75 of its FERC Gas Tariff, Original Volume No. 2, which consists of the subject transportation agreement.

Comment date: September 11, 1991, in accordance with Standard Paragraph F at the end of this notice.

8. Southern Natural Gas Company

[Docket No. CP91–2777–000]

August 21, 1991.

Take notice that on August 13, 1991, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP91–2777–000 an application pursuant to section 7(b) of the Commission's Regulations under the Natural Gas Act for an order granting permission and approval for the partial abandonment of its Maximum Daily Obligation sold to the Town of Lanett, Alabama, the Northwest Alabama Gas District, the Town of Oneonta, Alabama, the City of Sylacauga, Alabama, and the City of Tallassee, Alabama, all hereinafter referred to collectively as the Customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that each of the Customers executed new service agreements for the sale and purchase of natural gas. It is indicated that under the Customers' new service agreements the customers have elected to reduce their Maximum Daily Obligations by the amounts shown in Table Y–1 below. Southern states that since it is obligated to serve the Customers with less Maximum Daily Obligation under the new agreements, Southern requests authority to abandon a total of 6,427 Mcf per day of firm sales service relinquished by the Customers effective January 1, 1991, as contemplated by the parties under the terms of their new service agreements.

TABLE T–1

Customer	Service agreement	Old MDO *	New MDO *	Reduced amount *
Lanett	May 14, 1991	3,839	3,300	539
Northwest AL	May 31, 1991	8,387	3,750	4,637
Oneonta	May 15, 1991	3,582	3,300	282
Sylacauga	May 23, 1991	8,435	3,750	** 435
Tallassee	May 27, 1991	3,334	2,800	534

* Mcf per day.
** Sylacauga elected to convert 4,250 of its MDO to firm transportation. Accordingly, the net reduction which Southern seeks to abandon herein is 435 Mcf.

Comment date: September 11, 1991, in accordance with Standard Paragraph F at the end of this notice.

9. Northern Natural Gas Company

[Docket No. CP91–2693–000]

August 21, 1991.

Take notice that on August 8, 1991, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP91–2693–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to (i) reassign certain volumes of natural gas, (ii) install and operate one new delivery point for use as sales facilities and (iii) upgrade one existing delivery point for use as sales facilities, that would accommodate natural gas deliveries to Northern States Power Company (NSP) 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 that is on file with the Commission and open to public inspection.

Northern proposes to reassign certain volumes of natural gas and to construct and operate a new delivery point, the Foley #2 TBS, and to upgrade one existing delivery point, the St. Cloud #1 TBS, in order to accommodate natural gas sales under Northern's CD-1, SS-1, PS-1, and FT-1 Rate Schedules to NSP for resale in the vicinity of Clearwater, Clear Lake and St. Cloud, Minnesota. Northern states that in the event Northern's "New Services" proposal pending at Docket No. RP88-259, *et al.*, is approved by August 31, 1991, service through the upgraded delivery point would be under Northern's proposed Rate Schedule TF (TF12 and TF5 service). It is stated that NSP has requested this reassignment of volumes and construction and upgrade of the delivery points due to the expansion of its distribution system into new areas.

Northern states that the estimated volumes proposed to be delivered to NSP after the proposed realignment would be within the currently authorized level of firm entitlements for NSP. It is further stated that the reassignment of volumes, as requested herein, is expected to result in an increase in Northern's peak day deliveries of 46,379 Mcf and annual deliveries of 3,079,413 Mcf. The attached appendix provides additional details of Northern's realignment of volumes.

Comment date: October 7, 1991, in accordance with Standard Paragraph G at the end of this notice.

NORTHERN NATURAL GAS COMPANY

[Realignment of Current CD-1 & SS-1 Entitlements by Community for Northern States Power]

Community served	Volumes in Mcf/d				
	Existing authority	Pending authority [1]	Difference (col 1-2)	Proposed authority	Proposed difference
Current CD-1					
St. Joseph, Minnesota	318	318	0	513	195
Sartell, Minnesota	819	819	0	1,490	671
Faribault, Minnesota	5,137	681	4,456	600	(81)
Foley, Minnesota	397	397	0	637	240
Forest Lake, Minnesota	2,231	2,231	0	831	(1,400)
Northfield, Minnesota	2,977	2,977	0	1,477	(1,500)
Red Wing, Minnesota	3,154	3,154	0	854	(2,300)
Stillwater, Minnesota	1,813	1,813	0	1,013	(800)
White Lake Bear, Minnesota	4,255	4,255	0	1,255	(3,000)
Winona, Minnesota	4,432	8,888	(4,456)	8,888	0
St. Cloud, Minnesota	4,840	4,840	0	12,815	7,975
Total	30,373	30,373	0	30,373	0
Current SS-1					
St. Joseph, Minnesota	900	900	0	1,055	155
Sartell, Minnesota	2,200	2,200	0	2,735	535
Foley, Minnesota	231	231	0	421	190
St. Paul/Lake Elmo, Minnesota	19,650	16,106	3,544	8,883	(7,223)
Winona, Minnesota	1,978	5,522	(3,544)	5,522	0
St. Cloud, Minnesota	7,615	7,615	0	13,958	6,343
Total	32,574	32,574	0	32,574	0

[1] As proposed in Northern's pending application at Docket No. CP91-2674-000.

NORTHERN NATURAL GAS COMPANY

[Proposed New Services TF 12 & TF 5 Entitlements by Community for Northern States Power]

Service community served	Volumes in Mcf/d
	Proposed authority [1]
Proposed New Services TF 12	
St. Joseph, Minnesota	513
Sartell, Minnesota	1,490
Faribault, Minnesota	600
Foley, Minnesota	637
Forest Lake, Minnesota	831
Northfield, Minnesota	1,477
Red Wing, Minnesota	854
Stillwater, Minnesota	1,013
White Bear Lake, Minnesota	1,255
St. Cloud, Minnesota	12,815
Total	21,485
Proposed New Services TF 5-1	
St. Joseph, Minnesota	1,055
Sartell, Minnesota	2,735
Foley, Minnesota	421
St. Paul/Lake Elmo, Minnesota	8,883

NORTHERN NATURAL GAS COMPANY—Continued

[Proposed New Services TF 12 & TF 5 Entitlements by Community for Northern States Power]

Service community served	Volumes in Mcf/d
	Proposed authority [1]
St. Cloud, Minnesota	13, 958
Total	[2] 27,052

[1] Volumes in the New Services Settlement which is pending at Docket No. RP88-259, *et al.*, are not assigned to individual communities.

[2] The proposed level of service is the same under existing service and New Services.

Authorization is pending at Docket No. CP91-2674-000 for service at the Winona #1.

TBS of 8,888 Mcf/d TF 12 and 5,522 Mcf/s TF 5.

United Gas Pipe Line Company

[Docket No. CP91-2791-000]

August 21, 1991.

Take notice that on August 14, 1991, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-2791-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a certain transportation service to Sea Robin Pipeline Company (Sea Robin) provided under its Rate Schedule X-74, all as more full set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement between United and Sea Robin dated April 10, 1979, as amended, up to 4,000 Mcf per day produced from certain West Cameron Blocks, Offshore Louisiana, were transported to Vermillion Parish,

Louisiana. United states that the service was originally authorized in Docket No. CP76–469, and subsequently, in Docket No. CP88–516–000, the Commission authorized a reduction in contract demand for Rate Schedule X–74 from 4,000 Mcf per day to 1,000 Mcf per day. United requests complete abandonment of the remaining transportation service, effective April 1, 1991, citing an interrelated abandonment of transportation service by Stingray Pipeline Company which was approved by the Commission in Docket No. CP91–392–000 (54 FERC 62,001). United advises that it has transported no gas under the transportation agreement since June 1988. It is stated that the proposed abandonment would release Sea Robin's related obligation to pay demand charges as of the effective date of termination of service.

United further states that no abandonment of facilities is proposed in conjunction with the abandonment of this transportation service. Upon receipt of the requested abandonment authority, United states that it would file appropriate tariff sheets to cancel Rate Schedule X–74 of its FERC Gas Tariff, Original Volume No. 2, which consists of the subject transportation agreement.

Comment date: September 11, 1991, in accordance with Standard Paragraph F at the end of this notice.

11. United Gas Pipe Line Company

[Docket No. CP91–2800–000]

August 21, 1991.

Take notice that an August 15, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP91–2800–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate a six-inch tap, 100 feet of 6-inch pipeline and related facilities, located in Terrebonne and Lafourche Parishes and Offshore Louisiana, to transport natural gas for Shell Gas Trading Company (Shell) for delivery to Tennessee Gas Pipeline Company, under United's blanket certificate issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United states that the proposed delivery tap and related facilities would enable United to transport up to 25,000 Mcf of natural gas per day for Shell under United's ITS rate schedule.

United states further that it would construct and operate the proposed delivery tap and related facilities in compliance with 18 CFR part 157, subpart F, and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: October 7, 1991, in accordance with Standard Paragraph G at the end of this notice.

12. Natural Gas Pipeline Company of America.

[Docket No. CP91–2592–000]

August 21, 1991.

Take notice that on August 19, 1991, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP91–2592–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Texaco Gas Marketing Inc., a marketer, under the blanket certificate issued in Docket No. CP86–582–000 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.

Natural states that, pursuant to an agreement dated February 28, 1990, under its Rate Schedule ITS, it proposes to transport up to 100,000 MMBtu per day equivalent of natural gas. Natural indicates that it would transport 40,000 MMBtu on an average day and 14,600,000 MMBtu annually.

Natural advises that service under § 284.223(a) commenced February 16, 1991, as reported in Docket No. ST91–7723.

Comment date: October 7, 1991, in accordance with Standard Paragraph G at the end of this notice.

13. Tennessee Gas Pipeline Company

[Docket No. CP91–2828–000]

August 21, 1991.

Take notice that on August 20, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP91–2826–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Cornerstone Production Corporation, a marketer, under Tennessee's blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that, pursuant to an agreement dated October 5, 1988, as amended, under its Rate Schedule IT, it proposes to transport up to 100,000 dekatherms per day equivalent of natural gas. Tennessee indicates that it would transport 100,000 dekatherms on an average day and 36,500,000 dekatherms annually. Tennessee further states that the gas would be transported from Offshore Louisiana, Offshore Texas, Louisiana, Texas, Massachusetts, Mississippi, West Virginia, Alabama, New Hampshire, New Jersey, Connecticut, Tennessee, New York, Ohio, Kentucky, and Pennsylvania, and would be redelivered in Texas, Louisiana, Massachusetts, New Jersey, Mississippi, Alabama, West Virginia, New Hampshire, Pennsylvania, Rhode Island, Connecticut, Tennessee, New York, Ohio, Kentucky.

Tennessee advises that service under § 284.223(a) commenced July 8, 1991, as reported in Docket No. ST91–9826–000.

Comment date: October 7, 1991, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20565 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Revised PC Print Software for the FERC Form No. 16

August 22, 1991.

AGENCY: Federal Energy Regulatory Commission; Energy.

ACTION: Notice of availability of revised PC Print Software for the FERC Form No. 16.

SUMMARY: A revised PC version of the software for printing the structured data file of the FERC Form No. 16 (Report of Gas Supply and Requirements) is now available. This software has been developed for Commission use and to assist pipelines in complying with the electronic submission requirement for filing the FERC Form No. 16 in accordance with Order Nos. 493 (53 FR 15,025 (Apr. 27, 1988)), 493-A(53 FR 30, 027 (Aug. 10, 1988)), and 493-B (53 FR 49, 652 (Dec. 9, 1988)). A revised User/Operations Manual is also available on diskette and/or in hardcopy. An order form is available as an attachment to this notice, but will not be published in the Federal Register.

DATES: The software and the User/Operations Manual are available on August 21, 1991.

ADDRESSES: All requests for the software and the User/Operations Manual should be directed to the Commission's copy contractor: LaDorn Systems Corporation, 941 North Capitol Street, NE., room 3308, Washington, DC 20426 (202) 208-1371.

FOR FURTHER INFORMATION CONTACT: For further information, including inquiries concerning the availability of the mainframe version (source code), contact: Craig Hill, Federal Energy Regulatory Commission, 825 N. Capitol St. NE., room 6000, Washington, DC 20426; (202) 208-2026.

SUPPLEMENTARY INFORMATION: The PC (executable code) version is now available to provide for printing the structured data file of the FERC Form No. 16 when filed in accordance with the instructions and record formats revised on October 7, 1988. A complete directory of files found on each diskette is listed in appendix A. A revised User/Operations Manual (applicable to the FERC Form Nos. 2, 2-A, and 16) is also available in hardcopy and on diskette in WordPerfect 5.1 or ASCII format.

The software was written in the COBOL programming language. The PC version of the software (executable code) can be run on an IBM-compatible PC with DOS 3.0 (or later version) and at least 640K of RAM. The software is available on a 3.5" (1.44MB) or a 5.25" (1.2MB) double-sided, high density diskette.

The software has been tested by staff. However, if problems occur relating to the software, the Commission staff encourages users to submit written comments as to the exact nature of the problem to Craig Hill, room 6000, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

The notice is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem. Your communications software should be set at full duplex, no parity, eight data bits and one stop bit. To access CIPS at 300, 1200 or 2400 baud dial (202) 208-1397. For access at 9600 baud, dial (202) 208-1781. FERC is using U.S. Robotics HST Dual Standard modems. If you have any problems in obtaining a copy of this notice through CIPS, please call (202) 208-2474. This notice will be available on CIPS for 30 days from the date of issuance.

In addition to publishing the text of this notice in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice during normal business hours in the Reference and Information Center (room 3308) at the Commission's headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

The software (executable code) and the User/Operations Manual are available on diskette from the Commission's copy contractor, LaDorn Systems Corporation ((202) 898-1151), located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426. There is no charge for the software, however the Commission's copy contractor has a copy fee of $7.00 per diskette. The User/Operations Manual is also available in hardcopy at 30 cents per page.

Lois D. Cashell,

Secretary.

Appendix A—Directory of Files for the FERC Form No. 16 Print Software

Note: A detailed crosswalk between the program names, record formats, and specific pages in the hardcopy of the Form No. 16 is provided in appendix E of the User's Manual.

PC version—1 Diskette

File name	Size	Description
FORM16.exe	222672	Driver.
FM16A.exe	121120	Executable Code—Schedules I & V.
FM16B.exe	117072	Executable Code—Schedules II & VI.
FR16C.exe	101072	Executable Code—Schedules III & VII.
FM16D.exe	167888	Executable Code—Schedules IV & VIII.
FM16E.exe	76400	Executable Code—Schedule IX.
FUG.ASC	68314	User/Operations Manual—ASCII.
FUG.W51	80962	User/Operations Manual—WordPerfect 5.1.
16NOTICE.W51		Notice—WordPerfect 5.1.
16NOTICE.ASC		Notice—ASCII.

[FR Doc. 91-20566 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-103-005]

Alabama-Tennessee Natural Gas Co., Proposed Changes in FERC Gas Tariff

Take notice that Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), on August 19, 1991 tendered for filing the following revisions to its FERC Gas Tariff, First Revised Volume No. 1:

Substitute Seventh Revised Sheet No. 4A

Substitute Eighth Revised Sheet No. 7
Substitute Ninth Revised Sheet No. 11
Substitute Tenth Revised Sheet No. 12
Substitute Ninth Revised Sheet No. 17
Substitute Eighth Revised Sheet No. 18
Substitute Fifth Revised Sheet No. 20
Substitute Fifth Revised Sheet No. 22F
Substitute Fifth Revised Sheet No. 22H
Substitute Fifth Revised Sheet No. 27A
Substitute Seventh Revised Sheet No. 29
Substitute Seventh Revised Sheet No. 62
Substitute Seventh Revised Sheet No. 63

Alabama-Tennessee proposes that these tariff sheets be made effective September 1, 1991, in lieu of the tariff sheets which were tendered on June 19, 1991 in this docket in compliance with Order Nos. 528, *et al.* Alabama-Tennessee further proposes that if this substitute filing is accepted by the Commission, it be permitted to withdraw the tariff sheets tendered as part of its June 19, 1991 filing in this docket. Alabama-Tennessee also requests that the Commission grant such waivers as may be necessary in order that these tariff sheets be accepted and made effective as requested.

Alabama-Tennessee states that the purpose of this filing is to conform its tariff with the terms and conditions of the Joint Stipulation and Agreement in Settlement of Proceedings filed by Alabama-Tennessee in the above-captioned docket. Alabama-Tennessee states that the Stipulation and Agreement, if approved and implemented pursuant to the terms thereof, will settle all pending issues between Alabama-Tennessee and its jurisdictional resale customers in, and terminate, this and all other Alabama-Tennessee proceedings before the Commission related to the flowthrough and allocation of take-or-pay costs by Alabama-Tennessee. In addition, it will settle all challenges to the prudence of Alabama-Tennessee's purchasing practices relating to take-or-pay costs for its purchases through and including calendar year 1991.

Alabama-Tennessee states that copies of the filing were served upon Alabama-Tennessee's jurisdictional customers and interested public bodies, and all persons on the Commission's official service list in the captioned docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before August 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20567 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-1-008]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

August 22, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on August 19, 1991, tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, six copies of the tariff sheets listed in the attached appendix.

Algonquin states that the revised tariff sheets are being filed to comply with the Commission's Order Nos. 497 and 497-A and in Docket No. MT88-1-006 issued August 1, 1991.

The proposed effective date of the tariff sheets listed above its September 1, 1991.

Algonquin states that copies of the filing were served upon Algonquin's jurisdictional sales and transportation customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before August 29, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20568 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-161-020]

ANR Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

August 21, 1991.

Take notice that ANR Pipeline Company ("ANR") on August 15, 1991 tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Sixth Revised Sheet No. 16
Seventh Revised Sheet No. 38
Eighth Revised Sheet No. 58

ANR states that the listed tariff sheets are being submitted in compliance with Ordering Paragraph (D) of the Commission's order issued July 31, 1991 in the captioned proceedings, See, ANR Pipeline Company, "Order Accepting Tariff Provisions Subject to Refund and Conditions and Consolidating With Pending Hearing", Docket Nos. RP89-161-019 and RP89-161-000 (July 31, 1991). In such order, the Commission approved the refiled transportation tariff language previously rejected by the Commission to permit ANR to bill transportation customers for third party pipeline transportation expenses incurred by ANR on behalf of such customers. The Commission's order, however, required ANR to refile its tariff sheets to remove all references to existing contracted third party transportation services.

ANR submits the above listed tariff sheets with a requested effective date of August 1, 1991.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before August 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20569 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT89-4-008]

Columbia Gulf Transmission Co.; Compliance Filing

August 22, 1991.

Take notice that on August 6, 1991, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing copies of First Revised Sheet No. 212 superseding Original Sheet No. 212 of Columbia Gulf's FERC Gas Tariff, First Revised Volume No. 1, to include in its transportation request form the "extent of affiliation" in the items specified in § 250.16(b)(2)(iii) and (iv) pursuant to Ordering Paragraph (B) of the Commission order issued July 22, 1991 in the referenced docket.

Columbia states that copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions and all persons on the Commission's official service list in the captioned docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before August 29, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–20570 Filed 8–27–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA87–8–003]

Columbia LNG Corp.; Refund Report

August 22, 1991.

Take notice that on June 7, 1991, Columbia LNG Corporation (Columbia) pursuant to an order issued March 8, 1991, filed with the Federal Energy Regulatory Commission its refund report.

Columbia states that it has made a lump-sum refund to its sole jurisdictional customer, Columbia Gas Transmission Corporation (Columbia Gas), in the amount of $6,772,510 ($2,383,668 principal and $4,388,842 interest) pursuant to the Order issued March 8, 1991, in the above-referenced docket.

Columbia states that copies of the refund report has been provided to Columbia Gas and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before August 29, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–20571 Filed 8–27–91; 8:45 a.m.]

BILLING CODE 6717–01–M

[Docket No. TA91–2–15–000]

Mid Louisiana Gas Co., Proposed Change of Rates

August 22, 1991.

Take notice that Mid Louisiana Gas Company ("Mid Louisiana") on July 31, 1991, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective September 1, 1991:

Eighty-Fourth Revised Sheet No. 3a

Superseding

Eighty-Third Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Eighty-Fourth Revised Sheet No. 3a is to reflect a $0.01469 per MCF decrease in its current cost of gas.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Mid Louisiana states that copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–20572 Filed 8–27–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–181–000]

Northern Natural Gas Co.; Technical Conference

August 21, 1991.

Pursuant to the Commission's order issued on July 26, 1991, a technical conference will be held to explore the issues raised in the above-captioned proceeding. The conference will be held on Thursday, September 5, 1991, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 91–20573 Filed 8–27–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–210–000]

Tennessee Gas Pipeline Co.; Filing

August 22, 1991.

Take notice on August 20, 1991, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets in Third Revised Volume No. 1 of its FERC Gas Tariff to be effective on October 2, 1991:

First Revised Sheet No. 56
First Revised First Revised Sheet No. 57
First Revised Sheet No. 95
First Revised Sheet No. 100A
Second Revised Sheet No. 105
Second Revised Sheet No. 120
Second Revised Sheet No. 125
First Revised Sheet No. 126
Original Sheet No. 126A
First Revised Sheet No. 129
First Revised First Revised Sheet No. 132
First Revised Sheet No. 134
First Revised First Revised Sheet No. 141
First Revised First Revised Sheet No. 222
First Revised Sheet No. 227
Original Sheet No. 227A
Original Sheet No. 227B
Original Sheet No. 227C
First Revised Sheet No. 228
Original Sheet No. 228A
First Revised Sheet No. 229
First Revised Sheet No. 230
First Revised First Revised Sheet No. 231
First Revised First Revised Sheet No. 232
First Revised First Revised Sheet No. 233
Original Sheet No. 233A
First Revised Sheet No. 287
First Revised Sheet No. 387
First Revised Sheet Nos. 404 through 449

Tennessee states that the filing is being made (1) to establish predetermined allocation rules at all receipt and delivery points on Tennessee's system to allocate deliveries among all services flowing at such points, (2) to establish a cash-out mechanism to correct imbalances and to eliminate the current scheduling and monthly imbalance penalties, (3) to establish uniform nomination requirements for all services, (4) to establish a "Master Receipt Point List" for transportation under Rate Schedule IT and (5) to provide for the separate transportation of liquids and

liquefiables with the party having title to such removed substances. Tennessee requested authority to waive the collection of the daily penalty provisions and the penalty portion of the cash-out mechanism for a 4-month trial period, in order to allow all parties to gain operating experience with the new provisions.

Tennessee states that copies of its filing are available for inspection at its principal place of business in the Tennaco Building, Houston, Texas, and have been mailed to all affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 29, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20574 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-209-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 21, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 16, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the following tariff sheets:

First Revised Sheet No. 301.1
First Revised Sheet No. 301A
Third Revised Sheet No. 326
Fourth Revised Sheet No. 327

Texas Eastern states that Texas Gas filed an application on September 24, 1990, requesting authorization to amend its part 284 blanket transportation certificate issued in Docket No. CP88-686-000. Under its proposal, Texas Gas would permit its firm Rate Schedule FT shippers to assign their firm capacity rights to third parties subject to certain conditions. On May 13, 1991, the Commission issued an Order Amending Blanket Certificate authorizing Texas Gas' Capacity Assignment Program for a three-year term. Subsequent to the May 13 offer, Texas Gas filed tariff sheets on July 17, 1991, to implement its Capacity Assignment Program in compliance with the May 13 order.

Texas Eastern states that it desires to participate in Texas Gas' Capacity Assignment Program. The tariff provisions being filed herewith would permit Texas Eastern to participate in Texas Gas' Capacity Assignment Program, while recognizing the unique historical, operational characteristics of its transportation arrangements on Texas Gas' system. In particular, these tariff sheets are filed to add a new provision to Texas Eastern's Rate Schedules FT-1 and IT-1 which will permit Texas Eastern, pursuant to the Commission authorized assignment program, to utilize its firm transportation capacity rights on Texas Gas' pipeline system in providing transportation services under those rate schedules.

The proposed effective date of the tariff sheets listed above is September 15, 1991.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Texas Eastern further states that copies of the filing are also being mailed to all Rate Schedules FT-1 and IT-1 shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20575 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-49-002]

Williston Basin Interstate Pipeline Co., Compliance Filing

August 21, 1991.

Take notice that on August 15, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing the following revised tariff sheets and additional information in compliance with the Commission's Order dated July 31, 1991 in Williston Basin's Annual Purchased Gas Cost Adjustment filing, Docket Nos. TA91-1-49-000 and RP91-169-000:

First Revised Volume No. 1

Substitute Second Revised Thirty-fourth Revised Sheet No. 10

Original Volume No. 1-A

Substitute Second Revised Twenty-seventh Revised Sheet No. 11
Substitute Second Revised Thirty-third Revised Sheet No. 12

Original Volume No. 1-B

Substitute Second Revised Twenty-second Revised Sheet No. 10
Substitute Second Revised Twenty-second Revised Sheet No. 11

Original Volume No. 2

Substitute Second Revised Thirty-fifth Revised Sheet No. 10
Substitute Second Revised Twenty-eighth Revised Sheet No. 11B

The proposed effective date of the tariff sheets is August 1, 1991.

Williston Basin states that in the above-referenced tariff sheets it has corrected the statement of the average cost of gas contained in the footnotes to its tariff sheets as directed by Commission Order dated July 31, 1991 in Docket Nos. TA91-1-49-000 and RP91-169-000. In addition, the above listed tariff sheets have been revised to reflect the new throughput surcharge that became effective July 1, 1991, in Docket Nos. TM91-3-49-000 and TM91-3-49-002 by Commission Order dated July 2, 1991.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before August 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20576 Filed 8-27-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Fusion Energy Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Nome: Fusion Advisory Committee (FEAC).

Date ond Time: Thursday, September 19, 1991 — 9 a.m.–5 p.m.; Friday, September 20, 1991 — 9 a.m.–3 p.m.

Ploce: U.S. Department of Energy 1000 Independence Avenue, room 1E–245, Washington, DC 20585.

Contoct: Michael D. Crisp, U.S. Department of Energy, GTN, Office of Fusion Energy (ER–51), Office of Energy Research, Washington, DC 20585, Telephone: 301–353–4941.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy on the complex scientific and technical issues that arise in the planning, management, and implementation of its Fusion Energy Program.

Tentative Agenda:

Thursday, September 19, 1991

- Fusion Energy Program Briefing
- Charges to the Committee
- Public Comment (10 Minute Rule)

Fridoy, September 20, 1991

- Further discussion—Charges to the Committee
- Public Comment (10 Minute Rule)

Public Porticipotion: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Michael D. Crisp at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on August 23, 1991.

Howard H. Raiken,

Advisory Committee, Monogement Officer.

[FR Doc. 91–20651 Filed 8–27–91; 8:45 a.m.]

BILLING CODE 6450–01–M

[FE Docket No. 91–36–NG]

Office of Fossil Energy

Jonan Gas Marketing, Inc.; Blanket Authorization To Import and Export Natural Gas Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas including liquefied natural gas.

SUMMARY: the Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Jonan Gas Marketing, Inc. (Jonan) blanket authorization to import and export from and to any country up to a combined total of 15 Bcf of natural gas, including liquefied natural gas, over a two-year term beginning on the date of first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 22, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistont Secretory for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–20650 Filed 8–27–91; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed During the Week of July 12 Through July 19, 1991

During the week of July 12 through July 19, 1991, 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: August 21, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 12 through July 19, 1991]

Date	Name and location of applicant	Case No.	Type of submission
July 15, 1991	Texaco/Westgate Texaco, Boise, ID	RR321–75	Request for modification/rescission in the Texaco refund proceeding. If Granted: The July 10, 1990 Decision and Order (Case Nos. RF321–1502 and RF321–7196) issued to Westgate Texaco regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.
July 17, 1991	Tom Budnick, West Harwich, MA	LFA–0137	Appeal of an information request denial. If Granted: Tom Budnick would receive access to all information concerning the "Watergate" breakin.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
7/12/91 thru 7/19/91	Texaco Refund, Applications Received	RF321–16255 thru RF321–16283.
7/12/91 thru 7/19/91	Crude Oil Refund, Applications Received	RF272–89471 thru RF272–89480.
7/12/91 thru 7/19/91	Gulf Oil Refund, Applications Received	RF300–17192 thru RF300–17200.
7/12/91	Pennzoil/Louisiana	RQ10–574.
7/15/91	Fernandes Fuel Company, Inc.	RF304–12353.

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/name of refund application	Case No.
7/15/91	Metropolitan Petroleum Company	RF304-12354.
7/15/91	General Gas & Oil Company	RF304-12355.
7/15/91	Smith ARCO & Smith Burglar	RF304-12356.
7/15/91	Harold's Shell	RF315-10150.
7/15/91	Amerada Hess Corporation	RF339-1.
7/16/91	H.C. Oil Company	RF340-1.
7/16/91	Nat'l Cooperative Refinery	RF340-2.
7/17/91	Tony Brebesa	RF304-12357.
7/19/91	Langham Petroleum Co.	RF326-312.

[FR Doc. 91-20653 Filed 8-27-91; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $17,201,703.68, plus accrued interest, in alleged crude oil overcharge funds obtained from Diamond Shamrock R&M, Inc., Case No. LEF-0030. The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Applications for Refund submitted pursuant to this Decision must be filed in duplicate, postmarked no later than June 30, 1992, and should be addressed to the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Any party that has previously submitted a refund application in crude oil proceedings need not file another application; that application will be deemed filed in all crude oil proceedings finalized to date.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094 (Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the decision and order set out below. The decision and order sets forth the procedures that the DOE has formulated to distribute crude oil overcharge funds obtained from Diamond Shamrock R&M, Inc. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The OHA has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 FR 27899 (August 4, 1986) (MSRP). Under the MSRP, crude oil overcharge monies are divided among the States, the Federal Government, and injured purchasers of crude oil and refined products. Refunds to the States will be distributed in proportion to each State's consumption of petroleum products during the period of crude oil price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

As the decision and order indicates, applications for refund may now be filed by injured purchasers of crude oil and refined petroleum products. Applications must be filed in duplicate and postmarked no later than June 30, 1992. The specific information required in an application for refund is set forth in the decision and order. As we state in the decision, any party that has previously submitted a refund application in crude oil refund proceedings need not file another application; that application will be deemed filed in all crude oil proceedings finalized to date.

Dated: August 21, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Name of Firm: Diamond Shamrock R&M, Inc.

Date of Filing: March 27, 1991.

Case Number: LEF-0030.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

On March 27, 1991, the ERA filed a Petition for the Implementation of Special Refund Procedures for the distribution of funds obtained from Diamond Shamrock R&M, Inc. (Diamond Shamrock) as a result of the DOE's enforcement of the federal petroleum price and allocation regulations concerning the resale of crude oil for the period January 1, 1973 through January 27, 1981. Diamond Shamrock remitted $17,201,703.68 to the DOE pursuant to a December 1, 1987 Consent Order between the firm and the DOE. An additional $2,907,818.65 has accrued in interest on Diamond Shamrock's escrow account as of July 1, 1991. This Decision and Order establishes the OHA's procedures for distributing these funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶82,508 (1981), and *Office of Enforcement*, 8 DOE ¶82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from this firm and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in *In/re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. 1986)

(the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the States the Federal Government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the States and the Federal Government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April notice, *e.g., New York Petroleum, Inc.*, 18 DOE ¶85,435 (1988) (*NYP*); *Shell Oil Co.*, 17 DOE ¶85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). *In re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F.2d 1481 (Temp. Emer. Ct. App. 1988). Various states filed a Motion with the United States District Court for the District of Kansas, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. On August 17, 1987, Judge Theis issued an Opinion and Order denying the States' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar (the) OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Decision and Order

On May 2, 1991, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the alleged crude oil violation amount obtained from Diamond Shamrock. 56 FR 21488 (May 9, 1991). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially twenty percent of the crude oil violations funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining eighty percent of the funds would be distributed to the States and the Federal Government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the states and the Federal Government. The Federal Government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PD&O, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PD&O stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PD&O provided a period of 30 days from the date of its publication in the Federal Register in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received comments from only one party concerning the proposed procedures for the distribution of the Diamond Shamrock funds.

III. Discussion of the Comments Received

In response to the PD&O, the OHA received comments from Philip P. Kalodner as counsel for six electric utilities, 14 foreign-flag shipping companies, and four pulp and paper manufacturers. Mr. Kalodner's clients have all filed Applications for Refund in the Subpart V crude oil proceeding. Mr. Kalodner's comments focus on two elements of the crude oil proceeding: the 20 percent reserve and $0.0008 per gallon volumetric refund amount. He first contends that the 20 percent reserve for claimants will be insufficient "to enable OHA to distribute the 'volumetric' which it has determined is due." Kalodner comments at 3. Kalodner asserts that the "OHA should either reverse its adoption of the 20% limitation, or if it believes it cannot do (so) without the approval of Judge Theis, it should seek such approval." *If.* at 5.

Kalodner's second objection presupposes the OHA's refusal to reserve more than 20 percent of the crude oil monies for direct restitution. In that case, Kalodner asserts, "any determination to make awards to late filing claimants . . . will reduce the amount available for distribution to first pool claimants such as these commenters." Kalodner comments at 5. Kalodner argues that only those applicants who filed crude oil claims before October 31, 1989, should receive a volumetric refund of $0.0008 per gallon and that applicants filing after that date should receive refunds based on mere fractions of that per-gallon figure.

These exact comments were addressed at length in a recent Decision and Order issued by the OHA. See *Seneca Oil Company*, 21 DOE ¶ _____ (LEF–0025) (July 17, 1991) (*Seneca*). We will therefore refrain from repeating our analysis of those contentions in the same detail at this time. Instead, we will summarize our determinations in *Seneca*. With respect to Kalodner's argument that the 20 percent reserve would be insufficient to pay claimants, we stated that he had advanced similar arguments before the OHA and the courts and had been rebuffed at each attempt. *Seneca* at 8. We also noted that at no time has the DOE given assurances as to the precise level of restitution that would be ultimately paid to claimants from the crude oil overcharge funds. *Id.*, citing *Amorient Petroleum Co.*, 18 DOE ¶ 85,595 (1989). We further reminded Kalodner that the United States District Court for the District of Delaware had rejected this same argument, deciding instead that "(a)t this late date, all parties would best be served by the equitable compromise of paying 80% of the fund out immediately while retaining 20% for individual claimants." *Id.* at 9. See *Getty Oil* v. *Department of Energy*, Civ. No. 77–434 MMS (D. Del. Dec. 28, 1988), *aff'd*, 890 F.2d 425 (Temp. Emer. Ct. App. 1989). As in *Seneca*, we agree with the courts and reject Kalodner's argument about the 20 percent reserve which seeks to inflate the level of restitution to the successful claimants

that he represents in DOE's crude oil refund proceedings.

Kalodner's objection to the OHA policy of paying claimants who filed subpart V crude oil refund applications before June 30, 1992 at the rate of $0.0008 per gallon was also addressed at length, and ultimately rejected, in *Seneca*. As we stated in that Decision, we believe that all purchasers of covered products during the crude oil refund period were injured equally by the overcharges. Therefore, it would be inequitable to preclude any applicants who file before the June 30, 1992, deadline from receiving the $0.0008 per gallon volumetric. *Seneca* at 11. As we stated in *Seneca*, we do not wish to penalize equally eligible applicants for lacking the resources that large applicants, such as Kalodner's clients, possess.

IV. The Refund Procedures

A. Refund Claims

The OHA has concluded that the $17,201,703.68 remitted by Diamond Shamrock, plus the interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $3,440,340.74 plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g., Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes and prove that they were injured as a result of the alleged violations. Following subpart V precedent, reasonable estimates of purchase volumes may be submitted. *E.g., Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g., Tarricone*, 15 DOE at 88,893–96. However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g., Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g., NYP*, 18 DOE at 88,701–03. The United States District Court for the District of Kansas recently upheld the OHA's position that generalized evidence does not suffice to rebut the end-user presumption. If an interested party wishes to rebut the end-user presumption, it must present evidence relevant to the specific factual situation of the applicant. In *re: The Department of Energy Stripper Well Exemption Litigation*, 746 F. Supp. 1446 (D. Kan. 1990).

Formerly regulated petroleum reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, reprinted in 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under subpart V. *Mid-America Dairymen, Inc.* v. *Herrington*, 878 F.2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.*, 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($17,201,703.68) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868. This yields a volumetric refund amount of $0.00000851 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *E.g., Allerkamp*, 17 DOE at 88, 176. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The deadline for filing an Application for Refund for crude oil implementation orders issued since January 18, 1991 is June 30, 1992. *Quintana Energy Corp.*, 21 DOE ¶ 85,032 (1991). It is the policy of the DOE to pay all crude oil refund claims filed before June 30, 1992 at the rate of $.0008 per gallon. However, while we anticipate that applicants which filed their claims by June 30, 1988 will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. To apply for a refund, a claimant should submit an Application for Refund. Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Each crude oil Application for Refund should contain the type of information specified by the OHA in past decisions. See *Texaco Inc.*, 19 DOE ¶ 85,200 at 88,374, *corrected, 19 DOE ¶ 85,236 (1989); Hood Goldsberry*, 18 DOE ¶ 85,902 at 89,477–78 (1989); *Wickett Refining Co.*, 18 DOE ¶ 85,659 at 89,081–82 (1989).

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $13,761,362.94 plus interest, should be disbursed in equal shares to the States and Federal Government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $13,761,362.94, plus interest, available for disbursement to the States and the Federal Government and transfer one-half of that amount, or $6,880,681.47, plus interest, into an interest-bearing subaccount for the states, and one-half, or $6,880,681.47 plus interest, into an interest bearing subaccount for the federal government. At an appropriate time in the future, we will issue a Decision and Order directing the DOE's Office of the Controller to make the appropriate disbursements to the individual states. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When

disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It is therefore ordered That: (1) Applications for Refund from the alleged crude oil overcharge funds remitted by Diamond Shamrock R&M, Inc. may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than June 30, 1992.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $17,201,703.68 (plus interest) from the Diamond Shamrock R&M, Inc. escrow account, Number 600S00112Z, pursuant to paragraphs (4), (5), and (6) of this decision.

(4) The Director of Special Accounts and Payroll shall transfer $6,880,681.47 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $6,880,681.47 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $3,440,340.74 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE0010Z.

Dated: August 21, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-20652 Filed 8-27-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3990-5]

Requests for Suggestions of Candidates for Membership on the National Advisory Council for Environmental Policy and Technology

SUMMARY: The Environmental Protection Agency (EPA) hereby requests suggestions of candidates for membership on the National Advisory Council for Environmental Policy and Technology (NACEPT), an Advisory Committee to EPA's Administrator established under the Federal Advisory Committee Act, U.S.C. (App.1) 9(c). The Advisory Council assists the Agency in performing its duties as prescribed in legislation, executive orders and regulations. The Council has a special focus on Pollution Prevention and Trade and the Environment issues.

The membership of the Advisory Council currently includes a balanced representation of interested persons with professional and personal qualifications and experience to contribute to the functions of the Advisory Council drawn from business and industry; the academic, educational and training community; and governmental organizations, plus environmental organizations and professional associations. New members will serve three-year terms.

DATES: Submit suggestions of candidates no later than September 18, 1991. Any interested person or organization may submit the names of qualified persons. Suggested candidates should be identified by name, occupation, organization, position, address, and telephone. Candidates must submit a resume of their background, experience, and other relevant information as a part of the consideration process.

ADDRESSES: Submit suggestions for the list of candidates to: Office of Cooperative Environmental Management (A101-F6), U.S. Environmental Protection Agency, Fairchild Building, Suite 115, 499 South Capitol Street SW., Washington, DC 20460, Attention: Abby J. Pirnie.

FOR FURTHER INFORMATION CONTACT: Abby J. Pirnie, at the above address or at (202) 475-9741. The Agency will not formally acknowledge or respond to suggestions.Q02

SUPPLEMENTARY INFORMATION: Copies of the Advisory Council charter and current membership are available upon request. The purpose of the Advisory Council is to provide advise and counsel to the Administrator of the Environmental Protection Agency (EPA) on the implementation of environmental programs, on technology transfer issues associated with the management of environmental problems, on issues related to pollution prevention; on the nexus between trade and the environment, and on opportunities for EPA to better draw on the full intellectual and financial resources of the full array of U.S. and international institutions concerned with meeting pressing environmental needs within the U.S. and globally, as the EPA continues to move forward in carrying out its mission. The Advisory Council is a part of EPA's efforts to expand cooperative working relationships and to broaden the national environmental technology base. The Advisory Council address such issues as: Developing strategies to achieve a pollution prevention ethic throughout society; identifying and recommending steps that energize the innovation cycle for the environment by increasing the development and commercialization of innovative technologies and ensuring the diffusion of existing and new technologies; identifying ways of measuring the progress and success of programs for reducing the number of chemical accidents; promoting cooperative, mutually-supportive EPA-State relationships aimed at establishing more effective environmental management at Federal, State and local levels; developing a policy framework and recommendations for integrating trade and environment issues; and increasing and institutionalizing communication among all levels of government, the international community, the business community, the academic, educational and training community; and the professional community. NACEPT has five standing Committees: Trade and Environment; Pollution Prevention Education; Technology Innovation and Economics; State and Local Programs; and Environmental Measurements and Chemical Accident Prevention.

The Advisory Council meets once a year, and its Committees meet as they deem necessary. No honoraria or salaries are provided for members on the Advisory Council, but compensation for travel and nominal daily expenses while attending meetings may be provided.

Suggestions for the list of candidates should be submitted no later than September 18, 1991.

Dated: August 14, 1991.

Abby J. Pirnie,

Director, Office of Cooperative Environmental Management.

[FR Doc. 91-20625 Filed 8-27-91; 8:45 am]

BILLING CODE 6560-50-M

[CFRL-3990-06]

Mexico-U.S. Border Area Integrated Plan; Environmental Statements

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of public hearings relating to the Integrated Environmental Plan for the Mexico-U.S. Border Area: Additional Hearing in Brownsville, Texas, September 16, 1991; Hearing

Location Change in Sunland Park, New Mexico, September 20, 1991.

SUMMARY: On November 27, 1990, in Monterrey, Mexico, President Bush and Mexican president Carlos Salinas de Gortari instructed the environmental agencies of both countries to design an integrated plan to periodically examine mechanisms for reinforcing bilateral cooperation to solve the environmental problems of the border area. It was the intent of both Presidents that the Integrated Environmental Plan for the border Area (the Border Plan) involve the participation of the relevant governments, business and academic institutions, and environmental organizations. The public is given the opportunity to make written comments and to participate in open hearings on the Border Plan. Hearings are scheduled from September 16–26 in U.S. communities along the U.S./Mexico border. (For more information, see the **Federal Register** notice, Wednesday, August 14, 1991 (56 FR 40324).

ADDITIONAL HEARING DATE AND LOCATION: September 16, 1991, 4 p.m.-7 p.m., Brownsville Civic Center-Stokely Hall, Fort Brown Auditorium, International Blvd. at Elizabeth Street, Brownsville, Texas.

HEARING LOCATION CHANGE (SUNLAND PARK, N.M., SEPTEMBER 20, 1991): 9 a.m.-12 Noon, Change from Santa Teresa Country Club to: City Council Chambers, Sunland Park City Hall, 3800 McNutt Road, Sunland Park, New Mexico.

INFORMATION ON OTHER HEARINGS: For dates and locations of other hearings, see supplementary information in the **Federal Register** notice, Wednesday, August 14, 1991.

ADDITIONAL COMMENT DATES: Persons wishing to testify orally at the Brownsville hearing must provide written notification and copies of testimony by Thursday, September 12, 1991. All other written comments must be received by Monday, September 30, 1991. (See supplementary information in the **Federal Register** notice, Wednesday, August 14, 1991; for additional details.)

REVISED CONTACT TELEPHONE NUMBERS: For answers to procedural questions concerning public comments and/or public hearings, the public is requested to contact: Orlando Gonzalez, U.S. Environmental Protection Agency (A–106), Office of International Activities, 401 M Street SW., Washington, DC 20460, Telephone (202) 260–2170.

All other questions concerning the Border Plan should be directed to: Richard Kiy, U.S. Environmental Protection Agency (A–106), Special Assistant for the Border Plan, Office of International Activities, 401 M Street SW., Washington, DC 20460, Telephone (202) 260–7791.

Richard Kiy,

Special Assistant for the border Plan; Office of International Activities, U.S. EPA.

[FR Doc. 91–20628 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP–66150; FRL 3937–8]

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 November 26, 1991.

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 210, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-4461.

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 173 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) and chemical name in the following Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product Name	Chemical Name
000116–00031	Dr. Salsbury's Malathion 57 (emulsifiable)	Aromatic petroleum derivative solvent
000239–02606	P/P Insecticide No. 5	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000352–00199	Karmex DI Diuron Weed Killer	3-(3,4-Dichlorophenyl)-1,1-dimethylurea
000352–00374	Zobar 1 Weed Killer Wettable Powder	3-tert-Butyl-5-chloro-6-methyluracil
		3-(3,4-Dichlorophenyl)-1,1-dimethylurea
000352 CA–76–0026	Dupont Karmex	3-(3,4-Dichlorophenyl)-1,1-dimethylurea
000352 CA–77–0068	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 CA–78–0046	Du Pont Benlate Fungicide Wettable Powder	Methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate
000352 HI–78–0003	Du Pont Karmex Weed Killer	3-(3,4-Dichlorophenyl)-1,1-dimethylurea
000506–00147	Tat III Roach & Ant Jet Stream	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000506-00149	Tat House and Garden Insect Killer Indoor & Outdoor	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate
		Chevron 100
		Essential oils
		(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
000506-00153	Tnt Fogger	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl d-trans-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate
		Aliphatic petroleum hydrocarbons
		(3-Phenoxyphenyl)methyl d-cis and trans* 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate*(Max. d-cis 25%, Mix. trans 75%)
001001-00051	Spectrum WDG Turf Fungicide	Tetramethyl thiuramdisulfide
		Diethyl 4,4'-o-phenylenebis(3-thioallophanate)
001001-00062	Bromosan-F Flowable Bromosan Turf Fungicide	Tetramethyl thiuramdisulfide
		Diethyl 4,4'-o-phenylenebis(3-thioallophanate)
001021-00972	Everban 6862	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
001021-00978	Everban 6860	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
001021-01013	Pyrocide Intermediate 6908	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
001021-01231	Pyrocide Intermediate 7140	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
001448-00013	Busan 882	1,2-Ethanediamine
		Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00044	Busperse 51 T	2-(Thiocyanomethylthio)benzothiazole
		S-(2-Hydroxypropyl) thiomethanesulfonate
001448-00049	Busan 31	2-(Thiocyanomethylthio)benzothiazole
001448-00050	Nabe	1,2-Ethanediamine
		Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00051	TCHPM	2-(Thiocyanomethylthio)benzothiazole
		S-(2-Hydroxypropyl) thiomethanesulfonate
001448-00056	Busan 63	Potassium dimethyldithiocarbamate
		Tetrasodium ethylenediaminetetraacetate
001448-00057	Disa	Potassium dimethyldithiocarbamate
		Tetrasodium ethylenediaminetetraacetate
001448-00066	Busan 104	Alkyl* dimethyl benzyl ammonium chloride *(50% C14, 40% C12, 10% C16)
001448-00067	Busan 103	Alkyl* dimethyl benzyl ammonium chloride *(50% C14, 40% C12, 10% C16)
001448-00068	Busan 102	Alkyl* dimethyl benzyl ammonium chloride *(50% C14, 40% C12, 10% C16)
001448-00069	Busan 101	Alkyl* dimethyl benzyl ammonium chloride *(50% C14, 40% C12, 10% C16)
001448-00087	Bulab 6016 Half-Ounce Tablets	Trichloro-s-triazinetrione
001448-00088	Bulab 6016 Seven-Ounce Tablets	Trichloro-s-triazinetrione
001448-00116	NM-875-10	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00117	NM-875-9	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00118	NM-875-8	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00119	NM-875-7	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
001448-00120	NM-875-6	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00121	NM-875-5	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00122	NM-875-4	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00123	NM-875-3	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00124	NM-875-2	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00125	NM-875-1	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00126	NM-35-3	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00127	NM-35-2	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00132	M 5-8	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00133	M-5-9	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00134	M-5-10	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00135	M-5-11	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00136	M-5-12	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00137	M-5-13	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00138	M-5-14	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00139	M-5-15	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00140	M-5-16	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00141	M-5-17	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00142	M-5-18	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00143	M-5-19	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00144	M-5-20	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00145	M-5-21	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00146	M-5-22	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00155	T-5-4	2-(Thiocyanomethylthio)benzothiazole
001448-00156	T-5-5	2-(Thiocyanomethylthio)benzothiazole
001448-00157	T-5-6	2-(Thiocyanomethylthio)benzothiazole
001448-00158	T-5-7	2-(Thiocyanomethylthio)benzothiazole
001448-00159	T-5-8	2-(Thiocyanomethylthio)benzothiazole
001448-00160	B-103-6	2-(Thiocyanomethylthio)benzothiazole
001448-00161	B-103-5	2-(Thiocyanomethylthio)benzothiazole

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
001448-00162	B-103-4	2-(Thiocyanomethylthio)benzothiazole
001448-00163	B-103-3	2-(Thiocyanomethylthio)benzothiazole
001448-00164	B-103-2	2-(Thiocyanomethylthio)benzothiazole
001448-00165	B-103-1	2-(Thiocyanomethylthio)benzothiazole
001448-00166	B-30-5	2-(Thiocyanomethylthio)benzothiazole
001448-00167	B-30-4	2-(Thiocyanomethylthio)benzothiazole
001448-00168	B-30-3	2-(Thiocyanomethylthio)benzothiazole
001448-00169	B-30-2	2-(Thiocyanomethylthio)benzothiazole
001448-00170	B-30-1	2-(Thiocyanomethylthio)benzothiazole
001448-00173	M-5-3	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00174	M-5-4	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00175	M-5-5	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00176	M-5-6	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00177	M-5-7	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00181	NM-175-2	Potassium *N*-methyldithiocarbamate Disodium cyanodithioimidocarbonate
001448-00182	NM-175-3	Potassium *N*-methyldithiocarbamate Disodium cyanodithioimidocarbonate
001448-00183	NM-175-4	Potassium *N*-methyldithiocarbamate Disodium cyanodithioimidocarbonate
001448-00184	NM-175-5	Potassium *N*-methyldithiocarbamate Disodium cyanodithioimidocarbonate
001448-00186	D-10-2	Potassium dimethyldithiocarbamate
001448-00187	D-10-3	Potassium dimethyldithiocarbamate
001448-00188	D-10-4	Potassium dimethyldithiocarbamate
001448-00189	D-10-5	Potassium dimethyldithiocarbamate
001448-00190	D-10-6	Potassium dimethyldithiocarbamate
001448-00191	D-10-7	Potassium dimethyldithiocarbamate
001448-00192	D-10-8	Potassium dimethyldithiocarbamate
001448-00193	D-10-9	Potassium dimethyldithiocarbamate
001448-00194	D-10-10	Potassium dimethyldithiocarbamate
001448-00195	D-10-11	Potassium dimethyldithiocarbamate
001448-00196	D-10-12	Potassium dimethyldithiocarbamate
001448-00197	D-10-13	Potassium dimethyldithiocarbamate
001448-00199	D-25-2	Potassium dimethyldithiocarbamate
001448-00200	D-25-3	Potassium dimethyldithiocarbamate
001448-00201	D-25-4	Potassium dimethyldithiocarbamate
001448-00203	D-50-2	Potassium dimethyldithiocarbamate
001448-00204	D-50-3	Potassium dimethyldithiocarbamate
001448-00231	B-103-7	2-(Thiocyanomethylthio)benzothiazole
001448-00245	M-5-30	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00246	M-5-29	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00247	M-5-28	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)
001448-00248	M-5-27	2-(Thiocyanomethylthio)benzothiazole Methylenebis(thiocyanate)

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
001448-00250	M-5-25	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00255	NM-175-8	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00256	NM-175-7	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00257	NM-175-6	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00258	M-20-3	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00259	M-20-4	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00260	M-20-5	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00261	M-20-6	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00262	B-1030-8	2-(Thiocyanomethylthio)benzothiazole
001448-00263	B-1030-9	2-(Thiocyanomethylthio)benzothiazole
001448-00264	B-1030-10	2-(Thiocyanomethylthio)benzothiazole
001448-00266	B-30-7	2-(Thiocyanomethylthio)benzothiazole
001448-00267	B-30-8	2-(Thiocyanomethylthio)benzothiazole
001448-00268	B-30-9	2-(Thiocyanomethylthio)benzothiazole
001448-00274	D-50-7	Potassium dimethyldithiocarbamate
001448-00276	D-50-5	Potassium dimethyldithiocarbamate
001448-00278	D-25-6	Potassium dimethyldithiocarbamate
001448-00279	D-25-7	Potassium dimethyldithiocarbamate
001448-00280	D-25-8	Potassium dimethyldithiocarbamate
001448-00281	D-25-9	Potassium dimethyldithiocarbamate
001448-00284	D-10-15	Potassium dimethyldithiocarbamate
001448-00285	D-10-16	Potassium dimethyldithiocarbamate
001448-00286	D-10-17	Potassium dimethyldithiocarbamate
001448-00287	D-50-6	Potassium dimethyldithiocarbamate
001448-00288	NM-875-13	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00289	NM-875-12	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00290	NM-875-14	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00291	*N*-875-15	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00292	NM-35-5	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00293	NM-35-6	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00295	T-30-4	2-(Thiocyanomethylthio)benzothiazole
001448-00296	T-30-5	2-(Thiocyanomethylthio)benzothiazole
001448-00297	M-5-23	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00298	M-5-24	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
001448-00299	NM-35-4	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001448-00300	NM-175-10	Potassium *N*-methyldithiocarbamate

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
		Disodium cyanodithioimidocarbonate
001448-00301	NM-175-9	Potassium *N*-methyldithiocarbamate
		Disodium cyanodithioimidocarbonate
001812-00335	Triple Tin Fungicide	Triphenyltin hydroxide
001812-00336	Wesley Triple Tin 4l	Triphenyltin hydroxide
001990-00397	2,4-D Amine Weed Killer	Dimethylamine 2,4-dichlorophenoxyacetate
001990-00415	Low-Vol.2,4-D	Acetic acid, (2,4-dichlorophenoxy)-, 2-ethylhexyl ester (7Cl, 8Cl, 9Cl)
002498 FL-81-0005	Naled 85 Concentrate	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate
002595 NJ-85-0007	Rodeo	Isopropylamine glyphosate (*N*-(phosphonomethyl)glycine)
002724-00076	M & M Dairy Livestock Dust	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
		O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
007173 CO-80-0018	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 CT-85-0002	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 GA-78-0019	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 ID-86-0003	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 KY-80-0022	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 MA-78-0008	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 MD-78-0016	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 ME-77-0004	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 MI-78-0015	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 MT-78-0013	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 OH-77-0008	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 PA-79-0002	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 SC-80-0025	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 TX-79-0040	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 WA-84-0063	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 WV-79-0001	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
007173 WY-78-0012	Rozol Tracking Powder	2-((*p*-Chlorophenyl)phenylacetyl)-1,3-indandione
		O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
007501-00063	Evershield II Seed Protectant with Captan & Malathion	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
007969-00029	U-46 D-90 Acid	2,4-Dichlorophenoxyacetic acid
008845-00049	Bag-A-Bug Gypsy Moth Spray	Bacillus thuringiensis (Berliner) 25 billion viable spores of B. thuringiensis
017217-00012	Quat-Trol	Alkyl* dimethyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12)
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(68% C12, 32% C14)
033955-00538	Acme Wasp and Hornet Jet Spray	Chevron 100
		(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
039020-20001	Sodium Hypochlorite Solution	Sodium hypochlorite
047231-00010	B-15 National Microbicide	2-(Thiocyanomethylthio)benzothiazole
		Methylenebis(thiocyanate)
062719-00104	Paarlan E.C.	2,6-Dinitro-*N,N*-dipropylcumidene

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
000116	Solvay Animal Health Inc., 2000 Rockford Rd., Charles City, IA 50616.
000239	Chevron Chemical Co., Registration & Regulatory Affairs Dept., 940 Hensley Street, Richmond, CA 94804.
000352	E.I. Du Pont Denemours & Co., Inc., Agricultural Products Dept., Box 80038, Wilmington, DE 19880.
000506	Walco-Link Co., C/o Regwest, Box 2220, Greeley, CO 80632. Greeley, CO 80632.
001001	Cleary W A Corp., 1049 Somerset St., Somerset, NJ 08873.
001021	Mc Laughlin Gormley King Co., 8810 Tenth Ave North, Minneapolis, MN 55427.
001448	Buckman Labs Inc., 1256 Mclean Blvd., Memphis, TN 38108.
001812	Griffin Corp., Box 1847, Valdosta, GA 31603.
001990	Universal Cooperatives, Inc., c/o Diana Williams, Box 460, Minneapolis, MN 55440.
002498	Black Hawk Chemical Corp., 4100 E. Washington Blvd., Los Angeles, CA 90023.
002595	Stopall Waterproofing Mfg. Inc., , Kalamazoo, MI 49003.
002724	Zoecon Corp., A Sandoz Co., 12200 Denton Drive, Dallas, TX 75234.
007173	Liphatech, Inc., 3600 W. Elm St., Milwaukee, WI 53209.
007501	Gustafson, Inc., Box 660065, Dallas, TX 75266.
007969	Basf Corp., Agricultural Chemicals Group, Box 13528, Research Triangle Park, NC 27709.
008845	The Spectrum Group Division of, United Industries Corp., Box 15842, St Louis, MO 63114.
017217	Spectrowax Corp., 70 Hichborn St., Brighton, MA 02135.
033955	PBI Gordon Corp., Box 4090, Kansas City, MO 64101.
039020	Novick Chemical Co., Inc., 705 Davis Street, Scanton, PA 18505.
047231	National-Oilwell, 3600 South Council, Oklahoma City, OK 73179.
062719	Dowelanco, Quad IV 9002 Purdue Rd., Indianapolis, IN 46268.

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 [insert date 90 days after publication in the **Federal Register**]. This written withdrawal of the request for cancellation must include a commitment to pay any reregistration or registration maintenance 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 one 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 cancellation. The orders will also generally provide for use of stocks already in the hands of dealers or users until they are exhausted. 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: August 5, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-20265 Filed 8-27-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30322; FRL-3936-4]

Mycogen Corp.; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Mycogen Corp., to conditionally register the pesticide product MVP Bioinsecticide containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Phil Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received an application from the Mycogen Corp., 5451 Oberlin Drive, San Diego, CA 92121, to conditionally register the pesticide product MVP Bioinsecticide, containing the active ingredient delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated in killed *Pseudomonas fluorescens* at 10 percent; an active ingredient not included in any previously registered product. However, since the notice of receipt of the application to register the product as required by section 3(c)(4) of FIFRA, as amended, was not published in the Federal Register, interested parties may submit comments within 30 days from the date of publication of this notice.

The application was approved on June 27, 1991, for general use for the product MVP Bioinsecticide for the control of certain caterpillar pests on vegetables, fruits, and field crops, and was assigned EPA Registration Number 53219-3.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated in killed *Pseudomonas fluorescens*, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated in killed *Pseudomonas fluorescens*, during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

However, since this conditional registration expires on July 30, 1992, all required studies must be submitted to the Agency before January 30, 1992 .

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in a Chemical Fact Sheet on delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated in killed *Pseudomonas fluorescens*.

A copy of the fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Docket, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM #2, Arlington, VA 22202 (703–557–4456). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: August 15, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–20632 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30323; FRL–3939–8]

Valent U.S.A. Corp.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Valent U.S.A. Corp., to conditionally register the pesticide products Sumagic Plant Growth Regulator and Valent Uniconazole-P Technical containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (H7505C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA received applications from the Valent U.S.A. Corp., 1333 N. California Blvd., Walnut Creek, CA 94596–8025 to conditionally register the pesticide products Sumagic Plant Growth Regulator and Valent Uniconazole-P Technical, containing the active ingredient (E)-(+)-(S)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1,2,4-triazol-1-yl)-pent-1-ene-3-ol at 73.5 percent; an active ingredient not included in any previously registered products.

The applications were approved on July 3, 1991, as Sumagic Plant Growth Regulator (EPA Registration Number 59639–37) for use on greenhouse ornamentals, and Valent Uniconazole-P Technical (EPA Registration Number 59639–38), for formulating use only. However, since the notice of receipt of the applications to register the products was not published in the **Federal Register**, as required by section 3(c)(4) of FIFRA, as amended, interested parties may submit comments within 30 days from the date of publication of this notice.

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of (E)-(+)-(S)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1,2,4-triazol-1-yl)-pent-1-ene-3-ol, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of (E)-(+)-(S)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1,2,4-triazol-1-yl)-pent-1-ene-3-ol, during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

These data must be submitted by December 31, 1991. If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6(e). Additional information as listed below must be provided to upgrade the rat developmental study:

1. Historical control data concerning the phenomenon of 14th and cervical rib development.

2. A description of mating procedures including the method and rationale used to select the animals; and also the method employed for "culling" these animals.

3. A definition of the term "tubercle of the liver."

4. Information to upgrade the rat unscheduled DNA synthesis and the mouse *In vivo* Micronucleus mutagenicity studies.

Consistent with section 3(c)(7)(C), the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on these conditional registrations is contained in a Chemical Fact Sheet on (E)-(+)-(S)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1,2,4-triazol-1-yl)-pent-1-ene-3-ol.

A copy of the fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Docket, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM #2, Arlington, VA 22202 (703–557–4456). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be

addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: August 15, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–20633 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–F

[OPTS–44575; FRL 3943–2]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on ^{14}C-ditridecyl phthalate, (CAS Nos. 68515–47–9 and 119–06–2), ^{14}C-diisodecyl phthalate (CAS Nos. 26761–40–0 and 68515–49–1), ^{14}C-di(2-ethylhexyl) phthalate, (CAS No. 117–81–7), and ^{14}C-dihexyl phthalate (CAS No. 68515–50–4 and 84–75–3), submitted pursuant to a consent order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for ^{14}C-ditridecyl, ^{14}C-diisodecyl, ^{14}C-di(2ethylhexyl), and ^{14}C-dihexyl phthalates were submitted by the Chemical Manufacturers Association on behalf of the test sponsors and pursuant to a consent order at 40 CFR 799.5000. They were received by EPA on August 6, 1991. The submissions describe the sediment adsorption isotherm of the alkyl phthalates named above. Chemical Fate testing is required by this consent order. Alkyl phthalates are used primarily as plasticizers.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS–44575). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: August 21, 1991.

Gary E. Timm,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 91–20515 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–F

[FRL–3989–9]

33 U.S.C. 1319(g)

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity to Comment regarding LaBarge, Inc., Joplin, MS

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding LaBarge, Inc., Joplin, Missouri.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act (Act). EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On August 9, 1991, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7630, the following Complaint: In the Matter of LaBarge, Inc., Joplin, Missouri, EPA Docket No. VII–91–W–0078.

The Complaint proposes a penalty of One Hundred Twenty-Five Thousand Dollars ($125,000.00) for discharging electroplating wastewater containing copper in excess of effluent limitations for copper established under the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding, should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by LaBarge, Inc. is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this notice.

Dated: August 9, 1991.

Morris Kay,

Regional Administrator.

[FR Doc. 91–20628 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3990.1]

33 U.S.C. 1319(g)

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity to Comment Regarding Heartland Metal Finishing, Inc., Salem, MS

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding

Heartland Metal Finishing, Inc., Salem, Missouri.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act (Act). EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of this public notice.

On August 14, 1991, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7630, the following complaint: In the Matter of Heartland Metal Finishing, Inc., EPA Docket No. VII-91-W-0063.

The Complaint proposes a penalty of One Hundred Twenty-five Thousand Dollars ($125,000.00) for failure to comply with certain reporting requirements for industrial users pursuant to 40 CFR 403.12 and for discharging wastewater to the wastewater treatment facility owned and operated by the City of Salem, Missouri, in excess of the effluent limitations for the Metal Finishing Point Source Category, 40 C.F.R. part 433.

FOR FURTHER INFORMATION: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint or other documents filed in this proceeding, comment upon the proposed penalty assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above.

The administrative record for the proceeding is located in the EPA Regional Office at the address stated above, and the file will be open for public inspection during normal business hours. All information submitted by Heartland Metal Finishing, Inc., is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in this proceeding prior to thirty (30) days from the date of this notice.

Dated: August 14, 1991.

Morris Kay,

Regional Administrator.

[FR Doc. 91-20629 Filed 8-27-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3990-8]

Science Advisory Board

Radiation Advisory Committee; Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Radiation Advisory Committee of the Science Advisory Board will meet September 18-20, 1991 at One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037. The meeting will begin at 8:30 a.m. on Wednesday and adjourn no later than 6 pm. on Friday.

At this meeting the Committee plans to: (1) Revise its report on the Idaho Radionuclide Study in accordance with the August 23, 1991, recommendations of the SAB's Executive Committee; (2) review the revised Citizen's Guide to Radon proposed by the Environmental Protection Agency's Office of Radiation Programs; (3) consider the report of the Nonionizing Electric and Magnetic Fields Subcommittee (NIEMFS) on its review of the Environmental Protection Agency's Office of Health and Environmental Assessment's Evaluation of the Potential Carcinogenicity of Electromagnetic Fields (EPA/600/6-90/005B); and (4) consider the advice of the chairman of the Radionuclides in Drinking Water Subcommittee regarding what further action, if any, the Committee should take with respect to the review of scientific documents supporting a proposed rulemaking on radionuclides in drinking water. If time permits, the Committee also plans to (5) consider a draft commentary on the need for improvements to the models used by the Environmental Protection Agency to predict the transport of radionuclides in the environment and (6) revise its draft commentary on residual radioactivity in accordance with comments of the SAB's Executive Committee.

The Committee may also be briefed on other radiation-related Agency and SAB activities, consider its priorities for reviews in FY 1992, and select tentative dates for meetings.

An agenda has not yet been developed for this meeting, but the tentative plan is to review the revised Citizen's Guide to Radon on Thursday, to consider the carcinogenicity report of the NIEMFS—and possibly be briefed on the progress of the NIEMFS Research Agenda/Strategy/Domain review—on Friday, and to deal with the other issues on Wednesday. An draft agenda will be prepared September 11.

The Science Advisory Board reproduces and distributes its own documents; it does not reproduce and distribute those of the Agency. Members of the public can obtain documents as follows:

(1) Idaho Radionuclide Study

This document is available from Wayne Bliss, Director, Office of Radiation Programs/OAR, P.O. Box 18416, Las Vegas, NV 89114, Tel. (702) 798-2476.

(2) Revised Citizen's Guide to Radon

These documents available from Steve Page, Public and Policy Information Branch, Radon Division (ANR-464), U.S. EPA, 401 M Street SW., Washington, DC 20460 Tel. (202) 475-9605.

(3) Evaluation of the Potential Carcinogenicity of Electomagnetic Fields (EPA/600/6-90/005B) and A Research Strategy for Electric and Magnetic Fields: Research Needs and Priorities (EPA/600/9-91/016A)

These documents are available from the Center for Environmental Research Information/ORD, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Tel: (513) 569-7771.

(4) Proposed Regulation and Supporting Documents on Radionuclides in Drinking Water

These documents are available from Greg Helms (WH-550D), Office of Drinking Water, U.S. EPA, 401 M Street SW., Washington, DC 20460 Tel (202) 475-8049.

The meeting is open to the public on a first-come, first-seated basis. In addition to the Committee, the room holds about 25. The Committee welcomes written comment from the public and requests that commenters supply at least 15 copies. Written comment to be mailed to the Committee in advance of the meeting must be provided to the DFO, no later than noon Monday September 9.

Written comments may also be submitted to the DFO for distribution to the Subcommittee at the meeting. Individuals providing written comment at the meeting must provide 15 copies for the Committee and are urged to bring additional copies as a courtesy to other members of the public present. SAB staff will not copy materials during the meeting.

The Committee will accept oral comment, but the time allowed for oral comment is limited and priority will be given to those issues where there has been no previous opportunity for comment to the SAB (for example, the Citizen's Guide to Radon or transport models for radionuclides in the environment). Members of the public wishing to provide oral comment should contact the DFO by noon Monday September 9.

For further information, contact Mrs. Kathleen Conway, Designated Federal Official (DFO), or Mrs. Dorothy Clark, Staff Secretary at 202/282–2552 (after August 24, please use 202/260–6252). The mailing address for Mrs. Conway and Mrs. Clark is: Science Advisory Board (A–101F), 401 M Street SW., Washington, DC 20460. The address for overnight mail is: The Fairchild Building—Suite 508, 499 South Capitol Street SW, Washington, DC 20003. Mondays and Fridays are the best days to reach Mrs. Conway.

Dated: August 14, 1991.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 91–20627 Filed 8–27–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Companhia de Navegacao Lloyd Brasileiro et al.; Notice of 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.: 212–010027–032.

Title: Brazil/U.S. Atlantic Coast Agreement.

Parties: Companhia de Navegacao Lloyd Brasilerio, Companhia de Navegacao Maritima Netumar, Companhia Martima Nacional, American Transport Lines, Inc., Empresa Lineas Martimas Argentinas, S.A., A. Bottacchi S.A. de Navegacion C.F.I.I.

Synopsis: The proposed amendment would extend the special 100% carrying deduction through December 31, 1991. It would also permit a party to withdraw from the Agreement effective January 1, 1992, by giving 30 days prior notice to the other parties. The parties have requested a shortened review period.

Agreement No.: 213–010601–007.

Title: Agreement By and Between Neptune Orient Lines Ltd. and Orient Overseas Container Line, Inc.

Parties: Neptune Orient Lines, Ltd., Orient Overseas Container Line, Inc., Nippon Liner System, Ltd. (NLS).

Synopsis: The proposed amendment would add Navix Line, Ltd. as a party to the Pacific Service of the Agreement in the place of NLS, which will cease to exist on October 1, 1991. It also allows Navix, which is the corporate parent of NLS, to assume the obligations of NLS and operate for the remaining months between October 1, 1991 and the termination of the Pacific Service. The parties have requested a shortened review period.

Agreement No.: 212–010689–044.

Title: Transpacific Westbound Rate Agreement.

Parties: American President Lines, Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines, Ltd., Nippon Liner System, Nippon Yusen Kaisha, Ltd., Sea-Land Service, Inc.

Synopsis: The proposed amendment would delete Canada from the scope of the Agreement and provide for the restructuring of the U.S. voting groups. It would also provide for a transitional period to permit new members to perform their legal obligations under outstanding service and loyalty contracts that would otherwise conflict with the Agreement, and would permit any new member to maintain its existing tariff for a period of up to 30 days after joining the Agreement.

Agreement No.: 202–010776–060.

Title: Asia North America Eastbound Rate Agreement.

Parties: American President Lines, Ltd., Kawasaki Kisen Kaisha, Ltd., A.P. Moller-Maersk Line, Mitsui O.S.K. Lines, Ltd., Neptune Orient Lines Ltd., Nippon Liner System, Ltd. (NLS), Nippon Yusen Kaisha Line (NYK), Sea-Land Service, Inc.

Synopsis: The Proposed amendment would permit NYK and NLS to merge their services and operate as a single entity under the name of Nippon Yusen Kaisha Line, effective October 1, 1991.

By Order of the Maritime Commission.

Dated: August 22, 1991.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91–20587 Filed 8–27–91; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Royal Caribbean Cruises Ltd. and Sovereign of the Seas Shipping Inc., 1050 Caribbean Way, Miami, FL 33132.

Vessel: SOVEREIGN OF THE SEAS.

Dated: August 23, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–20616 Filed 8–27–91; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Starlite Cruises, Inc., 1520 State Street, #100, San Diego, CA 92101.

Vessel: EMPRESS.

Dated: August 23, 1991.
Joseph C. Polking,
Secretary.
[FR Doc. 91-20617 Filed 8-27-91; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American National Bankshares, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 16, 1991.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. American National Bankshares, Inc., Danville, Virginia; to engage *de novo* through its subsidiary, Danville Community Development Corporation, Danville, Virginia, in making an equity investment, along with other Danville area financial institutions, in the Danville Community Development Corporation, a multi-bank/thrift community development corporation that will provide debt or equity funding for the purchase or rehabilitation of single family homes to be rehabilitated in a cooperative program with the Community Development Division of the City of Danville and sold to low- and moderate-income people with incomes under 80 percent of area median pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Danville, Virginia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Security Richland Bancorporation, Miles City, Montana; to engage *de novo* in providing data processing services to non-affiliated parties pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted in the states of Montana, North Dakota, South Dakota and Wyoming.

Board of Governors of the Federal Reserve System, September 16, 1991.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 91-20598 Filed 8-27-91; 8:45 am]
BILLING CODE 6210-01-F

Browning Partners International, Inc., 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 September 16, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Browning Partners International, Inc., Miami, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of CJH Browning Bank, Miami, Florida, a *de novo* bank.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. G.R. Bancorp, Ltd., Grand Ridge, Illinois; to become a bank holding company by acquiring 83 percent of the voting shares of The First National Bank of Grand Ridge, Grand Ridge, Illinois.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First State Bancorporation, Taos, New Mexico; to merge with New Mexico Bank Corporation, Albuquerque, New Mexico, and thereby indirectly acquire National Bank of Albuquerque, Albuquerque, New Mexico.

Board of Governors of the Federal Reserve System, August 22, 1991.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 91-20599 Filed 8-27-91; 8:45 am]
BILLING CODE 6210-01-F

The Sumitomo Bank, Ltd.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 September 16, 1991.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. The Sumitomo Bank, Ltd., Osaka, Japan; to acquire Sumitomo Bank Capital Markets (U.K.), Limited, London, England, and thereby engage in expanding swap activities as broker, agent, and adviser by establishing a branch office of its wholly-owned subsidiary, SBCM (U.K.), Ltd., London, England, in Hong Kong pursuant to §§ 225.25(b)(18) and (b)(19) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 22, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-20600 Filed 8-27-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Advisory Committees; Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following advisory committees scheduled to meet during the month of October 1991:

Name: Health Care Technology Study Section.

Date and Time: October 14-16, 1991, 8 a.m.

Place: Woodfin Suites, Columbia Room, 1380 Piccard Drive, Rockville, Maryland. Open October 14, 8 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the utilization and affects of health care technologies and procedures as well as applications in the area of information and decision sciences relating to health care delivery.

Agenda: The open session on October 14 from 8 to 9 am, will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications emphasizing medical care technologies and procedures, and relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Alan E. Mayers, Ph.D., Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Name: Health Services Developmental Grants Review Subcommittee.

Date and Time: October 2-4, 1991, 8 a.m.

Place: Holiday Inn—Chevy Chase, Chase Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland. Open October 2, 8 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access effectiveness and efficiency of the delivery of health services for the research grant program administered by the agency for Health Care Policy and Research.

Agenda: The open session of tha meeting on October 2 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by tha Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that thesa latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, room 18A20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Name: Health Services Research Dissemination and User Liaison Advisory Committee.

Date and Time: October 24, 1991, 8 a.m.

Place: Woodfin Suites, Maryland and Virginia Rooms, 1380 Piccard Drive, Rockville, Maryland. Open October 24, 8 a.m. to 8:30 a.m. Closed for remainder of meeting.

Purpose: Tha Committee is charged with the review and making recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and agency liaison with health care policy makers, providers, and consumers.

Agenda: The open session of the meeting on October 24 from 8 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed portions of the meeting, the Committee will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyona wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mrs. Linda Blankenbaker, Agency for Health Care Policy and Research, room 18A20, 5600 Fisher Lane, Rockville, Maryland 20857, Telephone (301) 443-3091.

Name: Health Services Research Review Subcommittee.

Date and Time: October 9-11, 1991, 8:30 a.m.

Place: Embassy Suites, Chevy Chase II Room, 4300 Military Road, Northwest, Washington, DC. Open October 9, 8:30 a.m. to 9 a.m. Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on October 9 from 8:30 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing

analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Christine T. Parker, Ph.D., Agency for Health Care Policy and Research, room 18A20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Dated: August 21, 1991.

J. Jarrett Clinton,

Administrator.

[FR Doc. 91–20664 Filed 8–27–91; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control

[Announcement Number 177]

Project Grant to Design and Implement Education Programs on HIV and AIDS Utilizing Permanent and Traveling Exhibits for Science Museums; Correction

A notice announcing the availability of project grant funds to the Museum of Science and Industry, Chicago, Illinois, to support the design, development, fabrication, installation, and distribution of permanent and traveling exhibits on human immunodeficiency virus (HIV) infection and acquired immunodeficiency syndrome (AIDS) was published in the **Federal Register** on Tuesday, August 20, 1991 [56 FR 41356]. The notice is corrected as follows:

On page 41357, in the second column, under the heading "Other Requirements," the last sentence under paragraph "B." is removed.

All other information and requirements of the August 20, 1991, document remain the same.

Dated: August 21, 1991.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 91–20595 Filed 8–27–91; 8:45 am]

BILLING CODE 4160–18–M

Administration for Children and Families

[Program Announcement No. 93554.911; ACYF–HS–93600.91–3]

Availability of FY 1991 Funds and Request for Applications; Emergency Child Abuse and Neglect Prevention Services Program and Head Start/Public School Early Childhood Transition Demonstration Projects

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families, HHS.

ACTION: Extension of due dates for receipt of applications for the two program announcements cited above.

SUMMARY: This notice amends program announcement numbers 93554.911 and ACYF–HS–93600.91–3, both published in the **Federal Register** on July 11, by extending the due dates for submission of applications to August 28 and August 23, respectively.

FOR FURTHER INFORMATION CONTACT: Joe Mottola (202) 245–0348.

SUPPLEMENTARY INFORMATION: On July 11, 1991, the Administration on Children, Youth and Families published two program announcements in the **Federal Register** (56 FR 31782 and 56 FR 31818).

The first announcement (56 FR 31782) solicited applications from eligible agencies and organizations to conduct service demonstration projects to prevent the abuse or neglect of children whose parents are substance abusers and to provide comprehensive, interdisciplinary/multi-disciplinary, coordinated services to address the needs of these children and their families.

The second announcement (56 FR 31818) solicited applications from Head Start agencies and other eligible agencies to, among other things, develop successful strategies where Head Start programs, parents, local education agencies and other community agencies join together in a collaborative effort to plan and implement a coordinated and continuous program of comprehensive services for low-income children and their families beginning in Head Start and continuing through kindergarten and the first three grades of public school.

Because of the recent hurricane disaster along the East Coast, which disrupted normal work schedules, we are allowing all prospective applicants more time to submit their applications. Therefore, we are extending the due dates for submission of applications by two days as follows:

(1) For the emergency services announcement the application due date is extended from August 26 to August 28.

(2) For the transition demonstration announcement the application due date is extended from August 21 to August 23.

(Catalog of Federal Domestic Assistance Program Numbers 93.554, Child Abuse and Neglect Prevention and Treatment and 93.600, Project Head Start)

Dated: August 23, 1991.

Wade F. Horn,

Commissioner, Administration on Children, Youth and Families.

Approved: August 23, 1991.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

[FR Doc. 91–20767 Filed 8–27–91; 8:45 am]

BILLING CODE 4130–01–M

Health Care Financing Administration

[IOA–032–N]

Medicare Program; Meetings of the Advisory Committee on Medicare-Physician Relationships

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meetings.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces meetings of the Advisory Committee on Medicare-Physician Relationships on September 12 and September 13, 1991.

DATES: The meetings will be open to the public on September 12, 1991 from 9 a.m. until 10 a.m.; and on September 13, 1991 from 9 a.m. until 10 a.m.

Portions of the Committee meetings will be held in Executive Session (closed to the public) September 12 and 13, 1991 pursuant to section 552(b)(9)(B) of title 5, U.S. Code, for discussion and preparation of comments the Committee wishes to submit to the Secretary.

ADDRESSES: The meetings will be held in the Main Auditorium, Lobby Level, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Matthew Crow, Executive Director, Advisory Committee on Medicare-Physician Relationships; room 425–H, Hubert H. Humphrey Building, DC 20201; Telephone (202) 245–7874.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act (Pub. L. 92–463, enacted on October 6, 1972) the Secretary of the Department of Health and Human Services established the Advisory Committee on Medicare-

Physician Relationships. The Committee advises the Secretary on the existing Medicare policies and procedures that directly relate to physicians' provision of services to Medicare's beneficiaries and on Peer Review Organization (PRO) and carrier policies and procedures. The Advisory Committee looks at the methods to improve Medicare carrier services and responsiveness to physicians. This Committee does not consider payment issues..

The Committee consists of the Senior Medical Advisor of the Health Care Financing Administration (HCFA) as chair, and seven members selected by the Secretary who are practicing physicians representing the primary care, internal medicine, and surgical disciplines. Members are invited to serve for the duration of the Committee. The members are: Lanny R. Copeland, M.D., Ulton G. Hodgin, Jr., M.D., Edward A. Rankin, M.D., Barbara Ann P. Rockett, M.D., Mark C. Rogers, M.D., Richard B. Tompkins, M.D., and Susan L. Turney, M.D. The chairperson is Nancy Gary, M.D.

The agenda for the September 12 meeting will include an opportunity for the public to comment, followed by discussions of (1) development of medical review policy and local coverage and (2) the comparative performance report program.

The agenda for the September 13 meeting will include an opportunity for the public to comment and an executive session.

Those individuals or organizations who wish to make 10 minute oral presentations on the topics listed above must contact the executive director to be scheduled. For the name, address, and telephone number of the executive director, see the **"FOR FURTHER INFORMATION CONTACT"** section at the beginning of this notice. A written copy of the oral remarks must be presented to the executive director at the time of the presentation.

The Committee is to report to the Secretary through the Administrator, HCFA, not later than December 31, 1991.

Authority: Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. 2)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 12, 1991.

Nancy E. Gary,

Chairperson, Advisory Committee on Medicare-Physician Relationships.

[FR Doc. 91–20545 Filed 8–27–91; 8:45 am]

BILLING CODE 4120–01–M

National Institutes of Health

John E. Fogarty International Center for Advanced Study in the Health Sciences; Notice of Meeting of the Fogarty International Center Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the nineteenth meeting of the Fogarty International Center (FIC) Advisory Board, October 8, 1991, in the Lawton Chiles International House (Building 16), at the National Institutes of Health.

The meeting will be open to the public from 8:30 a.m. to 1:45 p.m. The morning agenda will include a report by the Director, FIC; a presentation on "Perspectives From the White House Office of Science and Technology Policy"; and a report on the Advisory Committee to the Director.

The afternoon agenda will include a presentation by the Director, NIH.

In accordance with the provisions of sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 1:45 p.m. to adjournment for the review of International Research Fellowship and Senior International Fellowship applications, Scholars nominations, and proposals for Scholars' conferences and international studies.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 31, room B2C32, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Ms. Stephanie Bursenos, Assistant Director for Program Coordination, Fogarty International Center (Acting Executive Secretary), Building 31, room B2C02, telephone 301–496–1415, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome and No. 93.989, Senior International Awards Program)

Dated: August 16, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91–20634 Filed 8–27–91; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Council for Human Genome Research; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council for Human Genome Research, National Center for Human Genome Research, September 20, 1991, at the National Institutes of Health, Building 31, Conference room 8, 9000 Rockville Pike, Bethesda, Maryland.

This meeting will be open to the public on September 20, 1991 from 8:30 a.m. to 9:30 a.m. to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 522b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on September 20, 1991 from 9:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Elke Jordan, Deputy Director, National Center for Human Genome Research, National Institutes of Health, Building 38A, room 605, Bethesda, Maryland 20892, (301) 496–0844, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request.

Dated: August 16, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91–20635 Filed 8–27–91; 8:45 am]

BILLING CODE 4140–01–M

Meeting; Biometry and Epidemiology Contract Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, October 7–8, 1991, Executive Plaza North, Conference Room H, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public on October 7 from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on October 7

from 10 a.m. to recess and on October 8 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892, Tel. 301/496–5708, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Harvey P. Stein, Scientific Review Administrator, Biometry and Epidemiology Contract Review Committee, 5333 Westbard Avenue, Room 807, Bethesda, Maryland 20892, telephone 301/496–7030, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.395, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: August 22, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91–20636 Filed 8–27–91; 8:45 am]

BILLING CODE 4140–01–M

Meeting of AIDS Liaison Subcommittee of the AIDS Research Advisory Committee, NIAID

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the AIDS Liaison Subcommittee of the AIDS Research Advisory Committee, National Institute of Allergy and Infectious Disease, on September 27, 1991, in building 31C, Conference Room 6, at the National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8 a.m. until adjournment on September 27. The subcommittee will discuss the mission and directions of the Division of AIDS (DAIDS) providing input and broad programmatic advice on the DAIDS extramural program with respect to basic and clinical research. Attendance by the public will be limited to space available.

Ms. Patricia Randall, Office of Reporting and Public Response, National Institute of Allergy and Infectious Diseases, building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717) will provide a summary of the meeting and a roster of the committee members upon request.

Ms. Jean Noe, Executive Secretary, AIDS Research Advisory Committee, DAIDS, NIAID, NIH, Control Data Building, room 201N, 6003 Executive Boulevard, Rockville, Maryland 20892, telephone (301–496–0545) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunologic, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health).

Dated: August 21, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91–20037 Filed 8–27–91; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Dental Research; Notice of the Meeting of National Advisory Dental Research Council

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, to be held September 30 and October 1, 1991, Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:30 a.m. to recess on September 30 for general discussion and program presentations. A meeting of the National Advisory Dental Research Council Subcommittee on Minority Activities will be held on October 1 from 12:30 p.m. until adjournment at the same location. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 522b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting of the Council will be closed to the public on September 30 from 8:30 a.m. to 9:30 a.m. and on October 1 from 9 a.m., to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Dushanka V. Kleinman, Executive Secretary, National Advisory Dental Research Council, National Institute of Dental Research, National Institutes of Health, Building 31, room 2C39, Bethesda, Maryland 20892, (telephone 301–496–0469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: August 16, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91–20638 Filed 8–27–91; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, September 16–17, 1991 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina.

This meeting will be open to the public on September 16 from 9 a.m. to approximately 2 p.m. for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public September 16, from approximately 2 p.m. to adjournment on September 17, for the review, discussion and evaluation of individual grant applications

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure to which would constitute a clearly unwarranted invasion of personal privacy.

Winona Herrell, Committee Management Officer, NIEHS, Bldg. 31, rm. 2B55, NIH Bethesda, Md. 20892 (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Anne Sassaman, Director, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied

Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: August 16, 1991.

Jeanne N. Ketley,

Acting Committee Management Officer, NIH.

[FR Doc. 91-20639 Filed 8-27-91; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-91-3308]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Wendy Swire, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. 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: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (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 information 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 submissions 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).

Dated: August 21, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Application for Insurance—Supplementary Loan.

Office: Housing.

Description of the Need for the Informotion ond Its proposed Use: Section 213(j)(1) of the National Housing Act authorizes HUD to ensure supplemental loans to cooperatives. Form HUD-93210A, Application for Insurance, is submitted by a cooperative. It is needed and used to obtain an additional/supplemental insured loan.

Form Number: HUD-93201A.

Respondents: Businesses or other for-profit and non-profit institutions.

Frequency of Subsmission: On occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Form HUD-93201A	20		1		0.516		10.32

Totol Estimoted Burden Hours: 10.32.

Status: Revision.

Contact: Georgia M. Yeck, HUD, (202) 708-2556, Wendy Swire, OMB, (202) 395-6880.

Dated: August 21, 1991.

Proposol: Periodical Estimate for Partial Payment and Related Schedules.

Office: Public and Indian Housing.

Description of the Need for the Informotion ond its Proposed Use: Estimate for Partial Payment and Related Schedules are required for projects developed under Public Housing Development Regulations. Forms HUD-51001, 51002, 51003, and 51004 are used monthly by the general contractor contructing a public housing project under the conventional bid method in order to establish the amount due from a public housing agency (PHA) for work completed during the current month. These forms are needed so that a PHA can certify what funds will be disbursed to a contractor.

Form Number: HUD-51001, 51002, 51003, and 51004.

Respondents: State or Local Governments and non-profit institutions.

Frequency of Submission: Monthly.

Reporting Burden:

Forms	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD-51001	12		145		3.5		6,090
HUD-51002	10		145		1		1,450
HUD-51003	36		145		1.5		7,830
HUD-51004	12		145		2.5		4,350
Recordkeeping	1,740		1		.25		435

Totol Estimated Burden Hours: 20,155.

Stotus: Reinstatement.

Contoct: Raymond Hamilton, HUD, (202) 708-1938. Wendy Swire, OMB, (202) 395-6880.

Dated: August 21, 1991.

[FR Doc. 91-20604 Filed 8-27-91; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTO 80-91-4322-02]

Vernal District Grazing Board: Emergency Business Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Public Law 92-463 that there will be a meeting of the Vernal District Grazing Advisory Board Thursday, September 26, 1991, commencing at 8 a.m. The meeting will be held at Western Park, 300 East 200 South, Vernal, Utah.

The agenda items will include:

—Review of Minutes.
—Diamond Mountain Resource Area Management Plan.
—Resource Improvement Work FY91 and FY92.
—Range Program Summary Updates/AMPs and Monitoring.
—Riparian Area Management.
—Predator and Pest Control.
—Current Forage Conditions/Use Supervision.
—Items from the Public.

The meeting is open to the public. Interested parties wishing to participate or present a statement should notify the District Manager at the Vernal District BLM Office, 170 South 500 East, Vernal, Utah, or telephone (801) 789-1362 no later than September 24, 1991.

Dated: August 19, 1991.

Dean L. Evans,

Acting District Manager.

[FR Doc. 91-20614 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-DO-M

Bureau of Land Management (BLM)

[AZ-020-01-4212-12; AZA 25622]

Realty Action: Exchange of Public Land; Navajo, Apache and Yavapai Counties, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

Portions or all public lands within the following townships, ranges and sections are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

(a) Navajo County

T. 11 N., R. 22 E., secs. 6, 12.
T. 12 N., R. 22 E., sec. 10.
T. 12 N., R. 23 E., sec. 20.
T. 13 N., R. 21 E., secs. 4, 10.
T. 13 N., R. 22 E., secs. 18, 20, 28, 34.
T. 14 N., R. 21 E., secs. 4, 8, 10, 14, 20, 22, 28, 28, 34.
T. 14 N., R. 23 E., sec. 14.
T. 15 N., R. 16 E., secs. 20, 22, 24.
T. 15 N., R. 17 E., secs. 20, 22, 24.
T. 15 N., R. 18 E., secs. 20, 22, 24, 26.
T. 15 N., R. 19 E., secs. 4, 8, 18, 20, 22, 24, 28, 28, 30.
T. 15 N., R. 20 E., secs. 12, 20, 24, 26, 28, 30.
T. 15 N., R. 21 E., secs. 4, 6, 10, 18, 20, 22, 28, 30, 34.
T. 15 N., R. 22 E., secs. 2, 4, 8, 12.
T. 15 N., R. 23 E., secs. 6, 8.
T. 16 N., R. 17 E., sec. 6.
T. 16 N., R. 19 E., secs. 24, 26, 34.
T. 16 N., R. 20 E., secs. 4, 8, 12, 18, 24.
T. 16 N., R. 21 E., secs. 6, 8, 18, 20, 28, 30.
T. 16 N., R. 22 E., secs. 6, 8, 18, 20, 26, 28, 30, 32, 34, 36.
T. 17 N., R. 17 E., sec. 28.
T. 17 N., R. 20 E., secs. 6, 22, 24, 26, 28, 34.
T. 17 N., R. 21 E., secs. 4, 18, 20, 22, 26, 28, 30, 34.
T. 17 N., R. 23 E., secs. 4, 6, 12.
T. 18 N., R. 18 E., secs. 8, 20, 26, 30, 32.
T. 18 N., R. 21 E., secs. 22, 28.
T. 18 N., R. 22 E., secs. 12, 14, 20, 22.
T. 18 N., R. 23 E., secs. 8, 10, 12, 14, 22, 28, 34.

Containing 621,453.77 acres, more or less.

(b) Apache County

T. 18 N., R. 24 E., secs. 10, 12.
T. 18 N., R. 25 E., secs. 18, 30.
T. 19 N., R. 24 E., sec. 22.

Containing 2,627.52 acres, more or less.

(c) Yavapai County

T. 14 N., R. 1 W., sec. 31.

Containing 30 acres, more or less.

Copies of the complete legal descriptions may be obtained from the Phoenix District Office, address shown below.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands from appropriation under the public lands laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such land or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: August 19, 1991.

Henri R. Bisson,

District Manager.

[FR Doc. 91-20560 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-32-M

[UT-020-00-4212-14; U-64788, U-64789]

Sale of Lands in Box Elder County, UT; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action. Sale of Lands in Box Elder County, Utah.

SUMMARY: The following described public land has been examined and identified as suitable for disposal under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713), at not less than the appraised value shown:

Tract	Legal description	Acreage	Value
U-64788	T. 15N., 4W., SLM.		
	Sec. 25, Lots 1, 2, 3, 5.	13.27	$800
	Sec. 26, Lots 5, 6.	5.04	200
	T. 14N., 4 W., SLM.		
	Sec. 12, NE¼SW¼.	40.00	1,600
Total		58.31	2,600
U-64788	T. 15N., 4W., SLM.		
	Sec. 26, Lots 7, 8.	4.43	
	Sec. 27, Lot 5	2.45	
Total		6.88	275

These lands represent several small isolated tracks of land surrounded by privately held grazing and agricultural lands. The lands are difficult and uneconomical to manage.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

These lands are being offered by direct sale. Tract U-64788 is being offered to Denton C. John and tract U-64789 is being offered to Loren John. It has been determined that the subject lands contain no known mineral value except some prospective value for oil and gas; therefore, all minerals except oil and gas will be conveyed simultaneously with the surface estate. Acceptance of the direct sale offer will qualify the purchaser to make

application for conveyance of those mineral interests.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, BLM 2370 South 2300 West, Salt Lake City, Utah 84119. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

Deane H. Zeller,

District Manager.

[FR Doc. 91-20594 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-DQ-M

Bureau of Reclamation

Trinity River Basin Fish and Wildlife Task Force

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of a meeting of the Trinity River Basin Fish and Wildlife Task Force.

DATES: The meeting begins on Thursday, September 12, 1991, at 9 a.m.

ADDRESSES: The meeting will be held in the Bureau of Reclamation's Conference Room, W-1140, 2800 Cottage Way, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Bruss, Trinity River Task Force Secretary, Bureau of Reclamation, MP-720, 2800 Cottage Way, Sacramento, California 95825; telephone (916) 978-4957.

SUPPLEMENTARY INFORMATION: Task Force members will be briefed on the draft 4-year action plan, final report being prepared by California Department of Water Resources which requests additional funding from Congress, and Natural Heritage Institute Report.

The meeting of the Task Force is open to the public. Any member of the public may file a written statement with the Task Force before, during, or after the meeting, in person or by mail. To the extent that time permits, the Task Force chairman may allow public presentation of oral statements at the meeting.

Dated: August 2, 1991.

Margaret W. Sibley,

Assistant Commissioner—Administration.

[FR Doc. 91-20548 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for Platanthera leucophaea (Eastern prairie fringed orchid) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for *Platanthera leucophaea* (Eastern prairie fringed orchid). This plant, formerly widespread in prairies and wetlands east of the Mississippi River, has declined more than 70 percent from original records. Fifty-four populations currently exist in seven states (Iowa, Illinois, Maine, Michigan, Ohio, Virginia, and Wisconsin). There are 12 populations in 12 Ontario, Canada, counties. The plant requires full sunlight, and it inhabits mesic to wet calcareous tallgrass and to silt-loam prairies. The species is threatened by human activities including the conversion of suitable habitat for agricultural purposes, wetland drainage, and residential development. In addition, the species is threatened by invasion and competition from exotic plant species. The recovery plan sets out criteria to protect essential habitat, manage known occurrences, and prevent invasions by exotics. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before September 27, 1991 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft plan may examine a copy during normal business hours at the Service's Twin Cities Regional Office, Division of Endangered Species, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, telephone 612/725-3276, FTS 725-3276; the East Lansing Field Office, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517/337-6650, FTS 374-6650; the Green Bay Field Office, 1015 Challenger Court, Green Bay, Wisconsin 54311, telephone 414/433-3803, FTS 360-3803; the Rock Island Field Office, 1830 Second Avenue, Rock Island, Illinois 61201, telephone 309/793-5800, FTS 943-6923; and the Service's Northeast Regional Office, Division of Endangered Species, One Gateway Center, Newton Corner, Massachusetts 02158, telephone 617/965-5100, FTS 829-9316. Persons wishing to obtain a copy of the draft recovery plan should contact the Twin Cities Regional Office. Written comments and materials regarding the plan should be mailed to the Twin Cities Office. All comments and materials received will be available for public inspection, by appointment, during normal business hours at that office, for the duration of the comment period.

FOR FURTHER INFORMATION CONTACT: William F. Harrison, at the above Twin Cities Regional Office address (612/725-3276; FTS 725-3276).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing recovery levels for downlisting or delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that a public notice and an opportunity for public review and comment be provided during the recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Platanthera leucophaea (Eastern prairie fringed orchid) was listed as a threatened species under the Act on September 28, 1989 (FR 54 39857). This species was formerly widespread in prairies and wetlands east of the Mississippi River. It has declined drastically due to agricultural

expansion, wetland drainage, and recreational development; the remaining populations are also threatened by succession to woody vegetation, invasions from exotics, and over collection. This species is currently extant at 54 sites; 1 in Iowa, 21 in Illinois, 1 in Maine, 14 in Michigan, 4 in Ohio, 1 in Virginia, and 12 in Wisconsin. It has apparently been extirpated from New York, Pennsylvania, New Jersey, Indiana, and Oklahoma. The plant requires full sunlight for optimum growth and reproduction. It is found in tallgrass sand or silt-loan prairies, sedge meadow fens, and occasionally sphagnum bogs. It also occurs, but may not persist, in successional habitats following a disturbance to natural communities. Only 15 of the 54 known populations are considered to be protected.

The Eastern prairie fringed orchid is characterized by an upright leafy stem rising 20 to 100 centimeters (cm) from an underground tuber. Leaves sheath the stem and are 8–20 cm long, elliptical to lance shaped, and progressively larger toward the stem base. The flowers are distinguished by a three-parted fringed lip 1.5–3 cm long and distally thickened nectar spur 2.5–5 cm long. The recovery plan outlines strategies to protect populations and habitats, manage all protected sites, continue to survey for new occurrences, implement a landowner contact and education program, develop restoration protocols, conduct ongoing monitoring of managed populations, and conduct research on the biology of the species. The recovery objective is based on an artificial index of population viability applied to each population occurrence. Delisting can be considered when three or more high viability populations representing each of seven prairie and wetland community types within the contiguous range of the species are permanently protected.

Public Comments Solicited

The Service solicits written comments on this recovery plan. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 21, 1991.

James C. Gritman,

Regional Director.

[FR Doc. 91–20593 Filed 8–27–91; 8:45 am]

BILLING CODE 4310–55–M

Availability of a Draft Recovery Plan for the Roanoke Logperch for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft Roanoke Logperch Recovery Plan. This fish species is endemic to two river systems in Virginia, the Roanoke River drainage (including the Pigg and Smith Rivers) and the Nottoway River drainage. The Service solicits review and comment from the public on this draft Plan.

DATES: Comments on the draft Recovery Plan must be received on or before October 28, 1991, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft Recovery Plan may obtain a copy from the Annapolis Field Office, U.S. Fish and Wildlife Service, 1825 Virginia Street, Annapolis, Maryland 21401 (301/269–5448), or the Northeast Regional Office, One Gateway Center, suite 700, Newton Corner, Massachusetts 02158 (617/965–5100 ext. 316). Comments on the plan should be addressed to G. Andrew Moser at the above Annapolis Field Office address. The plan is available for public inspection, by appointment, during normal business hours at the above addresses.

FOR FURTHER INFORMATION CONTACT: G. Andrew Moser (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare Recovery Plans for most of the listed species native to the United States. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of Recovery Plans for listed species unless such a Plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing Recovery Plans.

The document submitted for review is the draft Roanoke Logperch (*Percina rex*) Recovery Plan. Endemic to Virginia, this endangered fish occurs in four populations located in widely separated segments of the upper Roanoke River, the Pigg River, the Nottoway River, and the Smith River. These populations probably represent remnants of much larger populations that once occupied much of the Roanoke River and Nottoway River drainages. No genetic exchange occurs between these populations. Each of the presently known populations is vulnerable because of its relatively low density and limited range. The largest and most vigorous population, in the upper Roanoke River, is subject to the most serious threats: Urbanization, industrial development, water supply and flood control projects, and agricultural runoff in the upper basin. The other three populations are subject to siltation from agricultural activities and to potential chemical spills. The Smith River population is particularly vulnerable because of its small size. The Roanoke logperch was listed as an endangered species on August 18, 1989.

The objective of the draft Recovery Plan is to reclassify the Roanoke logperch from endangered to threatened status when it can be demonstrated that (1) all four populations are stable or expanding and are protected from forseeable threats, and (2) the logperch population and/or range has been increased in the upper Roanoke drainage and in at least one of the other three drainages supporting the species. This will be accomplished through using existing legislation to protect logperch populations and their habitat, enlisting the support of the public in the logperch's recovery, searching for additional populations and suitable habitats for reintroduction efforts, conducting necessary studies, implementing measures to reduce stream sedimentation and other threats, and monitoring population levels and habitat conditions. When the reclassification objective is met, the probability of complete recovery will be

determined and the recovery program will be expanded accordingly.

This Recovery Plan is being submitted for agency review. After consideration of comments received during the review period, the Plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the Recovery Plan described. All comments received by the date specified above will be considered prior to approval of the Plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 13, 1991.

Nancy M. Kaufman,

Acting Regional Director.

[FR Doc. 91-20553 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Native American Graves Protection and Repatriation Review Committee; Nomination Solicitation

AGENCY: National Park Service, Interior.

ACTION: Native American Graves Protection and Repatriation Review Committee; Notice of Nomination Solicitation.

SUMMARY: The Native American Graves Protection and Repatriation Review Committee was established by Public Law 101-601, November 16, 1990.

The purpose of the Committee is to monitor and review the implementation of the inventory and identification processes and repatriation activities required under sections 5, 6, and 7 of Public Law 101-601. The National Park Service is soliciting nominations for membership on this committee.

DATES: All nominations should be received September 27, 1991.

ADDRESSES: Nominations should be sent to the Archeological Assistance Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127.

Nominations should include a brief biographical outline with home and business addresses and telephone number on each individual recommended.

FOR FURTHER INFORMATION CONTACT: Frank McManamon or Larry Nordby, (202) 343-4101, Departmental Consulting Archeologist, National Park Service, U.S. Department of the Interior, Washington, DC. 20013-7127. A copy of the charter for this Committee is available upon request.

SUPPLEMENTARY INFORMATION: The Committee's membership as set forth in Public Law 101-601, November 16, 1990, is to be composed of seven members appointed by the Secretary of the Interior as follows:

a. Three members appointed from nominations by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders, with at least two of such persons being traditional Indian religious leaders;

b. Three members appointed from nominations submitted by national museum organizations and scientific organizations; and

c. One member appointed from a list of persons developed and consented to by all of the other members.

The National Park Service, U.S. Department of the Interior is soliciting nominations from Indian Tribes; Native Hawaiian organizations; national scientific organizations; and museum organizations.

Manuel Lujan Jr.,

Secretary of the Interior.

[FR Doc. 91-20659 Filed 8-27-91; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 17, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by September 12, 1991.

Beth Boland,

Acting Chief of Registration, National Register.

CALIFORNIA

Butte County

State Theatre, 1489 Myers St., Oroville, 91001383

Contra Costa County

Contra Costa County Hall of Records, 725 Court St., Martinez, 91001385

Los Angeles County

St. James Park Historic District, Roughly bounded by 21st and 23d Sts., Mount St. Mary's College, W. Adams Blvd. and Union Ave., Los Angeles, 91001387

Napa County

Rovegno, Charles, House, 6711 Washington St., Yountville, 91001384

Santa Clara County

Los Gatos Historic Commercial District, 1—24 N. Santa Cruz Ave., 9—15 University Ave. and 14—196 W. Main St., Los Gatos, 91001382

LOUISIANA

St. John The Baptist Parish

Evergreen Plantation, LA 18 SE of Fiftymile Pt., Wallace vicinity, 91001386

MICHIGAN

Charlevoix County

Horton Bay General Store, 05115 Boyne City Rd., Bay Township, Horton Bay, 91001411

MISSOURI

Pettis County

Bois d'Arc Cooperative Dairy Farm Historic District (Osage Farms Resettlement Properties in Pettis County MPS), MO J near jct. with Bois d'Arc Rd., Hughesville vicinity, 91001407

Hillview Cooperative Dairy Farm Historic District (Osage Farms Resettlement Properties in Pettis County MPS), Jct. of MO T and Hillview Rd., Hughesville vicinity, 91001399

Osage Farms Type 315:13 Government Farmhouse (Osage Farms Resettlement Properties in Pettis County MPS), MO J near jct. with Miller Chapel Rd., Hughesville vicinity, 91001406

Osage Farms Unit No. 30 Historic District (Osage Farms Resettlement Properties in Pettis County MPS), Durley Rd. near jct. with MO D, Hughesville vicinity, 91001401

Osage Farms Unit No. 31 (Osage Farms Resettlement Properties in Pettis County MPS), Durley Rd. near jct. with MO D, Hughesville vicinity, 91001402

Osage Farms Unit No. 41 (Osage Farms Resettlement Properties in Pettis County MPS), Hill View Rd. near jct. with McCubbin Rd., Houstonia vicinity, 91001403

Osage Farms Unit No. 25 Historic District (Osage Farms Resettlement Properties in Pettis County MPS), Houston Rd. near jct. with Montgomery Rd., Hughesville vicinity, 91001405

Osage Farms Unit No. 1 Historic District [Osage Farms Resettlement Properties in Pettis County MPS], MO D near jct. with Moon Rd., Hughesville vicinity, 91001408

Osage Farms Unit No. 26 Historic District [Osage Farms Resettlement Properties in Pettis County MPS], MO D near High Point Rd., Hughesville vicinity, 91001409

Osage Farms Unit No. 43 Historic District [Osage Farms Resettlement Properties in Pettis County MPS], MO J near jct. with Lowry Rd., Hughesville vicinity, 91001410

Osage Farms Units No. 8 and No. 9 Historic District [Osage Farms Resettlement Properties in Pettis County MPS], MO D near jct. with MO T, Houstonia vicinity, 91001400

Osage Farms Units No. 5 and No. 6 Historic District [Osage Farms Resettlement Properties in Pettis County MPS], Range Line Rd. near jct. with Trickum Rd., Houstonia vicinity, 91001404

NORTH CAROLINA

Lincoln County

Mount Welcome, Jct. of NC 1511 and NC 1412, Mariposa vicinity, 91001413

Randolph County

Kindley, Wilson, Farm and Kindley Mine, NC 1408, E side, 1 mi. N of US 64, Asheboro vicinity, 91991412

OHIO

Hamilton County

Village of Addyston Historic District, Roughly, along Main, Sekitan, Church, First and Second Sts., and Three Rivers Pkwy., Addyston, 91001388

TEXAS

Culberson County

McKittrick Canyon Archeological District, Guadalupe Mountains National Park, Address Restricted, Salt Flat vicinity, 91001381

WISCONSIN

Dane County

Wisconsin Industrial School for Girls, 5212 WI M, Fitchburg, 91001391

Dodge County

Central State Hospital Historic District, Lincoln St. between Beaver Dam and Mason Sts., Waupun, 91001395

Fond Du Lac County

Watson Street Commercial Historic District, Roughly, Watson St. from Seward to Jackson Sts. and Jackson and Scott Sts. from Watson to Blackburn Sts., Ripon, 91001396

Green Lake County

Beckwith House Hotel, 101 W. Huron, St., Berlin, 91001389

Milwaukee County

Adler, Emanuel D., House, 1681 N. Prospect Ave., Milwaukee, 91001397

Kane, Sanford R., House, 1841 N. Prospect Ave., Milwaukee, 91001398

Saints Peter and Paul Roman Catholic Church Complex, 2474 and 2490 N. Cramer St. and 2479 and 2491 N. Murray Ave., Milwaukee, 91001392

Spence, William G., House, 1741 N. Farwell Ave., Milwaukee, 91001393

Racine County

Southern Wisconsin Home Historic District, 21425 Spring St., Dover, 91001394

Waukesha County

First German Reformed Church, 413 Wisconsin Ave., Waukesha, 91001390

[FR Doc. 91–20544 Filed 8–27–91; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Malaria Vaccine Program Advisory Committee Meeting

AGENCY: Agency for International Development, IDCA

ACTION: Notice of partially closed meeting.

COMMITTEE: Malaria Vaccine Program Advisory Committee.

DATES AND LOCATIONS: Omni Shoreham, 2500 Calvert St., NW., Washington, DC 20008.

1. Oct. 7, 8 a.m. to 3:45 p.m., Garbo Room. Oct. 7, 4:45 p.m. to 6 p.m.*
2. Oct. 8, 8 a.m. to 5:30 p.m., Garbo Room.
3. Oct. 9, 8 a.m. to 3 p.m., Executive Conference Room (closed session).

Agenda: The committee will (1) review progress towards malaria vaccine development by A.I.D.-funded and other invited investigators and (2) review procurement actions, both current and planned.

Closed Meeting: Portions of the meeting are closed under exemption 9(B) of 5 U.S.C. 552(b) to discuss proposals, scopes of work, cost estimates, and other sensitive procurement information. Disclosure of such information would be likely to significantly frustrate implementation of current and future procurements by A.I.D.

FOR FURTHER INFORMATION CONTACT: Eric Peterson, Malaria Vaccine Program Development, A.I.D. Office of Health, Washington, DC 20523–1817, (703) 875–4745.

Robert L. Wrin,

Chief, Communicable Diseases Division, Office of Health, Bureau of Science & Technology.

[FR Doc. 91–20585 Filed 8–27–91; 8:45 am]

BILLING CODE 6116–71–M

A.I.D. Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on Thursday and Friday, September 12 & 13, 1991, in room 1107 of the Department of State, Washington, DC. The Committee will hear final reports on Biodiversity, International Forestry Research, and Future Topics for the Committee. The Committee will also discuss the role of research in the Agency for International Development reorganization. The meeting will begin at 8:30 a.m. on both days and adjourn at 4:30 p.m. on September 12, 1991, and at 11:30 a.m. on September 13, 1991. Minutes of the meeting will be available upon request.

The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent time for the meeting permits. Due to security measures at the Department of State, visitors are required to present a valid identification with photograph to the receptionist before they can be admitted to the building. All persons, visitors and employees, are required to wear proper identification at all times within the building. Those planning to attend should advise Ms. Jean Niesley, Metrica, Inc., (703)525–0045 or Ms. Evette Travett, S&T/RUR, (703)875–4089, no later than September 10, 1991; provide your full name, name of employer or organization, address and telephone. You will be met at the C Street (Diplomatic) entrance of the State Department with your visitor's pass.

Dr. Curtis R. Jackson, Director, Office of Research and University Relations, Bureau for Science and Technology, is designated as the A.I.D. Representative at the meeting. Persons who desire more information should contact Dr. Jackson at 703/875–4005 or AID/S&T/RUR, room 309, SA–18, Washington, DC 20523–1807.

Dated: August 14, 1991.

Curtis R. Jackson,

A.I.D. Representative, Research Advisory Committee.

[FR Doc. 91–20667 Filed 8–27–91; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–483 (Final)]

Certain Personal Word Processors From Japan

Determinations

On the basis of the record [1] developed in the subject investigation, the

* Monday, Oct. 7 Special session 3:45 p.m. to 6 p.m. at the National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, DC.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Japan of certain personal word processors, excluding office typing systems,[2] provided for in subheadings 8469.10.00 and 8473.10.00 of the Harmonized Tariff Schedule of the United States (HTS), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines, pursuant to section 735(b) of the act (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of office typing systems, provided for in subheadings 8469.10.00 and 8473.10.00 of the HTS, that have been found by the Department of Commerce to be sold in the United States at LTFV.

Background

The Commission instituted this investigation effective April 22, 1991, following a preliminary determination by the Department of Commerce that imports of certain personal word processors from Japan were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 8, 1991 (56 FR 21391). The hearing was held in Washington, DC, on July 10, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in this investigation to the Secretary of Commerce on August 19, 1990. The views of the Commission are contained in USITC Publication 4211 (August 1991), entitled "Certain Personal Word Processors from Japan: Determinations of the Commission in Investigation No. 731-TA-483 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: August 20, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-20613 Filed 8-27-91; 8:45 am]

BILLING CODE 7020-02-M

[2] For a comprehensive description of the merchandise subject to this investigation, see International Trade Administration, Final Determination of Sales at Less Than Fair Value: Personal Word Processors from Japan (56 FR 31101, July 9, 1991). For the purpose of this investigation, office typing systems are defined as personal word processors and major finished units thereof (as defined in the Commerce notice), weighing in excess of 35.0 pounds that have a print speed of 20 characters per second or more and a print line width of 11.5 inches or more, and that offer proportionately spaced printing.

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

The parent corporation is: AMAC Enterprises, Inc., 5909 W. 130th St., Parma, Ohio 44130, Tel: 216-362-1880, State of Incorporation: Ohio.

The wholly owned direct and indirect subsidiaries which will participate in the operations are:

Performance Motorcars, Inc., 5909 W. 130th St., Parma, Ohio 44130, State of Incorporation: Ohio, and;

AMAC South, Inc., 5909 W. 130th St., Parma, Ohio 44130, State of Incorporation: Florida.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-20620 Filed 8-27-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Comprehensive Environmental Response, Compensation and Recovery Action; FMC

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *FMC*, Civil Action No. CY-91-3060-AAM, was lodged with the United States District Court for the Eastern District of Washington on August 16, 1991. This Consent Decree concerns a Complaint filed by the United States against FMC pursuant to sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Recovery Act ("CERCLA") to compel FMC to implement the remedial action selected in the Record of Decision issued by the Environmental Protection Agency ("EPA") on September 14, 1990 for the FMC Yakima Superfund Site (the "Site"). FMC operated a pesticide formulation facility at the Site from 1951 until 1986. EPA has placed the Site on the National Priorities List.

The proposed Consent Decree requires that FMC undertake the remedial action selected in the Record of Decision and pay the past and future costs of the United States which the United States has incurred or will incur for response actions at the Site.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States* v. *FMC*, DOJ number 90-11-2-617.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Washington, West 920 Riverside, room 851, Spokane, Washington 99201 and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of the proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. When requesting a copy of the Consent Decree, please enclose a check in the amount of $33.50 payable to the "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91-20561 Filed 8-27-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Final Judgment by Consent Pursuant to the Safe Drinking Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 19, 1991, a Consent Decree in *United States* v. *Merrill S. Hawley, et al.*, No. CV-89-212-GF was lodged with the United States District Court for the District of Montana, Great Falls Division.

The amended complaint filed by the United States on November 5, 1990, alleges that defendants Merrill S.

Hawley, Hawley Oil Company, Hawley Northrop and Hawley Hydrocarbons (collectively "defendants") violated EPA's Underground Injection Control ("UIC") Program in the State of Montana, 40 CFR part 147 subpart BB, promulgated under section 1422(c) of the Safe Drinking Water Act, 42 U.S.C. 300h–1(c). The United States sought a permanent injunction and civil penalties of up to $25,000.00 per day, per violation.

The Consent Decree provides the defendants shall be jointly and severally liable for payment of $75,000.00 in civil penalties, payable in 24 monthly installments of $3,400.66, commencing January 1, 1992. This monthly figure includes interest at the rate set forth at 28 U.S.C. 1961. Defendants also agree to comply with the SDWA for the duration of the Decree and to provide EPA with copies of all submissions made to the State of Montana concerning their subsurface injection or placement of fluids. The Decree also confirms the United States right to inspect defendants' UIC operations at any time, without notice. Finally, the Decree provides for payment of stipulated penalties for violations of the Decree.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Merrill S. Hawley, et al.*, DOJ Ref. No. 90–5–1–1–3393. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Montana, 212 Federal Building, Great Falls, Montana and at the Environmental Protection Agency, 999 18th Street, suite 500, Denver, Colorado 80202–2405. The Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, 202–347–2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $3.25 (25 cents per page reproduction cost) payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–20562 Filed 8–27–91; 8:45 am]

BILLING CODE 4410–01–M

Bureau of Justice Statistics

Continuation of State Court Organization Project

AGENCY: Bureau of Justice Statistics, Justice.

ACTION: Solicitation for award of cooperative agreement.

SUMMARY: The purpose of this notice is to announce a public solicitation for the continuation of the Bureau of Justice Statistics (BJS) State Court Organization project. The project is designed to meet the need for a comprehensive and authoritative reference source on the structure and work practices of state appellate and trial courts.

DATES: Proposals must be postmarked on or before October 15, 1991.

ADDRESSES: Proposals must be mailed to: Applications Coordinator, Bureau of Justice Statistics, room 1144–B, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Patrick A. Langan, Chief, Adjudication unit, telephone (202) 616–3490.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Justice Statistics State Court Organization project began in 1980. The project produced the report entitled "State Court Organization 1980". This project was conducted by the National Center for State Courts and provided basic descriptive information about state courts. In 1987, the National Center for State Courts produced a followup study called "State Court Organization 1987". This report again provided basic information about state courts.

Objectives

The purpose of this award is to continue the ongoing process of collecting information about state court organizations. It is anticipated that the information collected will be essential to anyone needing detailed, authoritative information on the organization and operation of the Nation's State Courts.

Type of Assistance

Assistance will be made available under a cooperative agreement.

Statutory Authority

The cooperative agreement awarded pursuant to this solicitation will be funded by the Bureau of Justice Statistics under the authority of 42 U.S.C. 3732.

Eligibility Requirements

Both profit and nonprofit organizations may apply for funds. Consistent with OJP fiscal requirements, however, no fees may be charged against the project by profit-making organizations.

Scope of Work

The objective of the proposed project is to continue activities initiated under the State Court Organization program. Specifically, the recipient of funds will:

(1) Collect information on the structure and operations of Federal courts and State courts in every State and the District of Columbia. The information will include but not be limited to: The types of courts, their jurisdictions, the number of judges, judicial selection, provision for the defense in criminal cases, appellate routes, the use of sentencing commissions, the use of sentencing guidelines, the existence of a Racketeer Influenced and Corrupt Organizations (RICO) statute, the use of determinate sentencing, selection of juries, the role of juries in sentencing, and other topics of broad interest to the American public and to officials of the criminal justice system.

(2) Prepare a detailed report of the results of the data collection. The report will provide court-related information on each State, the District of Columbia, and the Federal judicial system. The survey instrument and final report will be prepared jointly by BJS and the grantee. Past reports are available from the National Criminal Justice Reference Service (NCJRS).

Award Procedures

Proposals should describe in detail the procedures to be undertaken in furtherance of each of the activities described under the Scope of Work. Information should focus on activities to be conducted during the 12-month project period. Information on staffing levels and qualifications should be included for each task. Descriptions of experience relevant to the project should be included.

Applications will be reviewed competitively by a BJS selected panel which will make recommendations to the Director, BJS. Final authority to enter into a cooperative agreement is reserved for the Director, BJS, who may, in his discretion, determine that none of the applications shall be funded.

Applications will be evaluated on the overall extent to which they respond to criminal justice priorities, conform to the goals of the State Court Organization Program, and appear to be fiscally

feasible and efficient. In particular, applicants will be evaluated on the basis of:

1. Knowledge of, and experience in, working with different components of the criminal justice system, with particular emphasis on knowledge of current research, operational and legislative issues and experiences in dealing with criminal justice administrators, researchers, and data processing personnel.

2. Statistical expertise in the area of data analysis, data linkage, and research.

3. Experience in the application of statistical data to the analysis of criminal justice issues.

4. Demonstrated ability to prepare high quality reports suitable for use by professional policy analysts, researchers, legislators, and the general public.

5. Availability of qualified professional and support staff and of suitable equipment for data processing, graphics production, and data manipulation.

6. Demonstrated fiscal, management, and organizational capability suitable for providing sound program direction for this multi-faceted effort.

7. Reasonableness of estimated costs for the total project and for individual cost categories.

Application and Awards Process.

An original and four (4) copies of a full proposal must be submitted on SF 424 (Revision 1988) including the Certified Assurances. Proposals must be accompanied by OJP Form 4061/3, Certification Regarding Drug Free Workplace and OJP Form 4061/2, Certification Regarding Debarment, Suspension and Other Responsibility Matters. Applicants must complete the certificate regarding lobbying and, if appropriate, complete and submit Standard Form LLL, Disclosure of Lobbying Activities.

Proposals must include both narrative descriptions and a detailed budget. The narrative portions shall describe activities as discussed in the previous section. The budget shall contain detailed costs for personnel, fringe benefits, travel, equipment, supplies, and other expenses. Contractural services or equipment must be procured through competition or the application must contain an applicable sole source justification.

Awards will be made for a period of 12 months with an option for 2 additional continuation years conditional upon availability of funds and the quality of the initial performance and products. Costs are estimated at not to exceed $60,000 for the initial 12-month period.

Steven D. Dillingham,

Director, Bureau of Justice Statistics.

[FR Doc. 91-20654 Filed 8-27-91; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of schedular exemptions from the requirements of 10 CFR part 50, appendix J to the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee) for the Haddam Neck Plant, located at the licensee's site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant schedular exemptions from 10 CFR part 50, appendix J for the requirements of section III.D.2(a), Type B test, and section III.D.3, Type C test. The proposed action is in accordance with the licensee's request for exemption dated July 10, 1991.

The Need for the Proposed Action

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J.

The licensee has proposed the requested exemptions because performing the Type B and C tests as required by appendix J would require a midcycle shutdown.

Environmental Impacts of the Proposed Action

The proposed exemptions would postpone the Type B and C tests approximately 4 months. The NRC staff has reviewed the proposed exemptions and concluded the extension of the test period for the Type B and C tests will not compromise containment integrity. This conclusion is based, in general, on an aggressive program to limit Type C leakage, the unexpected delay in start-up from the last refueling and two mid-cycle shutdowns, extending the refueling cycle length, and that the time for which the containment was actually exposed to normal plant operating environment is less than the maximum Type B and C tests intervals.

Thus, radiological releases will not differ from those determined previously and the proposed exemptions do not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemptions do not affect plant nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemptions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the schedular exemptions would be to deny the exemptions requested. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

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 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 exemptions.

For further details with respect to this proposed action, see the licensee's letter dated July 10, 1991. The letter 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 located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Rockville, Maryland this 21st day of August 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–20643 Filed 8–27–91; 8:45 am]

BILLING CODE 7590–01–M

ACNW Working Group/ACRS Subcommittee on Occupational and Environmental Protection Systems; Meeting

The ACNW Working Group/ACRS Subcommittee on Occupational and Environmental Protection Systems will hold a joint meeting on September 23–24, 1991, room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, September 23, 1991—8:30 a.m. until the conclusion of business.

Tuesday, September 24, 1991—8:30 a.m. until the conclusion of business.

The purpose of the meeting will be to review the following proposed regulatory guides related to the implementation of the revised 10 CFR part 20, "Standards for Protection Against Radiation":

—Interpretation of Bioassay Measurements.
—Instruction on Health Risks from Occupational Radiation Exposure.
—Criteria and Procedures for Summation of Internal and External Occupational Doses.
—Dose to Embryo/Fetus.
—Assessing External Radiation Doses from Airborne Radiative Materials.
—Air Sampling.
—Radiation Protection Programs for Nuclear Power.
—Control of Access to High and Very High Radiation Areas in Nuclear Power Plants.
—Instructions for Recording and Report Occupational Radiation Exposure Data (including formats for "Electronic Media"); and
—Planned Special Exposures.

Two other guides will be given a preliminary review to determine whether a more detailed review is warranted. These are:

—Preparation of Applications for Use of Sealed Sources and Devices for Performing Industrial Radiography.
—Preparation of Applications for Medical Uses.

Oral statements may be presented by members of the public with the concurrence of the ACNW Working Group/ACRS Subcommittee Chairmen; written statements will be accepted and made available to the Group/Subcommittee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the ACNW Working Group/ACRS Subcommittee, their consultants, and staff. Persons desiring to make oral statements should notify the ACNW staff member or ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the ACNW Working Group/ACRS Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACNW Working Group/ACRS Subcommittee will hear presentations by and hold discussions with the NRC staff and the nuclear industry, as appropriate.

Further information regarding the agenda for this meeting, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Giorgio Gnugnoli, ACNW (telephone 301/492–9851) or Mr. Elpidio Igne, ACRS (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individuals one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: August 22, 1991.

R.K. Major,

Chief, Nuclear Waste Branch.

[FR Doc. 91–20663 Filed 8–27–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–390A]

Tennessee Valley Authority, Watts Bar Nuclear Plant, Unit 1; No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the antitrust construction permit review of Unit 1 of the Watts Bar Nuclear Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the previous operating license review of TVA's activities conducted in 1979 in connection with the Watts Bar Nuclear Plant, Unit 1, the staffs of the Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereafter referred to as "staff", have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit review are not of the nature to require a formal antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in the Tennessee Valley and adjacent areas, the events relevant to the Watts Bar construction permit review and the previous operating license review of Watts Bar.

The conclusion of the staff analysis is as follows:

Due to construction delays on the Watts Bar facility, the staff reviewed TVA's activities in 1979, 1983 and again in 1990 to determine whether there have been changes in TVA's activities since the completion on the construction permit antitrust review in 1972 that would create or maintain a situation inconsistent with the antitrust laws. Several types of changes were identified in each of the earlier post construction permit reviews; however, it was determined that none of the changes resulted from abuse of TVA's market power.

In its review of TVA's activities in the 1990 operating license review, the staff again found no evidence of changed activity associated with abuse of its market power. Although TVA is free to conduct normal business operations within its service area, it is restricted by the TVA Act from engaging in full-scale competition with neighboring electric systems. In many ways, the TVA Act has insulated TVA from the competitive pressures of the market that a utility of TVA's size would experience without such restrictions.

Given the restrictive nature of section 15d(a) of the TVA Act, any scrutiny of potential anticompetitive acts or practices would focus primarily on TVA's dealings with distributors within its service area in terms of moving power or energy in or out of its service area or with entities outside of its service area attempting to move power or energy through its system, i.e., the use of TVA's transmission grid. The staff has not identified any instance wherein TVA has refused to cooperate, within the confines of

its section 15d(a) restriction, with other power entities requesting services or use of TVA's transmission facilities. As a result, the staff does not believe that any changed activity attributed to TVA since the 1979 operating license review is "significant" in terms of the Commission's *Summer* decision. The staff recommends that the Director of the Office of Nuclear Reactor Regulation find that no significant antitrust changes have occurred in TVA's activities since the previous antitrust operating license review completed in July of 1979.

Based upon the staff analysis and recommendation, it is my finding that there have been no "significant changes" in the licensee's activities or proposed activities since the completion of the previous antitrust review.

Signed on August 15, 1991 by Thomas E. Murley, Director of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding, may file, with full particulars, a request for reevaluation with the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the initial publication of this notice in the **Federal Register**. Requests for reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the OL, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated at Rockville, Maryland, this 16th, day of August 1991.

For the Nuclear Regulatory Commission.

Anthony Gody,

Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 91-20644 Filed 8-27-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Pay-for-Performance Labor-Management Committee Meetings

The Office of Personnel Management announces the following meetings:

Name: Pay-for-Performance Labor-Management Committee

Dates and Times: Sept. 12, 1991, 9 a.m. to 5 p.m.; Sept. 27, 1991, 9 a.m. to 5 p.m.; Oct. 18, 1991, 9 a.m. to 5 p.m.; Oct. 24, 1991, 9 a.m. to 5 p.m.; Nov. 1, 1991, 9 a.m. to 5 p.m.

Place: Office of Personnel Management, 1900 E Street NW., Washington, DC 20415-0001. Meetings will be held in room 1350, except for Sept. 12, when the committee will meet in room 7B09.

Type of Meeting: Open.

Point of Contact: Ms. Doris Hausser, Chief of the Performance Management Division, room 7454, Office of Personnel Management, 1900 E Street NW., Washington DC 20415-0001.

Purpose of Meetings: To consider ways to strengthen the linkage between the performance of General Schedule employees and their pay.

Agenda: Committee goals and objectives; scope of inquiry; research and resources regarding performance-based pay; basic issues and challenges facing the committee; committee administration; comments and observations; public input; closing.

Supplementary Information: The committee welcomes written data, views, or comments concerning pay-for-performance for General Schedule employees. All such submissions received by close of business (COB) on the dates indicated below will be provided to the committee members and included in the record of the respective meetings:

If received by COB	Input will be considered at the meeting
September 5, 1991	September 12, 1991.
September 20, 1991	September 27, 1991.
October 11, 1991	October 18, 1991.
October 17, 1991	October 24, 1991.
October 25, 1991	November 1, 1991.

If time permits, the committee will consider oral presentations relating to agenda items. Persons wishing to address the committee orally at a meeting should submit a written request to be heard by the deadline listed above for that particular meeting. 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.

All communications regarding this committee should be addressed to the Point of Contact named above.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-20608 Filed 8-27-91; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Initiation of a Review to Consider Designation of Bulgaria as a Beneficiary Developing Country Under the Generalized System of Preferences (GSP) and Solicitation of Public Comments Relating to the Designation Criteria

On July 22, 1991, Bulgaria requested designation as a GSP beneficiary. The TPSC has initiated a review to determine if Bulgaria meets the designation criteria of the GSP law and should be designated as a beneficiary. GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461-2465). The designation criteria are listed in subsections 502(a), 502(b) and 502(c) of the Act. Interested parties are invited to submit comments regarding the eligibility of Bulgaria for designation as a GSP beneficiary. The designation criteria mandate determinations related to participation in commodity cartels, preferential treatment provided by beneficiaries to other developed countries, expropriation without compensation, enforcement of arbitral awards, international terrorism, and internationally recognized worker rights. Other practices taken into account include market access for goods and services, investment practices and intellectual property rights.

Comments must be submitted in 14 copies, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, 600 17th Street NW., room 517, Washington, DC 20506. Comments must be received no later than 5 p.m. on Wednesday, September 18, 1991.

Information and comments submitted regarding Bulgaria will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. If the document contains business confidential information, 14 copies of a nonconfidential version of the submission along with 14 copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non-confidential").

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street NW., room 517, Washington, DC 20506. The telephone number is (202) 395-6971. Public versions of all documents related to this review will be available for review by appointment with the USTR Public Reading Room shortly following filing deadlines. Appointments may be made from 10

a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186.

David Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 91–20610 Filed 8–27–91; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–29586; File No. SR–DTC–91–18]

Self-Regulatory Organizations; the Depository Trust Company; Order Approving Proposed Rule Change Relating to Pleading Cash and Securities by Participants to the Depository Trust Company and by the Depository Trust Company to Lenders

August 20, 1991.

I. Introduction

On July 3, 1991, The Depository Trust Company ("DTC") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change will amend DTC's Rules and Procedures to facilitate pledges of cash and securities to DTC by Participants and by DTC to lenders in the event of Participant failures to settle. Notice of the proposal appeared in the Federal Register on July 12, 1991.[2] No comments were received. On July 31, 1991, DTC amended the proposed rule change to clarify that certain provisions only addressed pledging the collateral of defaulting Participants.[3] As discussed below, the Commission is approving DTC's proposal.

II. Description

The proposed adds new Rules 4A to DTC's rules in order to clarify that, subject to other provisions in its rules, DTC is authorized to pledge, repledge, hypothecate, transfer, create a security interest in, or assign (any of such acts termed a "pledge" hereafter) any or all of certain property received by DTC from its Participants in which DTC has an interest (*e.g.*, lien or title). The following are included explicitly: (1) Cash deposits to any Fund allocated to a DTC System; [4] (2) securities or repurchase agreements in which any Fund or the Participants Fund is invested; [5] (3) qualifying securities [6] which secure the open account indebtedness of a Participant or which have been pledged to DTC as a voluntary deposit to any Fund or the Participants Fund; and (4) any or all securities in an account of a defaulting Participant that the defaulting Participant designated as Net Additions [7] (collectively, "allowable assets").

If DTC pledges allowable assets to a lender, DTC will make appropriate entries to its accounts to reflect the transfer of a security interest in the subject property from the Participant to DTC and from DTC to the lender or to the Participant, as the case may be. Similarly, upon a Participant's designated of securities as Net Additions, DTC will record security interests in such Net Additions reflecting the decrease in the account of the pledging Participant and DTC's security interest in the Net Additions. Reversing journal entries will be made upon the release and return of any pledge, reflecting a decrease in the account of any pledgee and an increase in the account of the pledgor, as appropriate.

The proposal amends rule 4, section 1, to specify what assets DTC will accept from Participants as voluntary deposits to a Fund or the Participants Fund.[8] These include qualifying securities, as defined in rule 4, section 1. The proposal also clarifies that DTC may refuse to accept voluntary deposits of qualifying securities and may insist that a Participant submitting a voluntary deposit do so in the form of cash only.[9]

A conforming change to Rule 4, section 2 is proposed, explicitly permitting DTC to sell or pledge any or all allowable assets, as further provided in proposed Rule 4A. The proposed rule change will also add a paragraph to DTC's Procedures, regarding Minimum Amount [10] and Net Additions. The

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[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 29402 (July 3, 1991), 56 FR 31870.

[3] Amendment No. 1 to Rule Filing No. SR–DTC–91–18 (July 31, 1991). The amendment clarified that the pleading by DTC of Net Additions which are not subject of Incomplete Transactions shall only apply to Net Additions of the Defaulting Participant.

[4] DTC Rules, R. 4, section 1. All capitalized terms not otherwise defined in this approval order have the meanings ascribed thereto in DTC Rules, R. 1, Definitions. A "Fund" "is the component of the Participants Fund allocated for a System, inclusive of a component for each Program which the System comprises." A "System" is a set of specific services for which DTC assumes full responsibility for completion of transactions and which are designated as such by DTC and specified in the Procedures. A "Program" is "a discrete program subpart of a System, designated as such by [DTC] and specified in the Procedures, with such special characteristics as the Rules and [the] Procedures may provide."

[5] DTC Rule 4A, section 2 (as proposed).

[6] "Qualifying securities" are defined in DTC Rule 4, section 1, as "unmatured debt obligations, in bearer or registered form, of the United States or agencies or instrumentalities of the United States or unmatured bearer or registered bonds which are general obligations of, or obligations guaranteed as to principal and interest by, a State or political subdivision thereof which are in the first or second rating of any nationally known statistical service or unmatured registered debt securities (other than securities which are convertible into other securities) issued by a corporation which are in the first rating of any nationally known statistical service."

[7] "Net Additions" are defined in DTC's Rules as (i) SDFS Securities sent from one Participant to another Participant, effected by delivery to DTC, when the securities have not yet been delivered by DTC to the receiver or transferred, withdrawn or pledged pursuant to the receiver's instructions, and in respect of which DTC's account has been increased and the account of the receiver has not been increased, creating an Incomplete Transaction, (ii) SDFS Securities actually credited to a Participant's account during a business day which are not designated by the Participant as Minimum Amount, and (iii) Minimum Amount securities designated by the Participant as Net Additions in the manner specified in the Procedures. (DTC Rules, R. 1).

"Minimum Amount" is defined as "[i] SDFS Securities in a Participant's opening position at the beginning of a business day which the Participant has not designated as Net Additions and (ii) SDFS Securities credited to the participant's account during the business day and New Additions, which in either case are designated in the manner specified in the Procedures, as Minimum Amount Securities, but excluding SDFS Securities which were in the Minimum Amount and which are transferred, withdrawn or pledged pursuant to the Participant's instructions or which are designated as Net Additions by the Participant in the manner specified in the Procedures." (DTC Rules, R. 1).

[8] New Rule 4A, section 1 reads, in relevant part, "(A voluntary deposit to a fund shall be in cash if the Corporation so requires and may otherwise be in the form of a pledge to the Corporation of qualifying securities (as that term is defined in the next paragraph hereof) to secure such obligations to the Corporation as the Participant has incurred or may thereafter incur." such a pledge may be effected by physical delivery or book entry, as DTC requires.

[9] That section had previously allowed qualifying securities to evidence a part of such Participant's "Actual Deposit to a Fund."

A "Required Fund Deposit" is a deposit of cash or qualifying securities, as determined by a formula, fixed by the Board of Directors, which formula is based on a Participant's use of DTC's facilities. Specifically, a Participant's Required Fund Deposit is determined by its use of certain Systems, such as the SDFS System and the CP Program. The aggregate of a Participant's Required Fund deposits is referred to as its "Required Deposits." (DTC Rules, R. 4, section 1.)

"Actual Deposit" includes all deposits by a Participant to the Participants Fund or a Fund, including voluntary deposits. (DTC Rules, R. 1).

[10] "Minimum Amount" for a given Participant means such Participant's SDFS Securities position at the opening of a business day which are not designated as Net Additions, plus Net Additions and SDFS Securities credited to such participant's account during the day which are designated as Minimum Amount Securities, minus any of such

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proposed paragraph makes explicit that certain Net Additions (other than Net Additions which are Incomplete Transactions [11] and are owned by DTC) are held subject to DTC's security interest and can be released from DTC's security interest pursuant to certain actions by DTC or the Participant. Therefore, a complete statement of the General unpledged account of a Participant must include effective instructions designating securities as Net Additions or Minimum Amoun Securities, together with any Rules, Procedures, or instruction of DTC which designate Net Additions.[12]

III. Discussion

The commission believes that DTC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3)(A) and (F) thereunder.[13] Sections 17A(b)(3)(a) and (F) of the Act require a clearing agency to be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control of for which it is responsible. The Commission believes that the proposed rule change is consistent with these Requirements.

The proposed rule change organizes into new Rule 4A DTC's existing right to pledge cash and securities to lenders in the case of a Participant failure to settle. Other DTC Rules govern the actual mechanics by which Participants deposit cash and securities with DTC and DTC pledges such cash and securities to lenders. For example, DTC Rule 4 [14] continues to govern Participant deposits to DTC Funds and the Participants Fund. It is by virtue of the requirements of stated DTC Rule 4 that Participants are required to contribute their respective amounts to such funds. Similarly, it is by virtue of DTC Rule 4 that DTC may apply a portion of a Fund or the Participants Fund to cover losses due to a Participant failure to settle. DTC will continue to first apply the deposits of a defaulting Participant to the Participant's Fund to cover such defaulting Participant's failure to settle, and then charge such defaulting Participant's deposits to other Funds, prior to charging each non-defaulting Participant pro-rata, all in accordance with DTC Rule 4, sections 3 and 4.[15]

DTC Rule 9 [16] will continue to govern Money Payments, including the pledging of Participant cash and securities by DTC to lenders. For example, new Rule 4A, section 1, permits DTC to pledge the Net Additions of a defaulting Participant. However, it is only because DTC Rule 9(C), section 2, governing money payments, specifically permits DTC to pledge the Net Additions of a defaulting Participant, that DTC may do so.[17]

In the event of a Participant default in its obligation to the SDFS System, DTC would first apply a Participant's Actual Deposit to the SDFS Fund to such Participant's obligations to DTC. DTC would next apply deposits of the defaulting Participant to any other Funds.[18] If the defaulting Participant remains obligated to DTC for the default, DTC would next apply any other collateral of the defaulting Participant, including Net Additions which are not subject of Incomplete Transactions. Next, DTC would apply Net Additions of the defaulting Participant which are subject of Incomplete Transactions.[19] If after exhausting the defaulting Participant's collateral with DTC the default was still not covered, DTC would apply, *pro rata*, net credit reductions to all Participants who delivered SDFS Securities to the defaulting Participant on the day of default. These reductions would be limited to the amount of the net credit balance of each Participant resulting from transactions with the defaulting Participant. As an alternative, DTC could resell to delivering Participants SDFS Securities that those Participants sold to the defaulting Participant on the day of default. Finally, if DTC was still owed money for the default, DTC would make *pro rata* net credit reductions to all SDFS Participants with net credit balances, including those Participants that did not make deliveries to the defaulting Participant that day.[20]

During the course of business, DTC has to ensure for itself that financing is available as a defense against short-term financial loss due to Participant defaults. Therefore, DTC has to assure creditors that they will have a perfected security interest in the collateral DTC pledges to them for such short-term financing. The proposed rule change facilitates this result by clarifying DTC's authority to pledge both cash or securities, deposited by a Participant with DTC and any securities or investments into which such cash or securities are invested by DTC. DTC intended no substantial change to any of DTC's existing power or authority with regard to making such pledges. Instead, this proposal is intended to consolidate DTC's Rules with regard to pledging Participant property and is intended to be read in furtherance of DTC's existing Rules and Procedures currently governing such pledges.

The proposal authorizes DTC to pledge allowable assets for longer than the period of the obligation which such pledge by the Participant was intended to secure. In most cases DTC will be pledging a defaulting Participant's allowable assets, and payment by that Participant should provide the funds for DTC to pay off DTC's loan and obtain release of pledged assets.[21] Nevertheless, under the terms of its pledge agreements, unless the lender agrees to the contrary, DTC must repay the loan in full before the lender will release any collateral it holds for DTC loans.[22]

IV. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with section 17A of the Act.

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securities which have been subsequently transferred out of the Participant's account or designated as Net Additions. (DTC Rules, R. 1).

[11] "Incomplete Transactions" are defined as "a delivery of securities by a Participant (the "deliverer") to another Participant (the "receiver") which" have been delivered to and paid for by DTC prior to such securities being transferred, withdrawn, or pledged pursuant to the receiver's instructions. In such an event, DTC is the legal owner of the securities and may pledge or sell them as it chooses. (DTC Rules, R. 1.)

[12] DTC provides Participants with a daily and monthly account statement which combines Minimum Amount Securities and Net Additions (which are not incomplete transactions, "Other Net Additions") into one category. This change to the procedures is meant to alert Participants that they should not rely on such account statements as conclusive with respect to securities of the Participant in which DTC has no security interest. Instead, Participants must take into account daily transfers of Minimum Amount Securities to Other Net Additions and of Other Net Additions to Minimum Amount Securities to obtain the correct result. DTC will designate all Other Net Additions as Minimum Amount Securities at the start of each business day, so Participants need only account for such transfers occurring on the day in question. Telephone conversation between Carl Urist, Deputy General Counsel, DTC and Jack Drogin, Staff Attorney, Commission (August 12, 1991).

[13] 15 U.S.C. 78q-1(b)(3)(A) and (F).

[14] DTC Rules S. 4 (as amended by this proposed rule change).

[15] Telephone conversation between Carl Urist, Deputy General Counsel, DTC and Jack Drogin, Staff Attorney, Commission (July 26, 1991).

[16] DTC Rules, R. 9.

[17] Telephone conversation between Carl Urist, Deputy General Counsel, DTC and Jack Drogin, Staff Attorney, Commission (July 26, 1991).

[18] DTC Rules, R. 4, section 3.

[19] See Exhibit 2 to DTC Rule Filing SR-DTC-87-04 (March 16, 1987), at 42-44.

[20] Securities Exchange Act Release No. 24689 (July 9, 1987), 52 FR 26613-14.

[21] DTC rules, R. 4A, section 1 (added by this proposed rule change).

[22] Telephone conversation between Carl Urist, Deputy General Counsel, DTC, and Jack Drogin, Staff Attorney, Commission (August 19, 1991).

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[23] that the File No. SR–DTC–91–18 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–20605 Filed 8–27–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29592; File No. SR–NASD–91–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Service Charges for the Trade Reporting Function in the Automated Confirmation Transaction Service

August 22, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 2, 1991, the National Association of Securities Dealers, Inc. (NASD or Association) filed with the Securities and Exchange Commission (Commission or SEC) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing an amendment to part IX of schedule D of the By-Laws, Service Charges for the Automated Confirmation Transaction Service (ACT), to add service charges of $.025 per side per transaction when trade reporting is accomplished through ACT without using the ACT 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 Changes

The Association is proposing to amend the service charges for the ACT service, adding a $.025/side fee for transactions reported to ACT for trade reporting only. These transactions are trade reported through ACT and by-pass ACT comparison proceeding because they are internalized transactions not subject to clearing or are input directly to the clearing corporation by the reporting member as locked-in trades.

The ACT service, implemented in March 1990 for self-clearing firms and in October 1990 for clearing firms and their executing correspondent broker/dealers, is designed to capture trade information for reporting purposes and to compare and lock-in that data in close proximity to the time of the trade for same day submission to clearing. The ACT service also accommodates all trade reporting functions for Nasdaq/National Market System ("Nasdaq/NMS") transactions and processes the trade reports for all reportable transactions, whether or not the comparison processing of the service is utilized. For example, broker/dealers that internalize trades or that operate proprietary execution systems [1] are required to report transactions in Nasdaq/NMS securities to the NASD within 90 seconds after execution, pursuant to the Nasdaq/NMS Transaction Reporting Plan codified in schedule D to the NASD By-Laws.[2]

Prior to implementation of ACT, trade reporting was accomplished through a separate reporting system. When ACT was implemented, the trade reporting functions were embedded into the ACT software so that firms using ACT for comparison would not have to input the same trade data into two separate data bases. When trade information is input into ACT, the entering firm indicates whether the data is for trade reporting purposes only, and ACT accommodates those trades and does not process them though comparison. Upon entry, ACT validates trade data by performing price validations to detect erroneous information, reports applicable transactions in Nasdaq/NMS securities to the tape, and then proceeds with ACT comparison processing for regular-way, two-sided trades.

Service charges for the ACT service were originally derived to recover development costs (projected over a five year recovery period) and day-to-day operating costs associated with system maintenance and operational personnel. The transaction related charges were established based on projected traffic utilizing the ACT service for comparison and trade reporting. Since the implementation of ACT, however, more members have applied for Qualified Special Representative status from NSCC that by-passes the ACT service for comparison but still uses the system for trade reporting. The proposed service charge for internalized and QSR trade reports of $.025 per side per transaction will recover the operational expenses attributable to the trade reporting function embedded in the ACT service.

The NASD believes the proposed rule change is consistent with section 15A(b)(5) of the Act. Section 15A(b)(5) requires that the rules of a national securities association "provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls." The ACT service charges proposed in this filing have been formulated on the basis of the costs associated with developing and operating the ACT service and the trade reporting function.

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 upon filing pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4 thereunder in that it is

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[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12)

[1] Broker/dealers that operate proprietary execution systems often execute transactions automatically and lock-in trades for direct submission to the clearing agency, by-passing ACT comparison processing. These firms are designated "Qualified Special Representatives" ("QSR") by the National Securities Clearing Corporation ("NSCC") and are permitted the same direct access to NSCC for delivery of locked-in trades that is available to exchanges and the NASD.

[2] NASD Securities Dealers Manual, part XII, schedule D to the NASD By-Laws, CCH, ¶ 1865.

"establishing or changing a due, fee, or other charge imposed by the self-regulatory organization * * *." 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by September 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-20580 Filed 8-27-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29589; File No. SR-PTC-90-08]

August 21, 1991.

Self-Regulatory Organizations; Participants Trust Company; Order Granting Approval of a Proposed Rule Change Relating to Transactions in Excess of a Participant's Net Debit Cap

On November 29, 1990, the Participants Trust Company ("PTC") filed a proposed rule change (SR-PTC-90-08) with the Securities and Exchange Commission (Commission) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act). [1] The purpose of the proposed rule change is to delete the "supercap" provision of PTC's net debit monitoring level procedures. Notice of the proposed rule change appeared in the Federal Register on January 16, 1991.[2] No comments were received regarding the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

The proposed rule change would amend PTC's rules by deleting the "supercap" provision of PTC's net debit monitoring level (NDML) procedures. PTC's supercap provision enables PTC to waive, upon a participant's request, that participant's net debit cap and to permit that participant's securities transfers even if those transfers would have the effect of violating the participant's net debit cap.

A participant's net debit cap is an individually tailored limit on the amount the participant can owe PTC at any time during the day. PTC sets a participant's net debit cap at the lesser of: (1) 100% of the total committed lines of credit available to PTC to finance settlement; or (2) an amount as determined by the PTC board of directors from time to time based upon criteria related to the participant's credit and capital. PTC's NDML procedures seek to reduce the risk that PTC will not have sufficient end-of-day liquidity to complete settlement in the event of a participant default.

Currently, under the supercap provision, a participant may request and PTC may approve a temporary violation of the participant's net debit cap. PTC's NDML procedures allow a participant that has reached its net debit cap and intends to prefund its excess net debit (bring its net debit below its the applicable net debit cap) to request PTC for an extension of time to prefund (deposit cash into the participants fund), during which time the participant can continue to effect deliveries and increase its net debit above its net debit cap.

PTC's NDML procedures limit extensions to several conditions. Among other things, a participant's net debit balance cannot exceed twice the participant's net debit cap. PTC also will not grant the extension if the aggregate of excess net debits for all participants' concurrently granted extensions exceeds 300% of the committed credit lines of PTC. This design limits PTC's ability to grant multiple extensions, thereby vitiating the safety gained from net debit caps.

The proposed rule change will delete the supercap provision of PTC's NDML procedures. Under the proposed rule change, a participant's excess net debit balance cannot exceed its net debit cap at any time. Thus, PTC will not grant a participant an extension of time to prefund and increase its net debit balance above its net debit cap. In the event that a transaction would increase a participant's net debit balance to a level greater than its NDML, the proposed rule change will require the participant to take one of the following actions before PTC will process the transaction: (1) Redeliver or pledge the subject securities versus payment; (2) deliver or pledge other securities versus payment to reduce the participant's net debit balance to a level that would permit the transaction to occur; (3) provide adequate additional committed lines of credit; or (4) prefund the receipt.[3]

II. Discussion

The Commission believes that PTC's proposed rule change is consistent with section 17A of the Act and, specifically, with section 17A(b)(3)(F).[4] Section 17A(b)(3)(F) of the Act requires a clearing agency be organized and its rules be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. As discussed below, the commission believes that the proposed rule change furthers PTC's capacity to safeguard securities and funds within PTC's custody control or for which it is responsible.

One of the principal financial risks to PTC and its participants is that a participant will not pay its net cash debit balance and will cause PTC or its participants to incur substantial losses. There is also a risk that a participant will become insolvent, requiring PTC to liquidate the participants positions at a price different that the participant's current system price. PTC's NDML procedures are designed to safeguard PTC and its participants against the risk of participant default and insolvency.[5]

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 28753 (January 8, 1991), 56 FR 1659.

[3] Under extremely urgent situations in which the halting of a participant's transactions would cause one or more participants to default or cause a disruption in the market, PTC may waive or suspend its rules or procedures. PTC Rules, Article VI, R. 12.

[4] 15 U.S.C. 78q-1(b)(3)(F).

[5] PTC's safeguards against risk also include membership applicant standards and continuing financial qualifications for participants, a participants fund, full collateralization of delivery-generated payment obligations, specific procedures to manage participant defaults and insolvencies, and rules allocating losses in the event any occur.

PTC's NDML procedures are designed to enable PTC to meet its daily settlement obligation to PTC participants if one or more of PTC participants fail to pay its net debit balance.

As a condition for temporary registration as a clearing agency, PTC represented that the supercap provision was a transitional measure which PTC intended to phase out after all GNMA securities coupon rates were made eligible for deposit at PTC. PTC represented that the supercap provision's purpose was to allow participants to adjust to their net debit caps as PTC's activities increased.[6] PTC designed the supercap provision to prevent the gridlock that could occur if PTC were to stop processing a participant's transaction. By deleting the supercap provision of PTC's NDML procedures, PTC's proposed rule should reduce PTC's end-of-day liquidity risk resulting from the failure of a participant to pay its net debit balance.

The Commission believes that net debit cap procedures are effective controls to safeguard against PTC's liquidity risks. However, the Commission notes that net debit caps can impose risk of girdlock, thus affecting the prompt and accurate clearance and settlement of securities transactions. Although PTC has never used the supercap provision,[7] the potential for gridlock will always exist unless PTC and its participants manage net debit cap limits and maintain adequate credit and collateral facilities. Thus, the Commission expects PTC to continue monitoring the adequacy of existing participant net debit caps, participant fund contribution requirements, and PTC's committed lines of credit.

PTC's rules also provide that PTC may waive or suspend its NDML procedures if participant transactions that are halted would cause a participant or participants to default. Although this may prevent potential gridlock, the Commission expects PTC to suspend its rules only under extremely urgent situations to prevent market disruption. The Commission expects that PTC will take this action only after consultation with its regulators and in accordance with section 19(b) of the Act.[8]

[6] Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266.

[7] Telephone conversation between Leopold Rasenick, General Counsel, PTC, and Anthony R. Bosch, Attorney Advisor, Division of Market Regulation, Commission, July 30, 1991.

[8] Any such emergency action may be put into effect summarily, if the Commission believes that the emergency action is necessary for the protection of investors, the maintenance of fair and orderly markets, or the safeguarding of securities or funds. PTC should file the emergency action, as a proposed rule change, promptly thereafter. 15 U.S.C. 78s(b)(3)(B).

III. conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File No. SR–PTC–90–08) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[FR Doc. 91–20606 Filed 8–27–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

August 22, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Adt Ltd.
American Depository Shares (One Common $0.01 Par Value) (File No. 7–7172)
Allis-Chalmers Corp.
Common Stock, $0.01 Par Value (File No. 7–7173)
American Precision Industries Inc.
Common Stock, $0.66⅔ Par Value (File No. 7–7174)
Damon Corp.
Common Stock, $0.01 Par Value (File No. 7–7175)
Diasonics, Inc.
Common Stock, $0.01 Par Value (File No. 7–7176)
Enron Gas Trust
Units of Beneficial Interest (File No. 7–7177)
Foxmeyer Corp.
Common Stock, $0.01 Par Value (File No. 7–7178)
Greece Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–7179)
Live Entertainment, Inc.
Series A Cum. Conv. Pfd. $1.00 Par Value (File No. 7–7180)
MGIC Investment Corp.
Common Stock, $1.00 Par Value (File No. 7–7181)
Norwest Corp.
Depository Shares (¼ Share Cum. Conv. Pfd., Series B, No Par Value) (File No. 7–7182)
Nutmeg Industries, Inc.
Common Stock, $0.01 Par Value (File No. 7–7183)
Pharmaceutical Resources, Inc.
Common Stock, No Par Value (File No. 7–7184)
Royal Bank of Scotland Group plc
American Depository Shares (One Non. Cum. Dollar Pref. Series B) (File No. 7–7185)
Sanifill, Inc.
Common Stock, $0.01 Par Value (File No. 7–7186)
Singapore-Malaipin Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–7187)
Smart & Final, Inc.
Common Stock, $0.01 Par Value (File No. 7–7188)
Tenneco, Inc.
Depository Shares (½ Share Cum. Pfd. Stk.), No Par Value (File No. 7–7189)
20th Century Industries
Common Stock, No Par Value (File No. 7–7190)
Varity Corp.
$1.30 Sr. Cum. Red. Conv. Exchg. Pfd., Class 1 Stock, Series A $0.01 Par Value (File No. 7–7191)
ReadiCare, Inc.
Common Stock, $0.01 Par Value (File No. 7–7192)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 13, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–20581 Filed 8–27–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

August 22, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Adt Limited
Common Stock, $.10 Par Value (File No. 7-7168)
Adt Limited
American Depositary Shares (representing Common Shares) (File No. 7-7169)
Diasonics, Inc.
Common Stock, $.01 Par Value (File No. 7-7170)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 13, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Johathan G. Katz,

Secretary.

[FR Doc. 91-20582 Filed 8-27-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

August 22, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Adt Ltd.
Common Stock, $.01 Par Value, American Depository Receipts (File No. 7-7162)
Foxmeyer Corp
Common Stock, 1¢ Par Value (File No. 7-7163)
Interstate Bakeries Corp.
Common Stock, $.01 Par Value (File No. 7-7164)
Marvel Entertainment Group, Inc.
Common Stock, $.01 Par Value (File No. 7-7165)
MGIC Investment Corp.
Common Stock, $1.00 Par Value (File No. 7-7166)
Singer Co., N.V.
Common Stock, $.01 Par Value (File No. 7-7167)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 13, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-20583 Filed 8-27-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

August 22, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following security:

Adt Limited
Common Stock, $0.10 Par Value (File No. 7-7171)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 13, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-20584 Filed 8-27-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster Loan Areas #7370, #7371 and #7372]

Idaho; With Contiguous Counties in Washington and Montana; Declaration of Disaster Loan Area

Bonner County and the contiguous counties of Boundary, Kootenia, and Shoshone in the State of Idaho; Pend Oreille and Spokane Counties in the State of Washington; and Lincoln and Sanders Counties in the State of Montana constitute an Economic Injury Disaster Loan Area due to flash flooding which occurred on April 5 and 6, 1991, and damaged the Schweitzer Mountain Road. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on May 18, 1992, at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, California 95853-4795, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to the State of Idaho is 737000; for the State of Washington the number is 737100; and for the State of Montana the number is 737200.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: August 16, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-20550 Filed 8-27-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 91-74]

Supervision of Alcoholic Beverage and Distilled Spirits Plant Bonded Warehouses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of resumption of supervision.

SUMMARY: Notice is hereby given that the Customs Service (Customs) has resumed responsibility from the Bureau of Alcohol, Tobacco and Firearms (BATF) for the conduct of spot-checks and regulatory audits at alcoholic beverage and distilled spirits plant bonded warehouses. The warehouses affected are those co-located at distilled spirits plant premises and those warehouse which store alcoholic beverages only. Customs resumption of supervision maintains the Treasury Department's control of bonded warehouses at these locations, and does not require any changes in the regulations of either agency or have any significant impact on the bonded warehouse industry. T.D. 86-193 which originally gave notice of the previous transfer of supervision to BATF, setting forth a Memorandum of Understanding between the two agencies in this regard, is thus superseded.

EFFECTIVE DATE: August 28, 1991.

FOR FURTHER INFORMATION CONTACT: Customs: Mike Brengle or Pat Duffy, Office of Cargo Enforcement and Facilitation, (202-566-8151).

BATF: Ginger Smith, Tax Compliance Branch, (202-566-7602).

SUPPLEMENTARY INFORMATION:

Background

In a document published in the Federal Register as T.D. 86-193 (51 FR 37362), on October 21, 1986, notice was given that the BATF would perform, on behalf of Customs, spot-checks and audits of certain Customs bonded warehouses in accordance with a Memorandum of Understanding between the two agencies, which was also set forth therein. The warehouses specifically affected were those co-located at distilled spirits plant premises and those warehouses which stored alcoholic beverages only.

The transfer of the spot-check and audit functions to BATF under the 1986 Memorandum of Understanding was effected pursuant to the authority conferred in 31 U.S.C. 1535. This section authorizes the head of one agency to contract for the services of another agency under certain conditions. As specified in the agreement, BATF was to be reimbursed by Customs upon the collection from the warehouse proprietors of the annual fee determined under the provisions of 19 U.S.C. 1555, which were in effect at tht time. However, the subsequent suspension (under the Omnibus Budget Reconciliation Act of 1987) of Customs authority to collect the annual fee effectively terminated the agreement for reimbursement.

Although BATF continued to perform the spot-check and audit functions, it did so in anticipation that these functions would ultimately be transferred to BATF pursuant to formal rulemaking. Since a decision has been made not to proceed with the formal transfer of functions (see 56 FR 17775), BATF is no longer able to perform spot-checks and audits on behalf of Customs at alcohol-only warehouses.

The resultant resumption of responsibility by Customs for the supervision of alcohol-only warehouses continues the Treasury Department's control of bonded warehouses at these locations, and does not require any changes in the regulations of either agency or have any significant impact on the bonded warehouses industry. T.D. 86-193 which originally gave notice of the previous transfer of supervision from Customs to BATF, containing a Memorandum of Understanding to this effect between the two agencies, is thus superseded.

Dated: August 22, 1991.

Samuel H. Banks,

Assistant Commissioner, (Office of Commercial Operations).

[FR Doc. 91-20603 Filed 8-27-91; 8:45 am]

BILLING CODE 4820-02-M

Corrections

Federal Register
Vol. 56, No. 167
Wednesday, August 28, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-88-202]

United States Standards for Grades of Canned Green Beans and Canned Wax Beans

Correction

In proposed rule document 91-16547 beginning on page 32121 in the issue of Monday, July 15, 1991, make the following corrections:

1. On page 32121, in the **Summary**, in the 17th line, "duel" should read "dual".

§ 52.443 [Corrected]

2. On page 32123, in the second column, in § 52.443(p), in the fourth line, "277" should read "227".

§ 52.445 [Corrected]

3. On page 32123, in the third column, in § 52.445(b), in the sixth line, insert "±" before 3%.

§ 52.449 [Corrected]

4. On page 32125, in the first column, in § 52.449(c), in the first line, "*Grade B*" should read "*Grade C*".

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 620, and 621

RIN 3052-AB20

Organization; Disclosure to Shareholders; Accounting and Reporting Requirements

Correction

In rule document 91-15023 beginning on page 29412 in the issue of Thursday, June 27, 1991, make the following corrections:

1. On page 29412, in the 3d column, under **FOR FURTHER INFORMATION CONTACT**, in the 10th line, "Administration 1501" should read "Administration, 1501".

2. On page 29413, in the third column, in the second full paragraph, in the fifth line, "as" should read "in".

3. On page 29415, in the third column, in the first line, "states" should read "stated".

4. On page 29416, in the second column, in the second full paragraph, in the seventh line from the bottom, "FCC" should read "FCA".

5. On the same page, in the third column, in the 3d full paragraph, in the 13th line, "circumstances" should read "circumstance".

6. On page 29417, in the third column, in the incomplete paragraph, in the fifth line from the bottom, "statements: *Provided*, That" should read "statements provided that".

7. On page 29418, in the 3d column, in the 2d full paragraph, in the 12th line, "involves" should read "involve".

8. On page 29419, in the first column, in the third line from the bottom of the page, "regulation" should read "regulations".

9. On page 29420, in the first column, in the first paragraph, in the second line from the bottom, insert "word" after "the".

§ 611.1168 [Corrected]

10. Section 611.1168 is corrected to read as follows:

a. On page 29420, in the 3d column, in the 13th line, "§ 620.3(1)" should read "§ 620.3(l)".

b. On the same page, in the same column, in the 15th line, "§ 620.5(1)" should read "§ 620.5(l)".

§ 611.1175 [Corrected]

11. On page 29421, in the first column, in the amendment to § 611.75, in the incomplete paragraph, in the fifth line, "§ 620.3(1)" should read "§ 620.3(l)"; and in the seventh line, "§ 620.5(1)" should read "§ 620.5(l)".

§ 620.1 [Corrected]

12. On page 29421, in the first column, in the amendment to § 620.1, in the seventh line, "(g)" should read "(q)".

13. On page 29422, in the first column, in the last line, "word" should read "words".

§ 620.5 [Corrected]

14. Section 620.5 is corrected to read as follows:

a. On page 29423, in the third column, in § 620.5(g)(1)(iv)(E), in the fifth line, "§ " should read "section".

b. On page 29424, in the first column, in § 620.5(j)(3)(i), in the last line, "with:" should read "that:".

§ 620.21 [Corrected]

15. On page 29425, in the first column, in the amendment to § 620.21, in the second line, "§ 620.3.(j)" should read "§ 620.3(j)."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-940-01-4120-14; NMNM 78371-NMNM 86717]

Notice of Coal Lease Offering by Sealed Bid; New Mexico

Correction

In notice document 91-15973, beginning on page 30758 in the issue of Friday, July 5, 1991, make the following corrections:

1. On page 30758, in the third column, under **FOR FURTHER INFORMATION CONTACT:**, in the first line "Jentsen" should read "Jentgen".

2. On page 30759, in the 1st column:

a. In the incomplete paragraph, in the 11th line "item" should read "time".

b. In the land description, in T. 4. N., R. 16 W., in Sec. 31, 'inclusive, E½," should read "inclusive, E½W½,".

c. Also in the land description, in T. 3 N., R. 17 W., in Sec. 12, "W½,SE¼;" should read "W½SE¼;".

3. In the second column:

a. In the second complete paragraph, in the third line "Salt River project" should read "Salt River Project".

b. In the same paragraph, three lines from the bottom "specified" should read "specific".

c. In the third complete paragraph, in the penultimate line "Countries" should read "Counties".

d. In the land description, in T. 4 N., R. 17 W., in Sec 15, in the first line "E½W½;" should read "E½W½,".

4. In the third column, in the second complete paragraph, in the sixth line "detailed" should read "Detailed".

BILLING CODE 1505-01-D

federal register

Wednesday
August 28, 1991

Part II

Department of Commerce

Bureau of Export Administration

15 CFR Parts 773 and 779

Revisions to the Commodity Control List: Changes in Nuclear Nonproliferation Controls; Final Rule

15 CFR Parts 770, et al.

Revisions to the Special License Procedures; Elimination of Supplement No. 1 to Part 773 and Creation of a Certified Exporter and Consignee Procedure; Extension of Comment Period; Proposed Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 773 and 799

[Docket No. 910794-1194]

Revisions to the Commodity Control List: Changes in Nuclear Nonproliferation Controls

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This interim rule amends the CCL by revising the items that are subject to control for nuclear nonproliferation reasons. These items are referred to as the Nuclear Referral List (NRL). As more fully described in § 778.2 of the Export Administration Regulations (EAR), NRL items are defined as those "that could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes". These changes to the NRL are the result of a BXA review of items of concern for nuclear nonproliferation and are made in consultation with the U.S. Department of Energy and other agencies of the U.S. Government.

The changes are intended to update the nuclear nonproliferation controls on items listed in the CCL to reflect technological developments, as well as U.S. nuclear nonproliferation policy. While the changes made by this rule may have a significant impact on the licensing requirements for individual Export Control Commodity Numbers (ECCNs) on the CCL, the net effect of these changes on export licensing requirements will be limited.

DATES: This rule is effective August 28, 1991.

Comments must be received by September 27, 1991.

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

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-3856.

SUPPLEMENTARY INFORMATION:

Background

This interim rule amends the Commodity Control List, Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR), by revising nuclear nonproliferation controls on a number of ECCNs to more accurately reflect technological developments, as well as U.S. nuclear nonproliferation policy.

This rule imposes nuclear nonproliferation controls on ECCNS 1357A and 1391A, which were formerly not subject to these controls. It also adds a number of new ECCNs, controlled for nuclear nonproliferation reasons only: 4075B, 4099B, 4312B, 4362B, 5529F, 4538B, 5539F, 4540B, 4542B, 4543B, 4546B, 5560F, 5573F, 5592F, 4610B, 5611F, 5612F, 4613B, 5678F, 4715B, and 5763F.

Several existing ECCNs are amended by revising both the items that are subject to nuclear nonproliferation controls and the countries to which nuclear nonproliferation-based validated licensing requirements apply: 4094B, 4360B, 1362A, 4363B, 4530B, 4569B, 4675B, 4676B, and 1763A. Other ECCNs are amended by revising only the countries requiring a validated license for nuclear nonproliferation reasons: 1091A, 1099A, 1131A, 1205A, 3336A, 3363A, 1522A, 1555A, 4592B, 4698B, and 4721B. ECCNs 5091F, 4127B, 4261B, 4337B, 1549A, 5584F, 1585A, 4585B, and 4720B are amended by revising the items that are subject to nuclear nonproliferation controls.

The rule removes nuclear nonproliferation controls from items controlled by the following ECCNs, but these ECCNS remain on the CCL because they are still subject to other export controls (i.e., national security, foreign policy): 1110A, 2120A, 1205A, 1312A, 1370A, 1502A, 1529A, 1534A, 1560A, 1567A, 1568A, and 1715A. ECCNs 5312F, 5542F, 4592B, and 4678B are removed from the CCL, but a number of items formerly controlled under these ECCNs for nuclear nonproliferation reasons are included in ECCNS 4312B, 4542B, 5592F, and 5678F, respectively, and are still subject to nuclear nonproliferation controls. This rule also removes ECCNs 4635B, 5541F, and 5559F from the CCL. Certain items previously controlled by ECCN 4635B are now controlled under ECCN 4127B and certain items previously controlled by ECCNs 5541F and 5559F are now controlled under new ECCN 4542B. The following ECCNs have been removed from the Nuclear Referral List (NRL) and have been removed entirely from the CCL: 5570F, 5585C, 4677B, and 3709A.

This rule makes no changes in nuclear nonproliferation controls for the following ECCNs: 4128B, 3362A, 1565A, 3604A, 3605A, 3607A, 3608A, 3609A, 4638B, 4654B, 4674B, 3711A, and 3712A. ECCN 3711A is redesignated as ECCN 4711B because the items controlled by this entry, though still subject to U.S. nuclear nonproliferation controls, are no longer included on the control lists maintained by the Coordinating Committee for Multilateral Export Controls (COCOM). This rule makes editorial changes in ECCNs 3131A, 3261A, and 3604A.

In revising the CCL to reflect changes in the Nuclear Referral List (NRL), BXA has attempted to simplify the application of nuclear nonproliferation controls to items on the CCL. Previously, NRL items on the CCL were controlled at several different country levels, ranging from all countries (including Canada) to only countries included in Country Group S or Z, Taiwan, and countries listed in Supplement No. 4 to part 778. This rule revises the CCL to control most NRL items to all countries except Canada. Certain NRL items are available from a number of foreign sources. BXA, with the advice of its Technical Advisory Committees, the Department of Energy, and other concerned agencies, has decided to control such NRL items to a smaller set of countries. ECCNs 5091F, 5529F, 5539F, 5560F, 5573F, 5584F, 5592F, 5611F, 5612F, 5678F, and 5763F are controlled only to Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778.

On May 2, 1991, the Bureau of Export Administration published in the Federal Register (56 FR 20154) a rule that proposes to revise the Distribution License (DL) procedure and create a new Certified Exporter and Consignee (CEC) procedure. The proposed rule would affect the eligibility of NRL items for the DL and CEC procedures. The Department recommends that exporters review the proposed rule when evaluating the changes in the NRL made by this interim rule. Comments that address the linkage between the scope of the nuclear nonproliferation controls established by this interim rule and the treatment of NRL items proposed under the DL/CEC rule are encouraged. Elsewhere in this issue, BXA is publishing an extension of the comment period for the May 2, 1991, proposed rule that will extend the period for submission of comments until September 27, 1991.

Consideration is being given to a rule that would establish validated licensing requirements for exports, to countries

listed in Supplement No. 4 to part 778, of technical data and software related to commodities on the NRL. When commenting on this interim rule, exporters are urged to include comments on the potential impact of such technical data controls.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before September 12, 1991 may be exported under the previous general license provisions up to and including September 26, 1991. Any such items not actually exported before midnight September 26, 1991, require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005 and 0694–0015.

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

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close September 27, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Office, at the above address or by calling (202) 377–2593.

List of Subjects in 15 CFR Parts 773 and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 773 and 799 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR parts 773 and 799 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242 of March 10, 1978, 92 Stat. 141 (42 U.S.C. 2139a); E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

PART 773—[AMENDED]

Supplement No. 4 to Part 779 [Amended]

Supplement No. 4 to part 773 (Special Distribution License Restrictions for Certain Commodities Included in the Commodity Control List) is amended by removing the entry for ECCN 1584 and adding a new entry for ECCN 5584F immediately following the entry for ECCN 1532A to read as follows:

Supplement No. 4 to Part 773—Special Distribution License Restrictions for Certain Commodities Included in the Commodity Control List

* * * * *

5584F Cathode ray oscilloscopes having amplifier bandwidths greater than 500 MHz; Oscilloscopes having cathode ray tubes incorporating microchannel plate electron multipliers capable of operating at frequencies greater than 1,000 MHz; Digital oscilloscopes with sequential sampling of the input signal at an interval of less than 2 nanoseconds.

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

3. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), a new ECCN 4075B is added immediately following ECCN 2018A, as follows:

4075B Spin-forming and flow-forming machines specially designed or adapted for use with numerical or computer controls and specially designed parts and accessories therefor.

Note: For specially designed "software", see Supp. No. 3 to Part 779 of this subchapter.

Controls for ECCN 4075B

Unit: Report machines in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $3,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

4. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), ECCN 1091A is amended by revising the *Reason for Control* paragraph under the Controls for ECCN heading, as follows:

1091A "Numerical control units", "numerically controlled" machine tools, components, specially designed parts and subassemblies, "specially designed software" and technical data.

Controls for ECCN 1091A

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply to all destinations except countries listed in Supplement No. 2 to part 773 of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

5. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), ECCN 5091F is amended by revising the *Validated License Required* and *GLV $ Value Limit* paragraphs under the Controls for ECCN heading and by revising paragraph (g)(4) in the List of Commodities Controlled, as follows:

5091F "Numerically controlled" machine tools not controlled by ECCN 1091A.

Controls for ECCN 5091F

* * * * *

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $3,000 for Taiwan and Country Group T and V countries listed in Supplement No. 4 to part 778 of this subchapter; $0 for all other destinations.

* * * * *

List of Commodities Controlled by ECCN 5091F

* * * * *

(b) * * *

(4) The "positioning accuracies", with all compensations available, are better than:

(i) 0.010 mm along any linear axis (overall positioning);

(ii) 0.002° for any rotary axis.

Supplement No. 1 to § 799.1 [Amended]

6. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), ECCN 4094B is amended:

a. By revising the heading of the ECCN;

b. By revising the *Validated License Required* paragraph;

c. By revising the remainder of the entry following the *Special Licenses Available* paragraph, as follows:

4094B Centrifuge rotor assembly and straightening equipment and bellows-forming mandrels and dies.

Controls for ECCN 4094B

* * * * *

Validated License Required: Country Groups QSTVWYZ.

* * * * *

List of Equipment Controlled by ECCN 4094B

(a) Rotor assembly equipment for the assembly of gas centrifuge rotor tube sections, baffles, and end caps. Such equipment includes specially designed precision mandrels, clamps, and shrink fit machines.

(b) Rotor straightening equipment for alignment of gas centrifuge rotor tube sections to a common axis. Normally, such equipment will consist of precision measuring probes linked to a computer that subsequently controls the action of pneumatic rams, for example, that are used for aligning the rotor tube sections.

(c) Bellows-forming mandrels and dies for producing single-convolution bellows that:

(1) Are made of high-strength aluminum alloys, maraging steel, or high-strength filamentary materials; and

(2) Have all of the following dimensions:

(i) 75 mm to 400 mm (3 in. to 16 in.) inside diameter;

(ii) 12.7 mm (0.5 in.) or more in length; and

(iii) Single convolution depth more than 2 mm (0.08 in.).

Supplement No. 1 to § 799.1 [Amended]

7. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), ECCN 1099A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1099A Dimensional inspection systems or devices, and specially designed components and "specially designed software" therefor.

Controls for ECCN 1099A

* * * * *

Reason for Control: National security; nuclear nonproliferation. Nuclear nonproliferation controls apply, for all destinations except countries listed in Supplement No. 2 to Part 773 of this subchapter, to items described in paragraph (c) or (d) of the List of this ECCN.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

8. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group O (Metal-Working Machinery), a new ECCN 4099B is added immediately following ECCN 1099A, as follows:

4099B Dimensional inspection systems or devices, specially designed components, and specially designed software therefor not controlled by ECCN 1099A.

Controls for ECCN 4099B

Unit: Report machines in "number"; parts and accessories in "value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $5,000 for Country Groups T and V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See Part 773 of this subchapter.

List of Equipment Controlled by ECCN 4099B

(a) Computer controlled or numerically controlled dimensional inspection machines having both of the following characteristics:

(1) Two or more axes; and

(2) A one-dimensional length measurement uncertainty equal to or less (better) than (2.0+L/1000) micrometers, but greater than (1.5+L/1000) micrometer, tested with a probe of an "accuracy" of less (better) than 0.2 micrometers (L is the measured length in millimeters) (Ref: VDI/VDE 2617 parts 1 and 2);

(b) Angular measuring instruments having an angular deviation equal to or less (better) than 0.0005°.

Supplement No. 1 to § 799.1 [Amended]

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 1110A is amended by revising the *Reason for Control* and *Special Licenses Available* paragraphs under the Controls for ECCN heading, as follows:

1110A Equipment for the production of liquid fluorine, and specially designed components therefor.

Controls for ECCN 1110A

* * * * *

Reason for Control: National security.

Special Licenses Available: See Part 773 of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 2120A is revised to read as follows:

2120A Cryogenic and superconductive equipment and specially designed components and accessories therefor.

Controls for ECCN 2120A

Unit: Report equipment in "number"; components and accessories in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $3,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: National security.

Special Licenses Available: See part 773 of this subchapter.

List of Cryogenic and Superconductive Equipment Controlled by ECCN 2120A

(a) Equipment specially designed or configured to be installed in a vehicle for ground, marine, airborne, or space applications and capable of operating while in motion and of producing or maintaining temperatures below 103 °K (−170 °C);

(b) Superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for ground, marine, airborne, or space applications and capable of operating while in motion, except direct current hybrid homopolar generators that have single-pole normal metal armatures that rotate in a magnetic field produced by superconducting windings, provided these windings are the only superconducting component in the generator;

(c) Specially designed components and accessories for the equipment described in paragraphs (a) and (b) of this ECCN 2120A.

Supplement No. 1 to § 799.1 [Amended]

11. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 4127B is amended:

a. By revising the heading of the ECCN;

b. By revising the *Unit* paragraph and the *Processing Code* paragraph under the Controls for ECCN heading; and

c. By revising the remainder of the entry following the *Special Licenses Available* paragraph, as follows:

4127B Piping, fittings, and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium.

Controls for ECCN 4127B

Unit: Report pressure tube, pipes, and fittings in "lbs."; valves in "number"; and parts in "$ value".

* * * * *

Processing Code: CM for items described in paragraph (a) of this ECCN; TE for items described in paragraph (b) of this ECCN.

* * * * *

List of Piping, Fittings, and Valves Controlled by ECCN 4127B

Piping, fittings, and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium, as follows:

(a) Pressure tube, pipe, and fittings of 200 mm (8 inches) or more inside diameter, and suitable for operation at pressures of 3.4 MPa (500 psi) or greater;

(b) Pipe valves having all of the following characteristics:

(1) A pipe size connection of 8 inches or more inside diameter;

(2) Rated at 1,500 psi or more;

(c) Parts, n.e.s.

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 1131A is amended by revising the heading for the ECCN and by revising the *Reason for Control* paragraph, as follows:

1131A. Pumps designed to move molten metals by electromagnetic forces.

Controls for ECCN 1131A

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply to all destinations, except countries listed in Supplement No. 2 to part 773 of this subchapter.

* * * * *

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 3131A is amended by revising the heading for the ECCN, as follows:

3131A Valves, 5 mm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60% or more nickel, either manually or automatically operated; and specially designed parts and acessories therefor.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power-Generating Equipment), ECCN 4203B is amended by adding a *Validated License Required* paragraph immediately following the *Unit* paragraph under the Controls for ECCN heading and by adding a Note at the end of the entry, as follows:

4203B Vaccum or controlled environment furnaces, including arc, induction, plasma, or electron beam capable of operation above 1,100 °C without regard to size or temperature control method, and specially designed parts and components therefor.

Controls for ECCN 4203B

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

* * * * *

Special Licenses Available: * * *

Note: This ECCN 4203B does not control furnaces designed for semiconductor manufacturing or processing (see ECCN 1355A).

Supplement No. 1 to § 799.1 [Amended]

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power-Generating Equipment), ECCN 1205A is amended by revising the *Reasan far Control* paragraph, as follows:

1205A Electro-chemical, semiconductor, and radioactive devices for the direct conversion of chemical, solar or nuclear energy to electrical energy.

Controls for ECCN 1205A

* * * * *

Reason for Control: National security.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

16. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power-Generating Equipment), ECCN 3261A is amended under the Controls for ECCN heading by adding a Technical Note immediately following the *Special Licenses Available* paragraph, as follows:

3261A Neutron generator systems, including tubes, designed for operation without an external vacuum system, and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction; and specially designed parts therefor.

Controls for ECCN 3261A

* * * * *

Special Licenses Available: * * *

Technical Note: Specially designed parts controlled under this ECCN 3261A include deuterated and/or tritiated sources and targets.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

17. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power-Generating Equipment), ECCN 4261B is revised to read as follows:

4261B Electron accelerators.

Controls for ECCN 4261B

Unit: Report accelerators in "number"; parts and accessories in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $3,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Electron Accelerators Controlled by ECCN 4261B

Pulsed electron accelerators with a peak energy of 500 keV (thousand electron volts) or greater, as follows, except accelerators that are component parts of devices designed for purposes other than electron beam or x-ray radiation (e.g., electron microscopy), that:

(a) Have an accelerator peak electron energy of 500 keV or greater, but less than 25 MeV (million electron volts), and with a figure of merit (K) of 0.25 or greater:

(1) Where K is defined as: $K=1.7\times10^3 V^{2.65} Q$;

(2) Where V is the peak electron energy in megavolts; and

(3) Where Q is:

(i) The total accelerated charge in coulombs, if the accelerator beam pulse duration is less than or equal to 1 microsecond;

(ii) The maximum accelerated charge in 1 microsecond, if the accelerator beam pulse duration is greater than 1 microsecond;

Note: Q equals the integral of "i" with respect to "t", over the lesser of 1 microsecond or the time duration of the beam pulse (Q=idt), where "i" is beam current in amperes and "t" is time in seconds.

(b) Have an accelerator peak electron energy of 25 MeV or greater and a peak power greater than 50 MW.

Note: Peak power=(peak potential in volts) × (peak beam current in amperes).

Technical Note: The formula for "K" can be expressed as a table that shows the accelerated charge "Q", which is related to a specific energy "V" for K=0.25. Any device for which "Q" exceeds the value in the table is subject to control under this ECCN 4261B.

V (MeV)	Q (coulomb)
0.50	920.0×10^{-6}
0.75	320.0×10^{-6}
1.0	150.0×10^{-6}
3.0	8.0×10^{-6}
5.0	2.0×10^{-6}
8.0	0.6×10^{-6}
10.0	0.3×10^{-6}
15.0	0.1×10^{-6}
20.0	0.05×10^{-6}
25.0	0.03×10^{-6}

Supplement No. 1 to § 799.1 [Amended]

18. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1312A is amended by revising the *Reason for Control* paragraph, as follows:

1312A "Isostatic presses" and specially designed dies, molds, components, accessories and controls and "specially designed software" therefor.

Controls for ECCN 1312A

* * * * *

Reason for Control: National security.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

19. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 5312F is removed and a new ECCN 4312B is added immediately following ECCN 1312A, as follows:

4312B "Isostatic presses" capable of achieving a maximum working pressure of 10,000 psi (69 MPa) or greater and having a chamber cavity with an inside diameter in excess of 152 mm (6 inches) and specially designed dies and molds, components, accessories, controls, and "specially designed software" therefor.

Controls for ECCN 4312B

Unit: Report in "number".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,500 for Country Groups T and V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Supplement No. 1 to § 799.1 [Amended] [Amended]

20. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 3336A is amended by revising the *Validated License Required* paragraph, as follows:

3336A Plants specially designed for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment), and specially designed parts and accessories therefor.

Controls for ECCN 3336A

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

21. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 4337B is revised to read as follows:

4337B Compressors and blowers specially designed or prepared to be corrosion resistant to hydrogen sulfide.

Controls for ECCN 4337B

Unit: Report by "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Compressors and Blowers Controlled by ECCN 4337B

Compressors and blowers specially designed or prepared to be corrosion-resistant to hydrogen sulfide, and having all of the following characteristics:

(a) An inlet operating pressure of 260 to 280 psi-gauge, with a differential pressure between outlet and inlet of approximately 30 psi;

(b) A suction volume of 120,000 scfm (approximately equal to 5,500 acfm); and

(c) Capable of sustaining the inlet pressure, as indicated in paragraph (a), and the suction volume, as indicated in paragraph (b), in hydrogen sulfide gas saturated with water vapor.

Supplement No. 1 to § 799.1 [Amended]

22. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1357A is amended under the Controls for ECCN heading by revising

the *Reason for Control* paragraph, as follows:

1357A Equipment for the production of fibers controlled for export by ECCN 1763A or their composites, and specially designed components and accessories and "specially designed software" therefor.

* * * * *

Controls for ECCN 1357A

* * * * *

Reason for Control: National security; nuclear non-proliferation; foreign policy. Nuclear non-proliferation controls apply to filament winding machines described in paragraph (a) of this ECCN 1357A that are capable of winding cylindrical rotors having a diameter between 3 inches and 16 inches and a length of 24 inches or greater. Foreign policy controls apply for nuclear weapons delivery purposes.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

23. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 4360B is amended:

a. By revising the heading of the ECCN;

b. By revising the *Validated License Required* paragraph under the Controls for ECCN heading; and

c. By revising the Definitive List of Centrifugal Balancing Machine Characteristics, as follows:

4360B Centrifugal balancing machines, fixed or portable, horizontal or vertical, having all of the characteristics described in this entry, and "specially designed software" therefor.

Controls for ECCN 4360B

* * * * *

Validated License Required: Country Groups QSTVWYZ.

* * * * *

Definitive List of Centrifugal Balancing Machine Characteristics Controlled by ECCN 4360B

(a) Suitable for balancing flexible rotors having a diameter of from 3 inches (75 mm) to 16 inches (400 mm), and a length of 24 inches (600 mm) or more; and

(b) Mass capability of from 2 lbs. to 50 lbs. (0.9 kg. to 23 kg.); and

(c) Capable of balancing to a residual imbalance of 0.001 in.-lb./lb. (0.056 kg.-mm./kg.) per plane or greater;

(d) Capable of balancing in two or more planes.

Supplement No. 1 to § 799.1 [Amended]

24. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1362A is amended by revising under the Controls for ECCN heading the *Reason for Control* paragraph, as follows:

1362A Vibration test equipment.

Controls for ECCN 1362A

* * * * *

Reason for Control: National security; nuclear non-proliferation; foreign policy. Nuclear non-proliferation controls apply, for all destinations except countries listed in Supplement No. 2 to part 773 of this subchapter, to vibration test equipment and specially designed ancillary equipment and software therefor that are controlled by paragraph (a) in the List of this ECCN 1362A. Foreign policy controls apply to vibration test equipment and high intensity acoustic test equipment described in paragraphs (a) and (b), respectively, in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

* * * * *

25. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), a new ECCN 4362B is added immediately following ECCN 3362A to read as follows:

4362B Mechanical testing devices for simultaneous centrifugal and vibrational testing that are capable of subjecting a component with a mass of 12 kilograms or greater to simultaneous stress at least 10 g nominal steady state acceleration and at least 10 g's root-mean-square vibration.

Controls for ECCN 4362B

Unit: Report by "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $3,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

26. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 3363A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

3363A Electrolytic cells for the production of fluorine with a production capacity greater than 250 grams of fluorine per hour; and specially designed parts and accessories thereof.

Controls for ECCN 3363A

* * * * *

Reason for Control: National security; nuclear nonproliferation.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

27. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 4363B is amended:

a. By revising the heading of the ECCN;

b. By revising the *Validated License Required* paragraph under the Controls for ECCN heading;

c. By revising the heading of the List of Commodities Controlled; and

d. By revising the List of Commodities Controlled, as follows:

4363B Nuclear reactor and nuclear power plant related equipment and technical data.

Controls for ECCN 4363B

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

* * * * *

List of Equipment and Technical Data Controlled by ECCN 4363B

(a) Reactor and power plant simulators and analytical models for reactor and power plant simulators, models or mock-ups;

(b) Process control systems intended for use with nuclear reactors;

(c) Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor;

(d) Commodities, parts and accessories specially designed or prepared for use with nuclear plants (e.g., snubbers, airlocks, reactor and fuel inspection equipment) except items licensed by the Nuclear Regulatory Commission, pursuant to 10 CFR Part 110;

(e) High-density (lead glass or other) radiation shielding windows, including frames, greater than 0.3 m (1 ft.) on a side and with a density greater than 3 g/cm^3 and a thickness of 100 mm or greater;

(f) Radiation-hardened TV cameras and specially designed radiation-hardened components (electronic subassemblies and lenses) used therein;

(g) Casks that are specially designed for transportation of high-level radioactive material and that weigh more than 1,000 kg;

(h) Remote manipulators that provide mechanical translation of human operator actions by electrical, hydraulic, or mechanical means to an operating arm and terminal fixture, usually a gripping mechanism that can be used to

provide remote actions in radiochemical separation operations and "hot cells". All manipulators must be able to penetrate 0.6 m or more (2 ft. or more) of a cell wall or, alternatively, bridge over the top of a cell wall with a thickness of 0.6 m or more (2 ft. or more); and

(i) Technical data related to the commodities described in paragraphs (a) through (h) of this ECCN 4363B.

Supplement No. 1 to § 799.1 [Amended]

28. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1370A is amended by revising the *Reason for Control* paragraph under the Controls for ECCN heading, as follows:

1370A Machine tools for generating optical quality surfaces, specially designed components and accessories therefor.

Controls for ECCN 1370A

* * * * *

Reason for Control: National security.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

29. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1391A is amended by revising the *Reason for Control* paragraph under the Controls for ECCN heading, as follows:

1391A "Robots," "robot" controllers and "robot" end-effectors; and specially designed components therefor.

* * * * *

Controls for ECCN 1391A

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply, for all destinations except countries listed in Supplement No. 2 to part 773 of this subchapter, to "robots" described in paragraphs (a)(1), (a)(2), and (a)(8) in the List of this ECCN.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

30. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1502A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows.

1502A Communication, detection or tracking equipment of a kind using ultra-violet radiation, infrared radiation or ultrasonic waves, and specially designed components therefore.

* * * * *

Controls for ECCN 1502A

* * * *

Reason for Control: National security; crime control (foreign policy). Foreign policy controls apply only to police-model infrared viewers (see the *Special Foreign Policy Controls* paragraph below).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

31. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1522A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1522A "Lasers", and specially designed components and accessories therefor including amplification stages.

* * * * *

Controls for ECCN 1522A

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply to all destinations except countries listed in Supplement No. 2 to part 773 of this subchapter for lasers described in paragraphs (a)(1)(iii), (a)(2), (a)(4)(iv), (a)(6)(ii), (a)(7)(ii), (c)(1)(ii), (c)(2)(iii)(A), (c)(2)(iii)(B), (c)(2)(iv)(B), and (d)(2).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

32. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1529A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1529A Electronic equipment for testing, measuring or for microprocessor/microcomputer development, as follows.

* * * * *

Controls for ECCN 1529A

* * * * *

Reason for Control: National security.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

33. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 5529F is added immediately following ECCN 1529A, as follows:

5529F Electronic equipment for time delay generation or time interval measurement.

Controls for ECCN 5529F

Unit: Report in "number".

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See part 773 of this subchapter.

List of Equipment Controlled by ECCN 5529F

Electronic equipment for time delay generation or time interval measurement, as follows:

(a) Digital time delay generators with a resolution of 50 nanoseconds or less over time intervals of 1 microsecond or greater;

(b) Multichannel (three or more) or modular time interval meters and chronometry equipment with time resolutions less than 50 nanoseconds over time ranges greater than 1 microsecond.

Supplement No. 1 to § 799.1 [Amended]

34. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 4530B is amended:

a. By revising the heading of the ECCN;

b. By revising the *Validated License Required* and *GLV $ Value Limits* paragraphs under the Controls for ECCN heading; and

c. By revising paragraphs (a) and (b) in the List of Spectrometers Controlled, as follows:

4530B Mass spectrometers.

Controls for ECCN 4530B

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limits: $2,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

* * * * *

List of Spectrometers Controlled by ECCN 4530B

(a) Mass spectrometers, magnetic or quadrupole:

(1) Instruments having all of the following characteristics:

(i) Resolution of less than 1 atomic mass unit (amu) for molecular masses greater than 320 amu; and

(ii) Electron-bombardment or molecular beam ion source; and

(2) Having any of the following characteristics:

(i) Ion source chambers constructed of or lined with nichrome or model, or nickel plated; or

(ii) A collector system suitable for analysis of isotopic species; or

(b) Sources for mass spectrometers having any of the following characteristics:

(1) Electron-bombardment ionization or molecular beam ion sources with ion source chambers constructed of or lined with nichrome or model, or nickel plated; or

(2) Sources constructed for use with fluorinated compounds.

Technical Data: * * *

Supplement No. 1 to § 799.1 [Amended]

35. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1534A is amended under the Controls for ECCN heading by revising the *Reason for Control* and *Special Licenses Available* paragraphs, as follows:

1534A Flatbed microdensitometers (except cathode-ray types) having any of the characteristics in the List below, and specially designed components therefor.

Controls for ECCN 1534A

* * * * *

Reason for Control: National security.

Special Licenses Available: See part 773 of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

36. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4538B is added immediately following ECCN 1537A, as follows:

4538B High-speed pulse generators with output voltages greater than 6 volts into a less than 55-ohm resistive load, and with pulse transition times less than 500 picoseconds.

Controls for ECCN 4538B

Unit: Report in "number".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

37. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 5539F is added immediately following ECCN 4538B, as follows:

5539F Pulse amplifiers with gain greater than 6 decibels and with a baseband bandwidth greater than 500 megahertz (having the low frequency half-power point at less than 1 MHz and the high frequency half-power point greater than 500 MHz) and output voltage greater than 2 volts into 55 ohms or less (this corresponds to an output greater than 16 dbm in a 50 ohm system).

Controls from ECCN 5539F

Unit: Report in "number".

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

38. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4540B is added immediately following ECCN 5539F, as follows:

4540B Firing sets and high-current pulse generators.

Controls from ECCN 4540B

Unit: Report in "number".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Commodities Controlled by ECCN 4540B

(a) Explosive detonator firing sets designed to drive multiple detonators of the type controlled under ECCN 4546B;

(b) Modular electrical pulse generators (pulsers) designed for portable, mobile, or ruggedized use (including xenon flash-lamp drivers) having all the following characteristics:

(1) Capable of delivering their energy in less than 15 μs;

(2) Having an output greater than 500 A; and

(3) Having a "risetime" of less than 10 μs into loads of less than 5 ohms.

Technical Note: "Risetime" is defined as the time interval from 10% to 90% current amplitude when driving a resistive load.

Supplement No. 1 to § 799.1 [Amended]

39. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5541F is removed.

Supplement No. 1 to § 799.1 [Amended]

40. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5542F is removed and a new ECCN 4542B is added immediately following ECCN 4540B, as follows:

4542B Switching devices.

Controls from ECCN 4542B

Unit: Report in "number".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Switching Devices Controlled by ECCN 4542B

(a) Cold-cathode tubes (including gas krytron tubes and vacuum sprytron tubes), whether gas filled or not, operating similarly to a spark gap, containing three or more electrodes, and having all of the following characteristics:

(1) Anode peak voltage rating of 2500 V or more;

(2) Anode peak current rating of 100 A or more; and

(3) Anode delay time of 10 microseconds or less;

(b) Triggered spark-gaps having an anode delay time of 15 microseconds or less and rated for a peak current of 500 A or more;

(c) Hydrogen/hydrogen-isotope thyratrons of ceramic-metal construction and rated for a peak current of 500 A or more.

Supplement No. 1 to § 799.1 [Amended]

41. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4543B is added immediately following ECCN 4542B, as follows:

4534B Multistage light gas gun or other high-velocity gun systems (coil, electromagnetic, electrothermal, or other advanced systems) capable of accelerating projectiles to 2 kilometers per second or greater and specialized components therefor.

Controls for ECCN 4543B

Unit: Report equipment in "number"; parts and accessories in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 to all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

42. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4546B is added immediately following ECCN 4543B, as follows:

4546B Detonators and multipoint initiation systems (exploding) bridge wire, slapper, etc.).

Controls for ECCN 4546B

Unit: Report equipment in "number"; parts and accessories in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 to all destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Equipment Controlled by ECCN 4546B

(a) Electrically driven explosive detonators of the types described as "exploding bridge" (EB), "exploding bridgewire" (EBW), "exploding foil," or "slapper" (see the Technical Note following this List for a more detailed description);

(b) Specially designed parts or bodies for any of the detonators described in paragraph (a) of this List; or

(c) Arrangements of multiple detonators designed to nearly simultaneously initiate an explosive surface from a single firing signal.

Technical Note: The detonators controlled by this ECCN 4546B utilize a small electrical conductor (bridge, bridgewire, or foil) that explosively vaporizes when a fast, high-current electrical pulse is passed through it. In nonslapper types, the exploding conductor starts a chemical detonation in a contacting high-explosive material such as PETN (pentaerythritoltetranitrate). In slapper detonators, the explosive vaporization of the electrical conductor drives a "flyer" or "slapper" across a gap, and the impact of the slapper on an explosive starts a chemical detonation. The slapper in some designs is driven by magnetic force. The term "exploding foil" detonator may refer to either an EB or a slapper-type detonator. Also, the word "initiator" is sometimes used in place of the word "detonator."

Note. Detonators using only primary explosives, such as lead azide, are not controlled by this ECCN 4546B.

Supplement No. 1 to § 799.1 [Amended]

43. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1549A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1549A Photomultiplier tubes.

Controls for ECCN 1549A

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply to photomultiplier tubes having the characteristics described in paragraph (b) or (c) of the List for this ECCN.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

44. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1555A is amended under the Controls for ECCN heading by revising the *Reason for Control* and *Special Licenses Available* paragraphs, as follows:

1555A Electron tubes and specially designed components therefor.

Controls for ECCN 1555A

* * * * *

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply to all destinations except countries listed in Supplement No. 2 to part 773 of this subchapter.

Special Licenses Available: A Distribution License is available for shipment of equipment described in paragraph (a) or (b) under the List of this ECCN to countries listed in Supplement No. 2 to part 773 of this subchapter. Other special licenses, as well as a Distribution License, may be available for other equipment in the List; see part 773 of this subchapter.

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Supplement No. 1 to § 799.1 [Amended]

45. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5559F is removed.

Supplement No. 1 to § 799.1 [Amended]

46. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1560A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1560A High energy storage capacitors.

Controls for ECCN 1560A

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Reason for Control: National Security.

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Supplement No. 1 to § 799.1 [Amended]

47. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 5560F is added immediately following ECCN 1560A, as follows:

5560F Capacitors not controlled by ECCN 1560A.

Controls for ECCN 5560F

Unit: Report in "number".

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $500 for Taiwan and Country Group T and V countries listed in Supplement No. 4 to part 778; $0 for all other destinations.

Processing Code: EE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Capacitors Controlled by ECCN 5560F

(a) Capacitors with a voltage rating greater than 1.4 kV having all of the following characteristics:

(1) Energy storage greater than 10 J;

(2) Capacitance greater than 0.5 μF; and

(3) Series inductance less than 50 nH; or

(b) Capacitors with a voltage rating greater than 750 V having both of the following characteristics:

(1) Capacitance greater than 0.25 μF; and

(2) Series inductance less than 10nH.

Note: The energy storage capacity (E) is determined by the formula: $E = \frac{1}{2}CV^2$. The capacitance (C) must be in farads, and the voltage (V) in volts for the formula to give an answer in joules (J). Normally high-voltage capacitors are measured in microfarads or nanofarads.

Supplement No. 1 to § 799.1 [Amended]

48. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended under the Controls for ECCN heading revising the *Reason for Control* paragraph, as follows:

1567A Stored program controlled communication switching equipment or systems, and specially designed components therefor for the use of these equipment or systems.

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Controls for ECCN 1567A

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Reason for Control: National security; foreign policy.

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Supplement No. 1 to § 799.1 [Amended]

49. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1568A is amended under the Controls for ECCN heading revising the *Reason for Control* paragraph, as follows:

1568A Analog-to-digital and digital-to-analog converter equipment, position encoders and transducers, and specially designed components and test equipment therefor.

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Controls for ECCN 1568A

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Reason for Control: National security; foreign policy. Foreign policy controls apply to commodities described in paragraphs (a) and (e) in the List of this ECCN 1568A when usable in systems described in § 776.18(a) of this subchapter and having any of the following characteristics: Rated for continuous operation at temperatures from below −45 °C to above +55 °C; designed to meet military specifications for ruggedized equipment, or modified for military use; or designed for radiation resistance.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

50. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 4569B is amended by revising the heading of the ECCN and by revising the *Validated License Required* paragraph under the Controls for ECCN heading, as follows:

4569B Inverters, converters, frequency changers, and generators that have a multiphase electrical power output within the range of 600 to 2000 Hz and a total harmonic distortion of 10% or less.

Controls for ECCN 4569B

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Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

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Supplement No. 1 to § 799.1 [Amended]

51. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5570F is removed.

Supplement No. 1 to § 799.1 [Amended]

52. In Supplement No 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 5573F is added immediately following ECCN 1573A, as follows:

5573F Superconducting solenoidal electromagnets.

Controls for ECCN 5573F

Unit: Report in "number".

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $3,000 for Taiwan and for Country Group T and V countries listed in Supplement No. 4 to part 778; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Commodities Controlled by ECCN 5573F

Superconducting solenoidal electromagnets with all of the following characteristics:

(a) Capable of creating magnetic fields of more than 2 T (20 kilogauss);

(b) Having an inner diameter greater than 300 mm (12 in.);

(c) Having a length divided by diameter (L/D) greater than 2; and

(d) Capable of creating a magnetic field uniform to better than 1% over a central 50% of the inner volume.

Note: This ECCN 5573F does not control superconducting solenoidal electromagnets that are exported as integral parts of medical nuclear magnetic resonance (NFR) systems.

Supplement No. 1 to § 799.1 [Amended]

53. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5584F is amended by revising the heading of the ECCN and by revising the List of Equipment Controlled, as follows:

5584F Cathode ray oscilloscopes and specially designed components therefor.

* * * * *

List of Equipment Controlled by ECCN 5584F

Cathode ray oscilloscopes and specially designed components therefor, including associated plug-in units, external amplifiers, preamplifiers, sampling devices, and cathode ray tubes (CRTs) having any of the following characteristics:

(a) Non-modular analog oscilloscopes having a bandwidth exceeding 250 MHz (defined as the band of frequencies over which the deflection on the CRT does not fall below 70.7% of that at the maximum point measured with a constant input voltage to the amplifier);

(b) Modular analog oscilloscope systems having either of the following:

(1) Mainframes with a bandwidth exceeding 250 MHz; or

(2) Plug-in modules with an individual bandwidth exceeding 1 GHz;

(c) Containing or designed for use with CRTs with traveling wave or distributed deflection structures that:

(1) Use delay lines;

(2) Incorporate other techniques to minimize mismatch of fast phenomena signals to the deflection structure; or

(3) Incorporate microchannel-plate electron multipliers;

(d) Using sampling techniques for the analysis of recurring phenomena that increase the effective bandwidth of an oscilloscope to a frequency greater than 4 GHz; or

(e) Digital oscilloscopes and transient recorders using analog-to-digital conversion techniques capable of storing transients by sequentially sampling one-shot input signals at successive intervals of less than 20 nanoseconds (greater than 50 million samples per second), digitizing to 8 bits or greater resolution, and storing 256 or more samples.

Supplement No. 1 to § 799.1 [Amended]

54. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1585A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1585A Cameras, components and photographic recording media.

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Controls for ECCN 1585A

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Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply to items described in paragraphs (b) through (g) under the List of this ECCN.

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Supplement No. 1 to § 799.1 [Amended]

55. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 4585B is revised as follows:

4585B Cameras, components, and photographic recording media not controlled by ECCN 1585A.

Controls for ECCN 4585B

Unit: Report cameras in "number"; film in "sq. ft."; parts and accessories in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,500 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

List of Cameras, Components, and Photographic Recording Media Controlled by ECCN 4585B

(a) Cameras having recording rates or writing speeds, as follows:

(1) Mechanical framing cameras with recording rates greater than 225,000 frames per second;

(2) Mechanical streak cameras with writing speeds greater than 0.5 mm per microsecond;

(3) Parts and accessories for cameras described in paragraphs (a)(1) and (a)(2) of this List, including synchronizing electronics specially designed for this purpose and rotor assemblies (including turbines, mirrors, and bearings);

(b) Cameras having time resolution or frame exposure time, as follows:

(1) Electronic streak cameras capable of 50 ns or less time resolution;

(2) Electronic (or electrically shuttered) framing cameras capable of 50 ns or less frame exposure time, including single-frame cameras;

(3) Streak and framing tubes usable in cameras described in paragraphs (b)(1) and (b)(2) of this list.

Supplement No. 1 to § 799.1 [Amended]

56. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 5585C is removed.

Supplement No. 1 to § 799.1 [Amended]

57. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 4592B is removed and a new ECCN 5592F is added immediately following ECCN 4587B, as follows:

5592B Specially designed or prepared instruments capable of measuring pressures up to 3×10^5 (44 PSIA) newton per square meter to an accuracy of better than 1%, with corrosion-resistant pressure sensing elements constructed of nickel, nickel alloys, phosphor bronze, stainless steel, aluminum, or aluminum alloys, and such pressure sensing elements if supplied separately.

Controls for ECCN 5592F

Unit: Report in "$ value".

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $100 for Taiwan and Country Group T and V countries listed in Supplement No. 4 to part 778 of this subchapter; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

58. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 3604A is amended in the heading of the ECCN by revising the word "components" to read "compounds".

Supplement No. 1 to § 799.1 [Amended]

59. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), a new ECCN 4610B is added immediately following ECCN 1610A, as follows:

4610B High-purity (99.99%) bismuth (5-kilogram quantities or greater per year) with very low silver content (less than 10 parts per million).

Controls for ECCN 4610B

Unit: Report in "Kgs." or "lbs."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,500 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See part 773 of this subchapter.

Supplement No. 1 to § 799.1 [Amended]

60. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), a new ECCN 5611F is added immediately following ECCN 4610B, as follows:

5611F Parts made of tungsten, tungsten carbide, or tungsten alloys (greater than 90% tungsten) having a mass greater than 20 kilograms and a hollow cylindrical symmetry (including cylinder segments) with an inside diameter greater than 10 centimeters, but less than 30 centimeters.

Note: Parts specifically designed for use as weights or gamma ray collimators are not controlled by this ECCN 5611F.

Controls for ECCN 5611F

Unit: Report in "Kgs." or "lbs."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $500 for Taiwan and Country Group T & V countries listed in Supplement No. 4 to part 778 of this subchapter; $0 for all other destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See part 773 of this subchapter.

Supplement No. 1 to § 799.1 [Amended]

61. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), a new ECCN 5612F is added immediately following ECCN 5611F, as follows:

5612F Tantalum sheet of 20 centimeter diameter or greater (or other shapes from which a 20 centimeter diameter circle can be cut) with a thickness of 2.5 millimeters or greater.

Controls for ECCN 5612F

Unit: Report in "Kgs." or "lbs."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $1,000 for Taiwan and Country Group T & V countries listed in Supplement No. 4 to part 778 of this subchapter; $0 for all other destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See part 773 of this subchapter.

Supplement No. 1 to § 799.1 [Amended]

62. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), a new ECCN 4613B is added immediately following ECCN 5612F, as follows:

4613B Crucibles made of materials resistant to liquid fissile metals.

Controls for ECCN 4613B

Unit: Report in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: See part 773 of this subchapter.

List of Crucibles Controlled by ECCN 4613B

(a) Crucibles having a volume of 6.5 liters or less and made of or lined with any of the following materials:

(1) Calcium fluoride (CaF_2);

(2) Erbium oxide (ER_2O_3);

(3) Hafnium oxide (HfO_2);

(4) Magnesium oxide (MgO);

(5) Nitrided niobium-titanium-tungsten alloy (approximately 50 Nb:30Ti:20W);

(6) Yttrium oxide (Y_2O_3(;

(7) Zirconium oxide (ZrO_2);

(8) Calcium zirconate (Ca_2ZrO_3);

(b) Crucibles made of or lined with tantalum with a diameter of 150 mm (6 in.) or less, a wall thickness of 1.5 mm (0.06 in.) or greater, and a tantalum purity of 99.9% or greater.

Supplement No. 1 to § 799.1 [Amended]

63. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 4635B is removed.

Supplement No. 1 to § 799.1 [Amended]

64. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 4675B is amended by revising the heading of the ECCN, by adding a Note immediately following the heading of the ECCN, and by revising the *Validated License Required* paragraph under the Controls for ECCN heading, as follows:

4675B Cylindrical tubing, tube or solid cylindrical forms or forgings with a diameter between 75 mm (3 inches) and 400 mm (16 inches) made of aluminum alloy, capable of an ultimate tensile strength of 67,000 pounds per square inch or greater, or high-strength titanium alloys (e.g., Ti-6, A1-4 V, etc.), capable of an ultimate tensile strength of 140,000 pounds per square inch or greater.

Note: Alloys "capable of" a specified tensile strength include those having that strength at the time of export as well as those capable of attaining that strength as a result of annealing or similar treatment.

Controls for ECCN 4675B

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

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Supplement No. 1 to § 799.1 [Amended]

65. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 4676B is revised, as follows:

4676B Maraging steel (high strength) capable of an ultimate tensile strength of 2.050×10^9 N/m² (300,000 lbs./in²) or more, except in the form of parts in which no linear dimension exceeds 75 mm (3 inches).

Note: Steels "capable of" a specified tensile strength include those having that strength at the time of export as well as those capable of attaining that strength as a result of annealing or similar treatment.

Controls for ECCN 4676B

Unit: Report in "$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

66. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures), ECCN 4677B and ECCN 4678B are removed.

Supplement No. 1 to § 799.1 [Amended]

67. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals, and Their Manufactures), a new ECCN 5678F is added immediately following ECCN 4676B, as follows:

5678F Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, aluminum, or aluminum alloys specially designed for use with pressure-measuring equipment controlled under ECCN 5592F.

Controls for ECCN 5678F

Unit: Report in "$ value".

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit: $0 for all destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

68. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 6 (Metals, Minerals and Their Manufactures), ECCN 4698B is amended under the Controls for ECCN heading by revising the *Validated License Required* paragraph, as follows:

4698B Depleted uranium (any uranium containing less than 0.711% of the isotope (U-235), the following only: Shipments of more than 1,000 kilograms in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermo-electric generators, or packaging for the transportation of radioactive materials.

Controls for ECCN 4698B

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

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Supplement No. 1 to § 799.1 [Amended]

69. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 3709A is removed.

Supplement No. 1 to § 799.1 [Amended]

70. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metallcids, Petroleum, Products and Related Materials), ECCN 3711A is redesignated as ECCN 4711B and amended by revising the heading of the ECCN and by revising the Controls for ECCN heading, as follows:

4711B Chlorine trifluoride, except shipments of 5 kilograms or less.

Controls for ECCN 4711B

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Supplement No. 1 to § 799.1 [Amended]

71. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1715A is amended under the Controls for ECCN heading by revising the *Reason for Control* and *Special Licenses Available* paragraphs, as follows:

1715A Boron, as described in this entry.

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Controls for ECCN 1715A

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Reason for Control: National security.

Special Licenses Available: See part 773 of this subchapter.

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Supplement No. 1 to § 799.1 [Amended]

72. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), a new ECCN 4715B is added immediately following ECCN 1715A, as follows:

4715B Boron and boron compounds, mixtures, and "loaded" materials in which the boron-10 isotope is more than 20% of the total boron content.

Controls for ECCN 4715B

Unit: Report in "kgs." or "lbs."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $3,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Supplement No. 1 to § 799.1 [Amended]

73. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids Petroleum Products and Related Materials), ECCN 4720B is amended by revising the heading of the ECCN, as follows:

4720B Radioisotopes, accelerator-produced or naturally occurring, except those having an atomic number 3 through 83, and compounds and preparations thereof.

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Supplement No. 1 to § 799.1 [Amended]

74. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 4721B is amended under the Controls for ECCN heading by revising the *Validated License Required* paragraph, as follows:

4721B Helium isotopically enriched in the helium-3 isotope, in any form and a quantity greater than one gram, and whether or not admixed with other materials, or contained in any equipment or device.

Controls for ECCN 4721B

Unit: * * *

Validated License Required: Country Groups QSTVWYZ.

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Supplement No. 1 to § 799.1 [Amended]

75. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1763A is amended under the Controls for ECCN heading by revising the *Reason for Control* paragraph, as follows:

1763A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates, and such " composite" structures and laminates and "specially designed software" therefor.

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Controls for ECCN 1763A

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Reason for Control: National security; nuclear non-proliferation; foreign policy. Nuclear non-proliferation controls apply to " fibrous and filamentary materials" controlled by paragraph (a) in the List of this ECCN to all destinations except countries listed in Supplement No. 2 to part 773 of this subchapter. Foreign policy controls apply to materials described in paragraphs (c) and (d), in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

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Supplement No. 1 to § 799.1 [Amended]

76. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), a new ECCN 5763F is added immediately following ECCN 1763A, as follows:

5763F "Fibrous and filamentary materials", not controlled by ECCN 1763A, for use in composite structures and with a specific modulus of 3.18×10^6 m or greater and a specific tensile strength of 7.62×10^4 m or greater.

Controls for ECCN 5763F

Unit: Report in "Kgs." or "lbs."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778 of this subchapter.

GLV $ Value Limit; $1,500 for Taiwan and Country Group T and V countries listed in Supplemental No. 4 to part 778; $0 for all other destinations.

Processing Code: CM.

Reason for Control: Nuclear non-proliferation.

Special Licenses Available: None.

Note: Specific modulus is the Young's modulus in N/m^2 divided by the specific weight in N/m^3, measured at a temperature of $23 \pm 2°C$; specific tensile strength is the ultimate tensile strength in N/m^2 divided by specific weight N/m^3, measured at a temperature of $23 \pm 2°C$.

Dated: August 9, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administrator.

[FR Doc. 91-19376 Filed 8-27-91; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 771, 772, 773, 774, and 775

[Docket No. 910485-1085]

Revisions to the Special License Procedures; Elimination of Supplement No. 1 to Part 773 and Creation of a Certified Exporter and Consignee Procedure

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Extension of comment period.

SUMMARY: On May 2, 1991, the Bureau of Export Administration (BXA) published a rule in the **Federal Register** (56 FR 20154) that proposed to amend the Export Administration Regulations (EAR) to establish a Certified Exporter and Consignee (CEC) Procedure that would authorize exports and reexports of certain commodities by approved parties in the United States and abroad. This proposed rule listed a number of commodities that would be excluded from eligibility under the CEC procedure. Among the commodities proposed to be excluded from eligibility under the CEC procedure were commodities related to the design, development, production, or use of missiles and commodities subject to nuclear nonproliferation controls.

In addition, the proposed rule provided notice of BXA's intention to eliminate Supplement No. 1 to part 773, which lists commodities excluded from certain special license procedures. With the elimination of Supplement No. 1 to part 773, the same commodity exclusions applicable to the CEC Procedure would also apply to the Distribution License Procedure.

The proposed rule established a June 17, 1991, deadline for the submission of public comments on these changes.

On June 27, 1991, BXA published a final rule in the **Federal Register** (56 FR 29425) that revised certain Export Control Commodity Numbers (ECCNs) on the Commodity Control List (CCL) (Supplement No. 1 to § 799.1) to conform with U.S. foreign policy controls on commodities related to the design, development, production, or use of missiles. Elsewhere in this issue, BXA is publishing an interim rule that amends the CCL by revising the items that are subject to control for nuclear nonproliferation reasons. Since both of these rules affect the eligibility of certain commodities for the CEC and Distribution License Procedures, the comment period of the May 2, 1991, proposed rule is being extended until September 27, 1991.

DATES: Comments must be received by September 27, 1991.

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

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-2440.

Dated: August 9, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91-19377 Filed 8-27-91; 8:45 am]

BILLING CODE 3510-DT-M

federal register

Wednesday
August 28, 1991

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Chapter 1

Withdrawal of Certain Pre-1986 Proposed Rules; Opportunity for Public Comment; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR CH. 1

[Docket No. 91N-0300]

Withdrawal of Certain Pre-1986 Proposed Rules; Opportunity for Public Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of intent..

SUMMARY: The Food and Drug Administration (FDA) announces that it is beginning a comprehensive review of the agency's regulations process, including a review of the backlog of proposed rules that the agency has published in the **Federal Register** but for which no final rule or notice of withdrawal has been issued. As a first step in this process, the agency is reviewing all of the proposed rules that were published in the **Federal Register** on or before December 31, 1985, and that are not currently receiving high priority attention within the agency. These proposals have become outdated since their publication or a significant period of time has elapsed such that the agency would publish a new proposal or tentative final rule before proceeding to final action. Accordingly, the agency tentatively concludes, particularly in view of its limited resources, that further action to issue final rules based on these proposals is not warranted, and that some or all of the proposals should be formally withdrawn. Before proceeding, however, the agency invites comments concerning its intent to withdraw these proposed rules.

DATES: Comments by October 28, 1991.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, Division of Regulations Policy (HFC-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: FDA is beginning a comprehensive review of the agency's regulations process, including a review of the backlog of advance notices of proposed rulemaking, notices of proposed rulemaking, and other notices for which no final rule or notice of withdrawal has been issued. This review is partly in response to criticism that the agency's backlog of pending proposals dilutes the agency's ability to concentrate its attention on higher priority regulations mandated by statute or necessary to protect public health.

FDA's review encompasses all of the proposed rules that the agency has published in the **Federal Register** but for which no final rules or notices of withdrawal have been issued. As a first step in this process, the agency is reviewing all proposed rules that were published in the **Federal Register** on or before December 31, 1985, and that are not currently receiving high priority attention within the agency. Many of these pre-1986 proposals have become outdated in the time that has elapsed since their publication. Additionally, because of the age of these proposals, the agency would publish a new proposal or tentative final rule to obtain further comment before proceeding to final action. In view of these factors and limited agency resources, FDA tentatively concludes that further action to issue final rules based on some or all of these proposals is not warranted. The agency invites public comment on whether these proceedings should be continued.

Because of the agency's limited resources and changing priorities, FDA has been unable to consider, in a timely manner, the issues raised by the comments on these proposals and either complete the rulemaking or withdraw the proposals. In many cases, it is unlikely that the agency will have an opportunity to consider these issues in the foreseeable future. Although not required to do so by the Administrative Procedure Act or by regulations of the Office of the Federal Register, the agency believes that the public interest is best served by withdrawing these pre-1986 proposed rules. This action would eliminate the uncertainty that may be presented by the fact that the agency has not issued final rules based on these proposals. This uncertainty may inhibit agency or private sector action to resolve issues by means other than those set out in the agency's proposed rule. The agency also believes that public confidence in the agency's processes is undermined when the agency initiates, but does not complete, a rulemaking proposal and fails to give public notice that it does not intend to issue a final rule.

In some instances, the agency has already completed action on alternatives, e.g., the issuance of guidelines or inclusion of provisions in related regulations, that obviated completion of the rulemaking. In other instances, the proposed rule may concern a subject of continuing interest to FDA and the public but for which the agency has no current plans to handle through a final rule based upon the pre-1986 proposal.

If the agency does withdraw these pre-1986 proposed rules, this action would not preclude the agency from reinstituting proceedings to promulgate rules concerning the issues addressed in the proposal sometime in the future. Should the agency decide to undertake such rulemaking, it will repropose the actions and provide new opportunities for comment. Moreover, some of these proposals were issued in response to citizen petitions. The agency's current action would not preclude interested persons from filing new petitions on any of the issues covered by the proposed rules that FDA intends to withdraw.

The preambles to some of the proposals FDA is considering withdrawing contain statements of policy or guidance to the regulated industry on various matters. In some cases, these statements are obsolete and can no longer be properly relied upon. In other cases, the preambles may still reflect the current position of FDA on the matter addressed. In some instances, the agency might proceed with the rulemaking, but would need to issue a new proposal. The only intended effect of a final decision by the agency to withdraw any of its rulemaking proposals is to make clear that the agency no longer intends to proceed to a final regulation based on the withdrawn proposal. Withdrawal of a proposal is not intended to affect whatever utility the preamble statements may currently have as indications of FDA's position on a matter at the time the proposal was published.

For the reasons set out above, and under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, the agency announces its intent to withdraw the following proposed rules, published in the **Federal Register** on the dates indicated:

Title	Docket No.	FR publication date and cite
Prescription Drugs; Proposed Changes in Labeling Requirements Prescription Drugs	85N-0358	Nov. 10, 1961, 26 FR 10601.
Prescription Drugs; Further Proposals to Amend Labeling Requirements	85N-0358	May 10, 1962, 27 FR 4482.

Title	Docket No.	FR publication date and cite
Methyl Salicylate; Oil of Wintergreen; Notice of Proposal to Establish Tolerances for Residues	91N-0301	Sept. 26, 1962, 27 FR 9521.
Antibiotics in Combination with Analgesic Substances, Antihistaminics, and Caffeine; Proposal to Delete from List of Oral Drugs Acceptable for Certification.	91N-0302	Aug. 17, 1963, 28 FR 8471.
Food Additives in Animal Feed; Proposed Antibiotics for Growth Promotion and Feed Efficiency	91N-0304	Nov. 19, 1964, 29 FR 15538.
Tests, Methods of Assay and Certification of Certain Antibiotic Drugs	85N-0380	Oct. 6, 1965, 30 FR 12746.
Certain Drug-Labeling Exemptions; Proposed Termination	85N-0356	Nov. 23, 1966, 31 FR 14849
Drugs; Current Good Manufacturing Practice in Manufacture, Processing, Packing or Holding; Repackaged Tablets or Capsules.	85N-0359	Mar. 2, 1967, 32 FR 3470.
Timed-Release Dosage Forms of Drugs; Statement Regarding New-Drug Status	91N-0307	Sept. 5, 1967, 32 FR 12756.
Promotional Labeling of Oral Contraceptives; Proposed Statement of Policy	85N-0383	Sept. 13, 1967, 32 FR 13008.
Drugs for Human Use; Drug Efficacy Study Implementation; Announcement and Proposal Regarding Methylergonovine Maleate Tablets and Methylergonovine Maleate Injection.	91N-0309	June 5, 1968, 33 FR 8348.
Kanamycin Sulfate; Kanamycin B Content Testing Method	91N-0310	Apr. 26, 1969, 34 FR 6983.
Pyrimethamine, Sulfaquinoxaline; Proposal to Revoke Exemption from Certification	91N-0311	Mar. 25, 1971, 36 FR 5619.
Xylitol; Proposed Revocation of Food Additive Regulation	89N-0421	Oct. 20, 1971, 36 FR 20306.
Legal Status of Approved Labeling for Prescription Drugs; Prescribing for Uses Unapproved by the Food and Drug Administration.	91N-0312	Aug. 15, 1972, 37 FR 16503.
Food Additives; Proposed Revocation of Use of Morpholine	85N-0363	Nov. 3, 1972, 37 FR 23456.
Labeling or Misbranding of Drugs; Misleading Proprietary or Trade Names	85N-0357	Mar. 27, 1974, 39 FR 11298.
2-Mercaptoimidazoline; Use in Closures and Product Delivery Systems for Drugs and Cosmetics and in Components of Medical Devices.	91N-0255	May 2, 1974, 39 FR 15306.
Intramammary Infusion Products for Treating Mastitis; Proposed Revocation and Amendment of Antibiotic Certification Provisions and Related Regulations.	85N-0360	Aug. 30, 1974, 39 FR 31647.
Aflatoxin in Shelled Peanuts and Peanut Products Used as Human Food; Proposed Tolerance	78N-0048	Dec. 6, 1974, 39 FR 42748.
Conditions for Marketing Human Prescription Drugs; Proposed Rulemaking and Notice of Enforcement Policy for Drugs Subject to the Effectiveness Requirements of the Drug Amendments of 1962.	75N-0052	June 20, 1975, 40 FR 26142.
Animal Food or Feed; Prohibited Substances	75N-0180	Sept. 9, 1975, 40 FR 41797.
Methadone; Proposal to Amend Procedures for Denying or Revoking Approval of Applications to Receive Shipments.	75N-0151	Nov. 7, 1975, 40 FR 52049.
Drained Weights for Processed Fruits and Vegetables; Standards of Fill of Container and Label Statement	75P-0166	Nov. 7, 1975, 40 FR 52172.
Chloroform in Contact With Food; Proposal to Amend Food Additive Regulations	76N-0097	Apr. 9, 1976, 41 FR 15029.
Human Drugs; Current Good Manufacturing Practice in the Manufacture, Processing, Packing, or Holding of Large Volume Parenterals.	76N-0099	June 1, 1976, 41 FR 22202.
Infant Foods; Percentage Declaration of Ingredients	76P-0329	Sept. 7, 1976, 41 FR 37595.
Infant and Junior Foods; Establishment of Common or Usual Name	76P-0330	Sept. 7, 1976, 41 FR 37593.
Saccharin and its Salts	76N-0510	Jan. 7, 1977, 42 FR 1486.
Administrative Practices and Procedures; Publicity Policy	76N-0478	Mar. 4, 1977, 42 FR 12436.
Over-The-Counter Drugs; General Conditions for Use and Labeling of Inactive Ingredients	77N-0010	Apr. 12, 1977, 42 FR 19156.
Saccharin and its Salts	77N-0085	Apr. 15, 1977, 42 FR 19996.
Ionizing Radiation Therapy Equipment; Notice of Intent to Propose Rules and Develop Guidelines	77N-0031	Mar. 22, 1977, 42 FR 15428.
Butylated Hydroxytoluene; Use Restrictions	77N-0003	May 31, 1977, 42 FR 27603.
Enriched Rice; Proposal to Revise Standard	77N-0116	July 15, 1977, 42 FR 36487.
Drugs for Human and Veterinary Use; Public Disclosure of Specifications	77N-0124	July 15, 1977, 42 FR 36485.
New Drugs for Investigational Use; Prompt Reporting of Animal Studies and Data	77N-0059	July 15, 1977, 42 FR 36490.
New Animal Drugs; Bovine Teat Dips	76N-0286	Aug. 9, 1977, 42 FR 40217.
New Drugs for Investigational Use; Availability of Draft of Bioresearch Monitoring Data Collection Form	77N-0190	Aug. 16, 1977, 42 FR 41301.
Brown and Yellow Mustard and Their Derivatives; Proposed Affirmation of GRAS Status as Direct Human Food Ingredients.	77N-0033	Aug. 26, 1977, 42 FR 43092.
Annatto Extract, Paprika Oleoresin, and Turmeric Oleoresin; Removal of Provisions for Trichloroethylene	75P-0132	Sept. 27, 1977, 42 FR 49464.
Trichloroethylene; Removal from Food Additive Use	76N-0469	Sept. 27, 1977, 42 FR 49465.
Trichloroethylene in Human Drug and Cosmetic Products; Declaration of New Drug Status and Determination of Status in Cosmetics.	77N-0029	Sept. 27, 1977, 42 FR 49467.
Trichloroethylene; Prohibition in Animal and Pet Food	75P-0132	Sept. 27, 1977, 42 FR 49468.
Trichloroethylene in Animal Drug Products; Proposed Declaration of New Animal Drug Status	76N-0476	Sept. 27, 1977, 42 FR 49470.
Clinical Investigators; Proposed Establishment of Regulations on Obligations of Sponsors and Monitors	77N-0195	Sept. 27, 1977, 42 FR 49612.
Pasteurized Process Cheese and Cheese Products; Proposed Revision of Definitions and Standards of Identity	77P-0070	Oct. 4, 1977, 42 FR 53970.
Skim Milk Cheese for Manufacturing; Proposal to Amend Identity Standard	77P-0071	Oct. 4, 1977, 42 FR 53979.
Preservation of Cosmetics Coming In Contact With The Eye; Intent to Propose Regulations and Request for Information.	77N-0105	Oct. 11, 1977, 42 FR 54837.
Gelatin; Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient	77N-0232	Nov. 11, 1977, 42 FR 58763.
Drained Weight or Solid Content Weight for Canned Fruits and Vegetables; Label Statement, Standards of Fill of Container, and Temporary Labeling Exemption.	77P-0097	Dec. 9, 1977, 42 FR 62282.
Sorbic Acid and Its Salts; Proposed Affirmation and Deletion of GRAS Status	77G-0379	Mar. 10, 1978, 43 FR 9823.
Public Information; Disclosure of Existence	77N-0248	Mar. 28, 1978, 42 FR 12869.
Food Labeling; Ingredient Labeling Exemptions	76P-0430 77P-0123 77P-0357	Apr. 7, 1978, 43 FR 14675.
X-Ray Intensifying Screens; Intent to Develop a Radiation Protection Recommendation	78N-0074	June 2, 1978, 43 FR 24066.
Ethylene Oxide, Ethylene Cholorhydrin, and Ethylene Glycol; Proposed Maximum Residue Limits and Maximum Daily Levels of Exposure.	77N-0424	June 23, 1978, 43 FR 27474.
Common or Usual Names for Vegetable Protein Products and Substitutes for Meat, Seafood, Poultry, Eggs, or Cheeses Which Contain Vegetable Protein Products as Sources of Protein; Tentative Final Rule.	75N-0205	July 14, 1978, 43 FR 30472.
Obligations of Clinical Investigators of Regulated Articles; Proposed Establishment of Regulations	77N-0278	Aug. 8, 1978, 43 FR 35210.
Bioresearch Monitoring Program; Clarification of Part Designation	78N-0282	Sept. 26, 1978, 43 FR 43468.
Orange B; Termination of Listing	78C-0216	Oct. 3, 1978, 43 FR 45611.
Estrogenic, Oral Contraceptive, and Progestational Drug Products; Proposed Requirements for Patient Labeling	78N-0274	Oct. 13, 1978, 43 FR 47198.
Tocopherols and Derivatives; Proposed Affirmation of GRAS Status for Certain Tocopherols and Removal of Certain Others from GRAS Status as Direct Human Food Additives.	78N-0213	Oct. 27, 1978, 43 FR 50193.
2-Nitropropane; Proposed Removal from Food Additive Use	78N-0112	Dec. 1, 1978, 43 FR 56247.
Estrogens to Treat Postpartum Breast Engorgement; Proposed Requirements for Patient Labeling	78N-0383	Dec. 5, 1978, 43 FR 56906.
Status of Injectable Animal Drugs; Intent Regarding Sterility and Pyrogenicity of Injectable Animal Drugs	78N-0267	Dec. 15, 1978, 43 FR 58591.
Recombinant DNA; Intent to Propose Regulations	78N-0012	Dec. 22, 1978, 43 FR 60134.

Title	Docket No.	FR publication date and cite
Estradiol Benzoate, Progesterone, Testosterone Propionate, and Estradiol Monopalmitate for Use in Food-Producing Animals.	78N-0435	Jan. 5, 1979, 44 FR 1381.
Diagnostic Ultrasound Equipment; Intent to Propose Rules and Develop Regulations	78N-0288	Feb. 13, 1979, 44 FR 9542.
Cellulose Derivatives; Affirmation of GRAS Status	78N-0144	Feb. 23, 1979, 44 FR 10751.
New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Postponement of Final Action.	77N-0076	Mar. 6, 1979, 44 FR 12208.
Medical Devices; Classification of pH Catheter Probes	78N-1419	Mar. 9, 1979, 44 FR 13303.
Medical Devices; Classification of Catheter Guide Holders	78N-1425	Mar. 9, 1979, 44 FR 13309.
Medical Devices; Classification of Electrocardiograph Conducting Media	78N-1455	Mar. 9, 1979, 44 FR 13337.
Requirements for Estrogen Labeling Directed to Patients	78N-0303	Apr. 17, 1979, 44 FR 22752.
Protection of Human Subjects; Proposed Establishment of Regulations	78N-0031	Apr. 24, 1979, 44 FR 24106.
Glycerophosphates; Proposed Affirmation and Deletion of GRAS Status	78N-0335	May 15, 1979, 44 FR 28336.
Lard and Lard Oil; Proposed Affirmation of GRAS Status as Indirect Human Food Ingredients	78N-0336	May 18, 1979, 44 FR 29102.
Hydrazine; Proposed Removal from Food Additive Use	78N-0208	June 12, 1979, 44 FR 33693.
Hydrazine in Human Drug Products; Declaration of New Drug Status	78N-0384	June 12, 1979, 44 FR 33694.
Lakes of Color Additives; Intent to List	79N-0043	June 22, 1979, 44 FR 36411.
Medical Devices; Classification of Iron Kinetics Tests	78N-1870	Sept. 11, 1979, 44 FR 52992.
Medical Devices; Classification of Red Cell Survival Tests	78N-1875	Sept. 11, 1979, 44 FR 52997.
Medical Devices; Classification of Systems for the Identification of Hepatitis B Antigen	78N-1934	Sept. 11, 1979, 44 FR 53056.
Medical Devices; Classification of Nonindwelling Blood Nitrogen Partial Pressure (PN2) Analyzer	78N-1661	Nov. 2, 1979, 44 FR 63309.
Medical Devices; Classification of Gas Cylinders	78N-1801	Nov. 2, 1979, 44 FR 63421.
Medical Devices; Classification of Gas Cylinder Holders	78N-1802	Nov. 2, 1979, 44 FR 63422.
Procedures to Minimize Medical X-Ray Exposure of the Human Embryo and Fetus; Recommendations for Medical Radiation Exposure of Women of Childbearing Potential.	75N-0340	Nov. 20, 1979, 44 FR 66616.
Sodium Dithionite and Zinc Dithionite; Proposed Affirmation of GRAS Status	79N-0095	Jan. 25, 1980, 45 FR 6117.
Biological Products; Labeling Standards; Position and Prominence of Proper Name	79N-0263	Jan 25, 1980, 45 FR 6120.
Medical Devices; Voluntary Standards Development; Requests for Data and Information on In Vitro Diagnostics	80N-0100	Feb. 1, 1980, 45 FR 7493.
Devices Used as a Radiation Source (In Combination With a Psoralen Drug) in the Photochemotherapy for Psoriasis; Intent to Propose Rules and Develop Recommendations.	79N-0013	Feb. 8, 1980, 45 FR 8870.
Additional Standards for Human Blood and Blood Products; Antihemophilic Factor (Human)	79N-0326	Apr. 4, 1980, 45 FR 22975.
Diluents for Cosmetic Color Additive Mixtures; Intent to Propose Rules; Request for Information	78N-0390	Apr. 22, 1980, 45 FR 26977.
Substances Prohibited from Use in Animal Food or Feed; Tentative Final Rule	75N-0180	Apr. 29, 1980, 45 FR 28349.
Allergenic Products; Proposed Testing and Labeling Requirements	79N-0410	May 2, 1980, 45 FR 29305.
Quality Control Testing of Platelet Concentrate (Human) and Cryoprecipitated Antihemophilic Factor (Human)	80N-0035	July 8, 1980, 45 FR 45924.
Blood and Blood Components; Error and Accident Reports	79N-0094	Aug. 8, 1980, 45 FR 52821.
Food Labeling; Net Weight Labeling Requirements	79N-0292	Aug. 8, 1980, 45 FR 53023.
Caffeine; Deletion of GRAS Status; Proposed Declaration That No Prior Sanction Exists, and Use on an Interim Basis Pending Additional Study.	80N-0418	Oct. 21, 1980, 45 FR 69817.
Shipping Temperature Requirements for Certain Biological Products	80N-0497	Dec. 30, 1980, 45 FR 85785.
Japan Wax; Proposed Deletion From GRAS Status as an Indirect Human Ingredient	80N-0196	July 9, 1982, 47 FR 29965.
Apple Juice and Concentrated Apple Juice; Possible Establishment of Standards	82N-0218	Aug. 13, 1980, 47 FR 35234.
Thiodipropionic Acid and Dilaural Thiodipropionate; Proposed Removal of GRAS Status	80N-0361	Aug. 13, 1982, 47 FR 35240.
Zinc Salts; Proposed Affirmation of GRAS Status	82N-0167	Oct. 26, 1982, 47 FR 47441.
Zinc Salts; Proposed Affirmation of GRAS Status	82N-0167	Oct. 26, 1982, 47 FR 47441.
Ascorbic Acid and its Sodium and Calcium Salts, Erythorbic Acid and its Sodium Salt, and Ascorbyl Palmitate; Proposed Affirmation of GRAS Status and Removal of Calcium Ascorbate From the List of GRAS Ingredients.	82N-0246	Jan. 14, 1983, 48 FR 1735.
Biotin; Proposed Affirmation of GRAS Status	78N-0308	Jan. 14, 1983, 48 FR 1739.
Glycerin; Affirmation of GRAS Status as a Direct Human Food Ingredient	78N-0348	Feb. 8, 1983, 48 FR 5758.
Regenerated Collagen; Proposed GRAS Status as a Direct Human Food Additive	82N-0219	Apr. 26, 1983, 48 FR 18833.
Medical Devices; Notice of Intent to Initiate Proceedings to Require Premarket Approval of Preamendments Devices.	83N-0240	Sept. 6, 1983, 48 FR 40272.
Clarification of Potency Standard for Certain Antibiotic Drugs	83N-0301	Dec. 2, 1983, 48 FR 54364.
Protein Hydrolystates and Enzymatically Hydrolyzed Animal (Milk Casein) Protein; Proposed GRAS Status	82N-0006	Dec. 8, 1983, 48 FR 54990.
Cheese and Related Cheese Products; Repeal of Four Class Standards for Identity	80N-0372	Apr. 23, 1984, 49 FR 17017.
Hydrochloric Acid; Proposed Affirmation of GRAS Status as Direct Human Food Ingredient	80N-0148	Apr. 26, 1984, 49 FR 17966.
Margarine; Proposal to Amend the Standard of Identity	82P-0186	Oct. 30, 1984, 49 FR 43560.
Unmodified Food Starches and Acid-Modified Starches; Proposed Affirmation of GRAS Status as Direct and Indirect Human Food Ingredients.	84N-0341	Apr. 1, 1985, 50 FR 12821.

This procedure to review and, in some or all cases, withdraw the pre-1986 proposed rules listed above is part of FDA's overall plan to review the regulations process. In addition to a review of the backlog of regulations, FDA will be developing criteria and internal procedures for deciding whether to initiate rulemaking proceedings and for setting priorities among and managing its inventory of pending proceedings. The agency will also be examining its internal processes to see if they can be streamlined or made more efficient.

The agency considers the following factors, among others, to be relevant in determining the needs and priorities for current and future regulations development: (1) Whether rulemaking is required by statute; (2) the public health significance of the issue to be addressed; (3) the importance of the proposed rule to the agency's management and operations; (4) public interest in the proposed rules as expressed, for example, by petitions for regulations submitted by the industry and consumers; and (5) the regulatory impact of a proposed rule on business and the economy. FDA invites comments on the appropriateness of these factors and any additional factors the agency should consider in determining the need for and priorities among rulemaking proceedings.

Although the issuance of regulations to implement the agency's OTC drug review program will be included in the review of the agency's regulations process, this review will be handled separately because of the uniqueness of this program and the steps already in progress to complete the OTC drug review.

Interested persons may, on or before October 28, 1991, submit to the Dockets

Management Branch (address above) written comments concerning the agency's intent to withdraw the above listed proposed rules and other issues raised in this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and with the docket number of the individual proposed rule set out in the listing above if the comment relates to a specific proposal. FDA will consider any comments received and expects to publish a notice in the **Federal Register** by December 1, 1991, announcing the withdrawal of some or all of the proposed rules listed above. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 22, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-20666 Filed 8-27-91; 8:45 am]

BILLING CODE 4160-01-M

federal register

Wednesday
August 28, 1991

Part IV

The President

Proclamation 6327—National Rehabilitation Week, 1991

Federal Register
Vol. 56, No. 167
Wednesday, August 28, 1991

Presidential Documents

Title 3—

The President

Proclamation 6327 of August 23, 1991

National Rehabilitation Week, 1991

By the President of the United States of America

A Proclamation

Thanks, in large part, to the variety of rehabilitative programs and services that are available in the United States, millions of Americans with disabilities are leading fuller, more independent, and productive lives. These men and women are utilizing their knowledge and skills in virtually every field of endeavor, and our entire Nation is richer for their achievements. Thus, it is fitting that we pause to recognize the many dedicated professionals and volunteers who help to promote the rehabilitation of persons with disabilities.

Rehabilitation is a collaborative process that involves health care providers, therapists, educators, employers, and many others. For example, through advances in technology, scientists and engineers are helping persons with disabilities to overcome the physical barriers that once prevented them from participating in the mainstream of American life.

Effective rehabilitation technology and techniques are also helping to change the attitudinal barriers that have, in the past, limited opportunities for persons with disabilities. Today these members of our society are refuting age-old myths and misconceptions, proving that a disability need not be an obstacle to success. Continuing advances in rehabilitation services and in related education and research—coupled with implementation of the Americans with Disabilities Act of 1990—will further open the door to their social and economic advancement.

Of course, challenges remain in the effort to help more and more Americans with disabilities achieve their fullest potential. These challenges range from the development of a wider array of rehabilitation services to improved cooperation among human service agencies. Nevertheless, by working together, we can meet them.

In recognition of the courage and determination of persons with disabilities, and in honor of all those who assist in their rehabilitation, the Congress, by Senate Joint Resolution 72, has designated the week of September 15 through September 21, 1991, as "National Rehabilitation Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of September 15 through September 21, 1991, as National Rehabilitation Week. I encourage all Americans to observe this week with appropriate programs and activities, including educational activities that will heighten public awareness of the rehabilitative services that are available in this country and the many ways in which these services benefit persons with disabilities.

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

George Bush

[FR Doc. 91-20776
Filed 8-26-91; 2:38 pm]
Billing code 3195-01-M

Reader Aids

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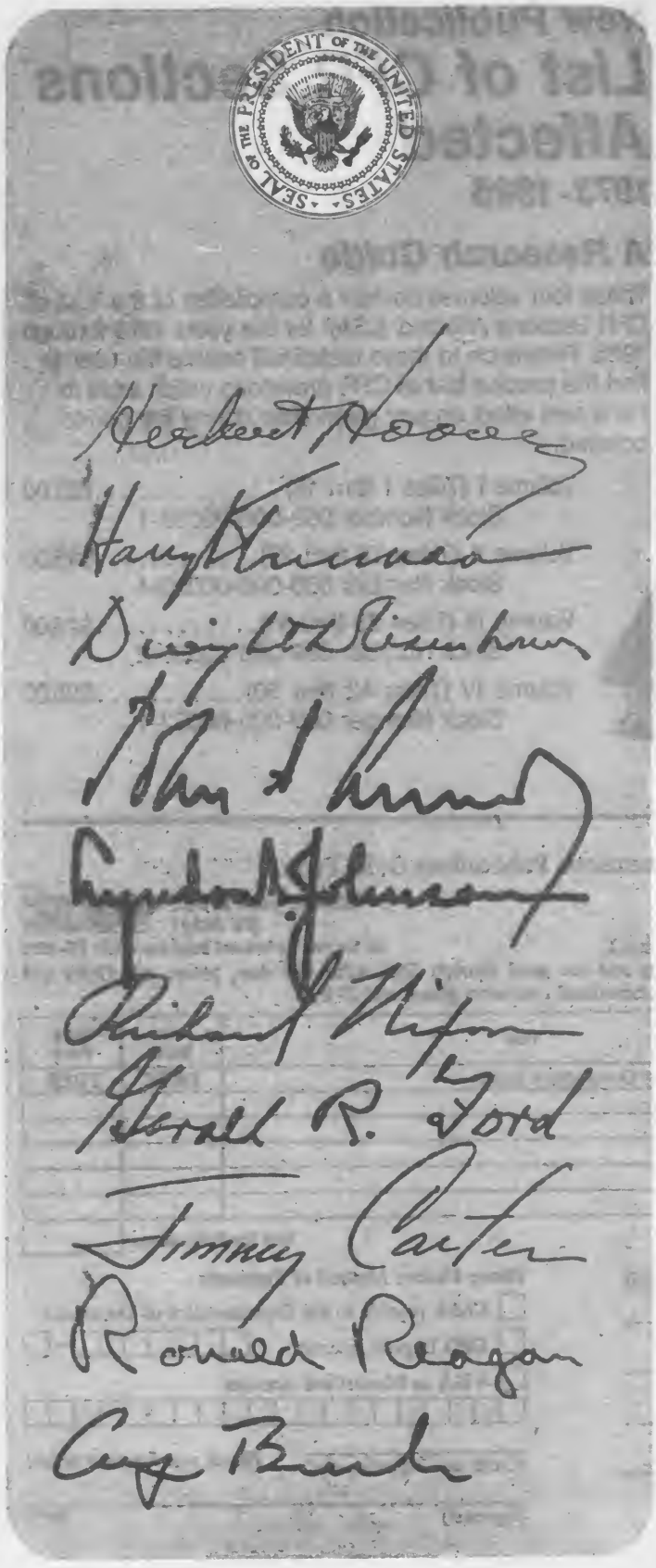

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