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

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC

WHEN: February 2 and March 5 at 9:00 a.m.
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC
RESERVATIONS: 202–523–4538

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

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law Numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 58, No. 15
Tuesday, January 26, 1993

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The current 18 percent per year federal credit union loan rate ceiling is scheduled to revert to 15 percent on March 9, 1993, unless otherwise provided by the NCUA Board (Board). A 15 percent ceiling would restrict certain categories of credit and adversely affect the financial condition of a number of federal credit unions. At the same time, prevailing market rates and economic conditions do not justify a rate higher than the current 18 percent ceiling. Accordingly, the Board hereby continues an 18 percent federal credit union loan rate ceiling for the period from March 8, 1993 through September 8, 1994. Loans and line of credit balances existing prior to May 15, 1987, may continue to bear their contractual rate of interest, not to exceed 21 percent. Further, the Board is prepared to reconsider the 18 percent ceiling at any time should changes in economic conditions warrant.

EFFECTIVE DATE: March 9, 1993.

ADDRESSES: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Lindsay L. Neunlist, at the above address. Telephone number: (202) 682–9640.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221, enacted in 1979, raised the loan interest rate ceiling for federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the Board to set a higher limit, after consultation with Congress, the Department of the Treasury, and other federal financial agencies, for a period not to exceed 18 months, if the Board should determine that: (i) Money market interest rates have risen over the preceding 6 months; and (ii) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in growth, liquidity, capital, and earnings.

On December 3, 1980, the Board determined that the foregoing conditions had been met. Accordingly, the Board raised the loan ceiling for 9 months to 21 percent. In the unstable environment of the first half of the 1980s, the Board extended the 21 percent ceiling four times. On March 11, 1987, the Board lowered the loan rate ceiling from 21 percent to 18 percent effective May 15, 1987. This action was taken in an environment of falling market interest rates from 1980 to early 1987. The ceiling has remained at 18 percent to the present.

The Board felt, and continues to feel that the 18 percent ceiling would fully accommodate an inflow of liquidity into the system, preserve flexibility in the system so that credit unions could react to any adverse economic developments, and would ensure that any increase in the cost of funds would not impinge on earnings of federal credit unions.

The Board would prefer not to set loan interest rate ceilings for federal credit unions. In the final analysis, the market sets the rates. The Board supports free lending markets and the ability of federal credit union boards of directors to establish loan rates that reflect current market conditions and the interests of credit union members. Congress has, however, imposed loan rate ceilings since 1934. In 1979, Congress set the ceiling at 15 percent but authorized the Board to set a ceiling in excess of 15 percent if the Board can justify it. The following analysis justifies a ceiling above 15 percent, but at the same time does not support a ceiling above the current 18 percent. The Board is prepared to reconsider this action at any time should changes in economic conditions warrant.

Justification for a Ceiling No Higher Than 18 Percent

Money Market Interest Rates

While money market rates are low right now, both long and short rates have increased in the last few months. Table 1 gives information on past interest rates. There is a general consensus among economists that money market rates will continue to rise as economic growth accelerates. Implied forward rates, the money market's best guess about where interest rates are going, are significantly higher over the next year. By the time this rule becomes effective, money markets will have experienced 6 months of rising rates. The Board is ready to revisit this issue should this expectation not be confirmed.

Liquidity, Capital, Earnings, and Growth of Individual Credit Unions

For at least 2,631 credit unions, market conditions call for rates on unsecured loans to be above 15 percent. For some of these credit unions, three factors combine to require interest rate charges above 15 percent in order to maintain liquidity, capital, earnings, and growth. First, loan balance. For these 2,631 credit unions, the average unsecured balance is $876. There are fixed costs of granting and processing a loan. Many of these costs are incurred regardless of the size of the loan. Expressed as a percentage of the loan balance on which interest will be collected, these costs can be very high on small loans. As one credit union states, "The total interest earned on a $200 loan at 17 percent for 12 months is $34. Even at 17 percent it costs us more to make the loan than we recover in interest income, assuming it does pay to maturity and is not charged off." The Functional Cost and Profit Analysis by the Federal Reserve System calculates the average cost to a credit union for making an installment loan to be $95.66, plus $5.49 per payment. The $34 does not even cover the cost of accepting the twelve payments.

TABLE 1.—MONEY MARKET INTEREST RATES

		3 mo. treasuries	6 mo. treasuries	1 yr. treasuries
October	1st week	2.69	2.82	3.02
	2nd week	2.76	2.88	3.09
	3rd week	2.90	3.01	3.26
	4th week	2.95	3.17	3.48
	5th week	2.94	3.19	3.50
November	1st week	3.03	3.23	3.58
	2nd week	3.08	3.30	3.64
	3rd week	3.16	3.37	3.73
	4th week	3.24	3.43	3.76
December	1st week	3.30	3.45	3.82
	2nd week	3.24	3.36	3.72
Increase, in basis pts., since trough		0.55	0.54	0.70

Many banks will not even consider loan applications for less than $1,000. Lowering the interest rate ceiling for credit unions will discourage them, too, from making these loans. Credit seekers' options will be reduced, with most of those affected having no choice but to turn to neighborhood lenders.

Second, credit risk. Loans to young members who have not yet established a credit history, and loans to those who have built weak credit histories carry high credit risk. Credit unions must charge rates high enough to cover higher-than-usual losses for such loans. There are undoubtedly more than 2,631 credit unions charging over 15 percent for unsecured loans to such members. Many credit unions have "Credit Builder" or "Credit Rebuilder" loans, but choose to report a lower rate loan product on the single line in the call report for unsecured loans.

Third, credit union size. Small credit unions have fewer loans over which to distribute their overhead costs.

Thus, small credit unions making small loans to borrowers with poor or no credit histories are struggling with far higher costs than the typical credit union. Both young people and lower income households have limited access to credit and, absent a credit union, often pay rates of 24 to 30 percent to small loan companies. Or they may be forced to resort to the check-cashing outlet where a post-dated check will be cashed at effective rates of 200, or even 300, percent. Therefore, rates between 15 and 18 percent are attractive to such members and help cover the credit unions' costs of providing this kind of credit.

NCUA staff is not aware of any complaints from members of those credit unions offering high-risk, high-interest rate loans.

Among the 2,631 credit unions charging more than 15 percent for unsecured loans, there are 704 credit unions who are charging 18 percent for their unsecured loans other than credit cards. Among the 704 are 179 credit unions with 20 percent or more of their assets in this kind of loan. For these credit unions, lowering their rates would damage their liquidity, capital, earnings, and growth. Table 2 shows tabulations on credit unions charging 18 percent, and how the percent of assets in unsecured loans goes down as credit union size goes up.

TABLE 2.—CREDIT UNIONS CHARGING 18 PERCENT ON UNSECURED LOANS, JUNE 1992

Asset size group	Total count of CUs of this asset size	Charging 18% on unsecured loans		More than 20% of assets in unsecured loans	
		Number	Percent	Number	Percent
Less than $500,000	1,840	121	6.6	60	49.6
$500,000 to $2 mln	2,886	191	6.6	67	35.1
$2 mln to $10 mln	4,351	248	5.7	48	19.4
$10 mln to $50 mln	2,707	108	4.0	4	3.7
$50 mln to $100 mln	493	15	3.0	.....	.....
$100 mln and up	490	21	4.3	.....	.....

At the same time, lowering the ceiling would not change the rates the vast majority of credit unions are charging, since they are already at or below market. In fact, in this circumstance, a ceiling can cause rates to be higher than they would have been without the ceiling. The closer a loan rate is to actual market rates, the more likely it is that the ceiling will act as a floor for rates. There are two reasons why this happens. First, setting a ceiling close to market rates creates the impression that the ceiling rate is the "federally approved" rate. Second, if credit unions feel they may not have the flexibility to raise rates in the near future should market rates rise unexpectedly, they are more likely to keep current rates higher than they otherwise would have as insurance against market rate increases.

In conclusion, the Board has continued the federal credit union loan interest rate ceiling of 18 percent per year for the period from March 9, 1993 through September 8, 1994. Loans and line of credit balances existing on May 15, 1987 may continue to bear their contractual rate, not to exceed 21 percent. Finally, the Board is prepared to reconsider the 18 percent ceiling at any time during the extension period, should changes in economic conditions warrant it.

Regulatory Procedures

Administrative Procedures Act

The Board has determined that notice and public comment on this rule are impractical and not in the public interest, 5 U.S.C. 553(b)(B). Due to the need for a planning period prior to the March 9, 1993 expiration date of the current rule, and the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, final action on the loan rate ceiling is necessary.

Regulatory Flexibility Act

For the same reasons, a regulatory flexibility analysis is not required, 5 U.S.C. 604(a). However, the Board has considered the need for this rule, and the alternatives, as set forth above.

Paperwork Reduction Act

There has been no change in the paperwork requirements.

Executive Order 12612

This final rule does not affect state regulation of credit unions. It implements provisions of the Federal Credit Union Act applying only to federal credit unions.

List of Subjects in 12 CFR Part 701

Credit unions, Loan interest rates.

By the National Credit Union Administration Board on January 14, 1993.

Becky Baker,

Secretary of the Board.

Accordingly, 12 CFR chapter VII, subchapter A is amended as set forth below:

PART 701—[AMENDED]

1. The authority citation for part 701 is amended to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, 1798, and Public Law 101–73. Section 701.6 is also authorized by 15 U S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601, et seq., 42 U.S.C. 1981 and 42 U.S.C. 3601–3610.

2. Section 701.21(c)(7)(ii)(C) is amended to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(7) * * *

(ii) * * *

(C) *Expiration.* After September 9, 1994, or as otherwise ordered by the NCUA Board, the maximum rate on federal credit union extensions of credit to members shall revert to 15 percent per year. Higher rates may, however, be charged, in accordance with paragraph (c)(7)(ii) (A) and (B) of this section, on loans and line of credit balances existing on or before September 9, 1994.

* * * * *

[FR Doc. 93–1487 Filed 1–25–93; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–244–AD; Amdt. 39–8475; AD 93–01–21]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A320 series airplanes. This action requires a close visual inspection to detect damage or blockage of the flexible hoses that connect the smoke detector to the air extraction duct in each lavatory and to detect contamination of the hoses, lavatory air extraction ducting, hose/duct connection, or inlet grid; and repair or replacement of discrepant parts. This amendment is prompted by a recent report of holes found in the flexible hoses connecting the smoke detector to the lavatory compartment air extraction duct, blockages of the flexible hoses and the hose/duct connection, and contamination of the air extraction ducting and inlet grid by dust and fibers. The actions specified in this AD are intended to prevent failure of the smoke detection system to provide warning of a fire in the lavatory.

DATES: Effective February 10, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 10, 1993.

Comments for inclusion in the Rules Docket must be received on or before March 29, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The DGAC advises that an operator of these airplanes reported that during landing approach, a fire occurred in a lavatory waste bin. The fire was extinguished by a flight attendant before the automatic waste bin fire extinguisher was triggered. During this incident, the smoke detection system provided no warning indication of smoke in the lavatory. During a subsequent examination of the airplane, holes were found in the flexible hoses connecting the smoke detector to the lavatory compartment air extraction duct. Results of further inspections of other lavatory installations revealed blockages of the flexible hoses and the hose/duct connection, as well as contamination of the air extraction ducting and the inlet grid by dust and fibers. These conditions, if not corrected, could result in failure of the smoke detection system to provide warning of a fire in the lavatory.

Airbus Industrie has issued All Operator Telex (AOT) 26–07, dated October 6, 1992, that describes procedures for a close visual inspection to detect damage or blockage of the flexible hoses that connect the smoke detector to the air extraction duct in each lavatory, and to detect contamination of the hoses, lavatory air extraction ducting, hose/duct connection, or inlet grid; and repair or replacement of discrepant parts. The DGAC classified this AOT as mandatory and issued French Airworthiness Directive 92–236–038(B), dated November 10, 1992, in order to assure the continued airworthiness of these airplanes in France.

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

that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the smoke detection system to provide warning of a fire in the lavatory. This AD requires a close visual inspection to detect damage or blockage of the flexible hoses that connect the smoke detector to the air extraction duct in each lavatory, and to detect contamination of the hoses, lavatory air extraction ducting, hose/duct connection, or inlet grid; and repair or replacement of discrepant parts. The actions are required to be accomplished in accordance with the AOT described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–244–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–01–21. Airbus Industrie: Amendment 39–8475. Docket 92–NM–244–AD.

Applicability: Model A320 series airplanes on which Modification 22561 has not been installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the smoke detection system to provide warning of a fire in the lavatory, accomplish the following:

(a) Within 450 hours time-in-service after the effective date of this AD, perform a close visual inspection to detect damage or blockage of the flexible hoses that connect the smoke detector to the air extraction duct in each lavatory, and to detect contamination of the hoses, air extraction ducting, hose/duct connection, or inlet grid, in accordance with Airbus Industrie All Operator Telex (AOT) 26–07, dated October 6, 1992.

(1) If any damaged hose is found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, repair or replace the damaged hose, in accordance with the AOT. If any damaged hose is repaired, that hose must then be replaced with a new hose within 400 hours time-in-service following the repair.

(2) If any blocked hose or contaminated hose, air extraction ducting, hose/duct connection, or inlet grid is found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, clean the blocked or contaminated part, in accordance with the AOT.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

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

(d) The inspection, repair, and replacement shall be done in accordance with Airbus Industrie All Operator Telex (AOT) 26–07, dated October 6, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on February 10, 1993.

Issued in Renton, Washington, on January 14, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1819 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 92–NM–243–AD; Amendment 39–8479; AD 93–01–25]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This action requires a one-time check to verify proper torque values and alignment of the corresponding witness mark on the connection on the fuel return line in the pylon, and retorquing and remarking, if necessary. This action also requires the performance of a leak check and replacement of the sealant, if necessary. This amendment is prompted by a report of an engine fire caused by a loose connection on the fuel return line in the pylon and the resultant failure of the pylon drain system to drain the leaking fuel. The actions specified in this AD are intended to prevent fuel leakage onto the engine and subsequent engine fire.

DATES: Effective February 10, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 10, 1993.

Comments for inclusion in the Rules Docket must be received on or before March 29, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–243–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The French DGAC advises that an operator of Model A320 series airplanes reported an engine fire during the final phase of landing. Investigation revealed that the fire was caused by a loose connection on the fuel return line in the engine pylon, which allowed fuel to leak into the pylon. Normally, both parts of the connection are marked with a red witness mark when tightened to a proper torque value. However, in this incident, although the red witness marks remained in alignment, the connection, which was only hand-tightened, remained loose.

Subsequent investigation revealed that the sealant was deteriorated in zone "A" of the pylon. This deteriorated sealant caused fuel to leak onto the engine and caused the engine fire.

These conditions, if not corrected, could result in fuel leakage onto the engine, and subsequently lead to an engine fire.

Airbus Industrie has issued All Operator Telex (AOT) 28–04, Revision 1, dated September 9, 1992, that describes procedures for a one-time check to verify proper torque values and alignment of the corresponding witness mark on the connection on the fuel return line in the pylon, and retorquing and remarking, if necessary. This AOT also describes procedures for the performance of a leak check and replacement of the sealant, if necessary. The French DGAC classified this AOT as mandatory and issued Airworthiness Directive 92–228–037(B) in order to assure the continued airworthiness of these airplanes in France.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent fuel leakage onto the engine and subsequent engine fire. This AD requires a one-time check to verify proper torque values and alignment of the corresponding witness mark on the connection on the fuel return line in the pylon, and retorquing and remarking, if necessary. This action also requires the performance of a leak check and replacement of the sealant, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice

must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–243–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–01–25. Airbus Industrie: Amendment 39–8479. Docket 92–NM–243–AD.

Applicability: Model A320 series airplanes, manufacturer's serial numbers 002 through 180, inclusive; 183 through 194, inclusive; 196 through 315, inclusive; 317 through 321, inclusive; 323 through 325, inclusive; and 328 through 334, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage onto the engine and the potential for an engine fire, accomplish the following:

(a) Within 500 hours time-in-service after the effective date of this AD, perform a torque check of the connection on the fuel return line at rib 9 in accordance with Airbus Industrie All Operator Telex (AOT) 28–04, Revision 1, dated September 9, 1992.

(1) If the red witness marks are incorrectly aligned, prior to further flight, accomplish paragraphs (a)(1)(i) and (a)(1)(ii) of this AD in accordance with the AOT.

(i) Tighten the connection to torque values between 478 and 522 inch-pounds.

(ii) Remove the existing witness marks and remark with an indelible marker pen.

(2) If the red witness marks are correctly aligned, this AD does not require retorquing or remarking.

(b) Within 500 hours time-in-service after the effective date of this AD, perform a leak check of the sealant in pylon zone "A", in accordance with All Operator Telex (AOT) 28–04, Revision 1, dated September 9, 1992.

(1) If any leak is found or if the water level drops while conducting the leak check, prior to further flight, replace the sealant in accordance with the AOT.

(2) If no leak is found and if the water level does not drop while conducting the leak check, this AD does not require replacement of the sealant.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

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

(e) The checks, torquing, marking, and replacement shall be done in accordance with Airbus Industrie All Operator Telex 28–04, Revision 1, dated September 9, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 10, 1993.

Issued in Renton, Washington, on January 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1818 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 92–NM–164–AD; Amendment 39–8461; AD 93–01–07]

Airworthiness Directives; Beech Model 400A and 400T Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model 400A and 400T series airplanes, that requires replacing the existing link assembly of the uplink mechanism of the main landing gear door with an improved link assembly. This amendment is prompted by an investigation, conducted by the manufacturer, which revealed that uplock links installed on certain airplanes were undersized. The actions specified by this AD are intended to prevent snagging of the end clevis fitting and kinking (and subsequent failure) of the emergency release cable of the main landing gear, which may prevent extension of the main landing gear.

DATES: Effective March 2, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Aerospace Engineer, Wichita Aircraft Certification Office, Propulsion Branch, ACE–140W, FAA, Small Airplane Directorate, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Beech Model 400A and 400T series airplanes was published in the **Federal Register** on October 15, 1992 (57 FR 47299). That action proposed to require replacing the existing link assembly of the uplink mechanism of the main landing gear door with an improved link assembly.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 38 Beech Model 400A and 400T series airplanes of the affected design in the worldwide fleet. The FAA estimates that 27 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $700 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $27,810, or $1,030 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–01–07. Beech Aircraft Corporation: Amendment 39–8461. Docket 92–NM–164–AD.

Applicability: Model 400A series airplanes having serial numbers RK–1 through RK–32, inclusive; and Model 400T series airplanes having serial numbers TT–1 through TT–6, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent snagging of the end clevis fitting and kinking (and subsequent failure) of the emergency release cable of the main landing gear, which may prevent extension of the main landing gear, accomplish the following:

(a) Within 100 flight hours after the effective date of this AD, replace the existing link assembly from the uplink mechanism of the main landing gear door with an improved link assembly, in accordance with Beechcraft Service Bulletin 2447, dated June 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

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

(d) The replacement shall be done in accordance with Beechcraft Service Bulletin 2447, dated June 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 2, 1993.

Issued in Renton, Washington, on December 29, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1815 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 92–NM–56–AD; Amendment 39–8465; AD 93–01–11]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, that requires repetitive X-ray inspections to detect cracks in the left and right wing upper skins, joint straps, and stringers, and repair of any cracks found. This amendment is prompted by results of wing fatigue tests, which indicate the possibility of cracking in both the left and right wing upper skin panels beneath the upper center line butt strap. Fatigue cracking in these areas, if not detected and corrected, could result in reduced structural integrity of the wings.

DATES: Effective March 2, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414,

Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes was published in the **Federal Register** on June 5, 1992 (57 FR 23971). That action proposed to require repetitive X-ray inspections to detect cracks in the left and right wing upper skins, joint straps, and stringers, and repair of any cracks found.

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

One commenter supports the proposed rule.

A second commenter agrees that the inspections proposed in the AD are necessary. However, the commenter suggests that the appropriate method for requiring such inspections is through the use of Certification Maintenance Requirements (CMR) items that are contained in the existing "FAA-approved" Maintenance Review Board (MRB) Report. The commenter notes that since CMR items are contained in the MRB Report, that Report cannot be used for its intended purpose, which is to allow an operator to develop a maintenance program and administer that program in conjunction with an approved reliability program. The commenter considers that since the placement of CMR items in the MRB Report ties the operator to the MRB Report for as long as the operator uses that aircraft type, accountability for CMR items could be established through existing program management procedures. In addition, the commenter remarks that since the FAA accepts the use of CMR items, it has set a precedent for continued use of these items. The commenter implies that since the inspections required by British Aerospace Inspection Service Bulletin 57–41, dated July 26, 1991, which is the subject of this AD, will become part of the MRB Report, issuance of an AD would be redundant and would necessitate increased tracking and documentation requirements for the operator.

The FAA does not concur. CMR items are intended to be repetitive inspections or component replacements for equipment, systems, and installations. Accomplishment of these CMR items would ensure that the statistical probability of certain failures that could occur during operation of the airplane does not exceed the limitations specified in § 25.1309 of the Federal Aviation Regulations (FAR), which is applicable to the design and approval of transport category airplanes.

These CMR items are based on statistical safety analyses of airplane electrical, electronic, hydraulic, pressurization, and propulsion systems. These analyses must be completed and approved by the FAA prior to its issuance of an airplane Type Certificate (TC). Following issuance of the TC, those inspections, component replacements, or overhaul interval requirements for airplane systems that are based on in-service experience with the airplane, but that do not result in re-evaluation of the basic statistical analysis on which approval of the system is based, do not qualify as CMR items.

The inspection proposed in this notice is not related to compliance of the airplane design with the statistical evaluation requirements of Section 25.1309 for equipment, systems, and installations. For this reason, the proposed inspection does not qualify as a CMR item. Therefore, the FAA considers issuance of an AD necessary in this instance, since AD's are the means by which accomplishment of procedures and adherence to specific compliance times are made mandatory.

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

The FAA estimates that 74 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane (excluding access and reinstallation time) to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $16,280 for each inspection cycle. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–01–11. British Aerospace: Amendment 39–8465. Docket 92–NM–56–AD.

Applicability: All Model BAe 146–100A, –200A, and –300A series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Prior to the accumulation of 24,000 landings, or within 60 days after the effective date of this AD, whichever occurs later: Perform an X-ray inspection to detect fatigue cracks in the left and right wing upper skins, joint straps, and stringers in the vicinity of

rib "O," in accordance with British Aerospace Inspection Service Bulletin 57–41, dated July 26, 1991.

(1) If cracks are found, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 9,000 landings, in accordance with the service bulletin.

(2) If no cracks are found, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 9,000 landings, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The inspections shall be done in accordance with British Aerospace Inspection Service Bulletin 57–41, dated July 26, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 2, 1993.

Issued in Renton, Washington, on January 8, 1993.

N.B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1812 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 92–NM–159–AD; Amendment 39–8466; AD 93–01–12]

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers Model SD3–60 series airplanes, that requires modification of the power supply to the emergency lighting system and a subsequent functional test of the system. This amendment is prompted by reports indicating that the emergency lighting system will not illuminate automatically if normal airplane power is interrupted or lost. The actions specified by this AD are intended to prevent failure of the emergency lights to illuminate during an emergency.

DATES: Effective March 2, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Jenkins, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Short Brothers Model SD3–60 series airplanes was published in the **Federal Register** on August 27, 1992 (57 FR 38796). That action proposed to require modification of the power supply to the emergency lighting system and a subsequent functional test of the system.

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

One commenter supports the proposed rule, but requests that the FAA determine if the applicability of the proposal should be extended to include Model SD3–30 series airplanes, since these airplanes are similar in design to Model SD3–60 series airplanes. In response to this request, the FAA has investigated the emergency lighting systems on Model SD3–30 series airplanes. The FAA has determined that the emergency lighting system on those airplanes is in compliance with Section 25.812 of the Federal Aviation Regulations (FAR), which specifies the requirements for emergency lighting systems on transport-category airplanes. The configuration of the system on the Model SD3–30 is not subject to the unsafe condition identified in the system of the Model SD3–60.

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

The FAA estimates that 86 airplanes of U.S. registry will be affected by this AD, that it will take approximately 28 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $132,440, or $1,540 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39

of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93-01-12. Short Brothers, PLC: Amendment 39-8466. Docket 92-NM-159-AD.

Applicability: Model SD3-60 series airplanes; as listed in Short Brothers Service Bulletin SD360-33-23, dated June 1, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the emergency lights to illuminate during an emergency, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the power supply to the emergency lighting system and perform a functional test of the system, in accordance with paragraph 2.A., Part A, B, C, or D, as applicable, of the Accomplishment Instructions of Short Brothers Service Bulletin SD360-33-23, dated June 1, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

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

(d) The modification and functional test shall be done in accordance with Short Brothers Service Bulletin SD360-33-23, dated June 1, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3719. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 2, 1993.

Issued in Renton, Washington, on January 8, 1993.

N.B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-1817 Filed 1-25-93; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 39

[Docket No. 92-NM-90-AD; Amendment 39-8464; AD 93-01-10]

Airworthiness Directives; British Aerospace Model DH/HS/BAe 125 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model DH/HS/BAe 125 series airplanes, that requires modification of the Generator Control Unit (GCU) circuitry. This amendment is prompted by a report of damaged, loose, or disconnected GCU ground (earth) wires, resulting in excessive voltage output, and subsequent overheating of the battery and/or damage to voltage-sensitive avionics equipment. The actions specified by this AD are intended to prevent uncontrolled excessive voltage, which could result in overheating of the battery and/or damage to voltage-sensitive avionics equipment.

DATES: Effective March 2, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Bud Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model DH/HS/BAe 125 series airplanes was published in the **Federal Register** on September 24, 1992 (57 FR 44141). That action proposed to require modification of the Generator Control Unit (GCU) circuitry.

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

The commenter supports the proposed rule.

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

The FAA estimates that 360 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the modification on 351 airplanes, and 30 work hours per airplane to accomplish the modification on the other 9 airplanes. The average labor rate is $55 per work hour. Required parts will cost approximately $1,250 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $850,950, or between $2,350 and $2,900 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93-01-10. British Aerospace: Amendment 39-8464. Docket 92-NM-90-AD.

Applicability: Model DH/HS/BAe 125 series airplanes equipped with Garrett engines; as listed in British Aerospace Service Bulletin SB.24-289-3267A, B, C, D, E, F & G, Revision 1, dated April 10, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent battery overheating and/or damage of voltage sensitive avionics equipment, accomplish the following:

(a) Within 180 days after the effective date of this AD, modify the Generator Control Circuit (GCU) circuitry in accordance with British Aerospace Service Bulletin SB.24-289-3267 A, B, C, D, E, F & G, Revision 1, dated April 10, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

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

(d) The modification shall be done in accordance with British Aerospace Service Bulletin SB.24-289-3267 A, B, C, D, E, F & G, Revision 1, dated April 10, 1992. (NOTE: The issue date of this British Aerospace Service Bulletin SB.24-289-3267 A, B, C, D, E, F & G is indicated only on "page 1 of 57"; no other page of this document is dated.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 2, 1993.

Issued in Renton, Washington, on January 8, 1993.

N.B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-1813 Filed 1-25-93; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 39

[Docket No. 92-NM-170-AD; Amendment 39-8460; AD 93-01-06]

Airworthiness Directives; Short Brothers Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Short Brothers Model SD3-60 series airplanes, that currently requires repetitive inspections of the horizontal stabilizer rear spar web fuselage attachment fitting area for defective rivets, and repair, if necessary. This amendment clarifies that the aft face of the front spar web need not be inspected. This amendment is prompted by a report that a requirement to inspect the aft face of the front spar web was inadvertently included in the existing AD. The actions specified by this AD are intended to ensure that only the appropriate area of the horizontal stabilizer is inspected.

DATES: Effective March 2, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Bud Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-07-14, Amendment 39-6176 (54 FR 12588, March 28, 1989), which is applicable to certain Short Brothers Model SD3-60 series airplanes, was published in the Federal Register on October 15, 1992 (57 FR 47302). The action proposed to clarify that the aft face of the front spar web need not be inspected.

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

The commenter supports the proposed rule.

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

The FAA estimates that 51 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $22,440, or $440 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6176 (54 FR 12588, March 28, 1989), and by adding a new airworthiness directive (AD), amendment 39–8460, to read as follows:

93–01–06. Short Brothers, PLC: Amendment 39–8460. Docket 92–NM–170–AD. Supersedes AD 89–07–14, Amendment 39–6176.

Applicability: Model SD3–60 series airplanes, serial numbers SH3601 through SH3691, inclusive, and SH3694; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the structural integrity of the horizontal stabilizer attachment to the fuselage, accomplish the following:

(a) Visually inspect, in accordance with the schedule listed below, the forward face of the rear spar web for defective rivets between fuselage attach fitting at 12.5" left and right of the airplane center line, in accordance with Shorts Service Bulletin SD360–55–16, dated April 1988.

(1) For airplane serial numbers SH3680 through SH3691, inclusive, and SH3694, and for airplanes affected by this AD that have used only a 15 degree takeoff flap setting since before or upon reaching 5,000 flights, inspection is required within the next 100 flights after April 28, 1989 (the effective date of AD 89–07–14, Amendment 39–6176), or prior to the total accumulation of 12,000 flights, whichever occurs later. Repeat the inspection at intervals not to exceed 1,500 flights.

(2) For all other airplanes affected by this AD, inspection is required within the next 100 flights after April 28, 1989, or prior to the accumulation of 8,000 flights, whichever occurs later. Repeat the inspection at intervals not to exceed 1,000 flights.

(b) If defective rivets are found, prior to further flight, repair in accordance with Part II of Shorts Service Bulletin SD360–55–16, dated April 1988. After repair, continue inspections in accordance with paragraph (a) of this AD.

(c) The repetitive inspections required by paragraph (a) of this AD may be terminated following completion of the modification of the horizontal stabilizer spar webs (Modification 7998), in accordance with Shorts Service Bulletin SD360–55–12, Revision 2, dated November 1986.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(f) The inspections, repair, and modification shall be done in accordance with the following Shorts service bulletins, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
SD360–55–16, April 1988	1–7	Original	Apr. 1988.
SD360–55–12, Revision 2, November 1986	1, 4–5, 7–44	2	Nov. 1986.
	2–3, 6	Original	Apr. 1986.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3719. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 2, 1993.

Issued in Renton, Washington, on December 29, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–1816 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket No. 87P–0422/CP]

Chlorofluorocarbon Propellants in Self-Pressurized Containers; Addition to List of Essential Uses

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: This document codifies the Food and Drug Administration's (FDA's) decision to grant the petition of Fisons Corp. to add metered-dose nedocromil sodium for oral inhalation to the list of products containing a chlorofluorocarbon (CFC) propellant for an essential use. Essential use products, which are listed in 21 CFR Part 2—General Administrative Rulings and Decisions, at § 2.125(e) (21 CFR 2.125(e)), are exempt from FDA's ban on the use of CFC propellants in FDA-regulated products. In the agency's decision that is now being codified, FDA concluded that the product provides a unique health benefit that would be unavailable without the use of a chlorofluorocarbon.

DATES: Effective January 26, 1993; written comments by March 29, 1993.

ADDRESSES: Submit 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: Philip L. Chao, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 7500

Standish Pl., Rockville, MD 20855, 301–295–8046.

SUPPLEMENTARY INFORMATION:

I. Background

Under § 2.125 *Use of chlorofluorocarbon propellants in self-pressurized containers* (21 CFR 2.125), any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant for a nonessential use is adulterated or misbranded, or both, under the Federal Food, Drug, and Cosmetic Act (the act). This prohibition is based on scientific research indicating that chlorofluorocarbons may reduce the amount of ozone in the stratosphere and thereby increase the amount of ultraviolet radiation reaching the earth. An increase in ultraviolet radiation may increase the incidence of skin cancer, change the climate, and produce other adverse effects of unknown magnitude on humans, animals, and plants.

Section 2.125(d) exempts from the adulteration and misbranding provisions of § 2.125(c) certain products containing chlorofluorocarbon propellants that FDA determines provide a unique health benefit that would not be available without the use of a chlorofluorocarbon. These products are referred to in the regulation as essential uses of chlorofluorocarbon and are listed in § 2.125(e).

Under § 2.125(f), any person may petition the agency to request additions to the list of uses considered essential. To demonstrate that the use of a chlorofluorocarbon is essential, the petition must be supported by an adequate showing that: (1) There are no technically feasible alternatives to the use of a chlorofluorocarbon in the product; (2) the product provides a substantial health, environmental, or other public benefit unobtainable without the use of the chlorofluorocarbon; and (3) the use does not involve a significant release of chlorofluorocarbons into the atmosphere or, if it does, the release is warranted by the benefit conveyed.

II. Petition Received by FDA

Fisons Corp. submitted a petition under § 2.125(f) and part 10 (21 CFR part 10) requesting an addition to the list of chlorofluorocarbon uses considered essential. The petition is on file under the docket number appearing in the heading of this document and may be seen in the Dockets Management Branch (address above). The petition requested that metered-dose nedocromil sodium for oral inhalation be included in § 2.125(e) as an essential use of chlorofluorocarbon. The petition contained a discussion supporting the position that there are no technically feasible alternatives to the use of chlorofluorocarbon in the product. It included information showing that no alternative delivery systems (e.g., the hand-operated pump) or other substitute propellants (e.g., compressed gases) can dispense the drug for effective inhalation therapy as safely and uniformly as chlorofluorocarbon propellants. Also, the petition stated that the product provided a substantial health benefit that would not be obtainable without the use of chlorofluorocarbon. In this regard, the petition contained information to support the use of this product as a bronchodilator. Further, the petition stated that, unlike a bulb nebulizer, the vial and the mouthpiece for the product are portable and can be easily carried in a purse or a pocket. The petition asserted that metered-dose nedocromil sodium would not result in a significant release of chlorofluorocarbon propellants into the atmosphere because the total daily amount released per product is estimated to be approximately 1.088 grams.

III. FDA's Review of the Petition

Because the agency agreed that, for some asthmatic patients, the use of metered-dose nedocromil sodium provides a special benefit that would be unavailable without the use of chlorofluorocarbons, FDA has granted the petition: FDA also agrees that the use of a metered-dose delivery system for this product does not involve a significant release of chlorofluorocarbons into the atmosphere. Therefore, FDA is including metered-dose nedocromil sodium administered by oral inhalation in the list of essential uses of chlorofluorocarbon propellants. The purpose of this document is to add the product to the list in § 2.125(e), for public information purposes.

IV. Effective Date

The petition was granted on December 12, 1992. This codification is effective January 26, 1993. FDA had previously allowed a period for public comment prior to exempting a product from the agency's ban on the use of CFC propellants. Upon further consideration, however, FDA has concluded that a comment period prior to granting an essential use exemption is not necessary. A decision to grant an essential use petition for a CFC propellant is not a rule but an informal decision. Therefore, additions to the list of essential use products (21 CFR 2.125(e)) differ from most material published in the *Code of Federal Regulations* in that the items listed in § 2.125(e) are not rules, but are listings in the *Code of Federal Regulations* to facilitate public availability of important information. Furthermore, because these products are considered essential, providing for a comment period prior to granting an exemption would be contrary to the public interest, particularly for those patients who gain important therapeutic benefits from these products, and would be adversely affected from any delay in their availability. Therefore, FDA will no longer provide for a comment period before granting an essential use exemption. However, FDA is providing a 60–day period for public comment for views on whether the exemption should be modified or revoked.

V. Request for Comments

Interested persons may, on or before March 29, 1993, submit to the Dockets Management Branch (address above) written comments regarding this rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action under 21 CFR part 25 and has concluded that this action will not have a significant effect on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 2 is amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

1. The authority citation for 21 CFR part 2 continues to read as follows:

Authority: Secs. 201, 301, 305, 402, 408, 409, 501, 502, 505, 507, 512, 601, 701, 702,

704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 335, 342, 346a, 348, 351, 352, 355, 357, 360b, 361, 371, 372, 374); 15 U.S.C. 402, 409.

2. Section 2.125 is amended by adding new paragraph (e)(13) to read as follows:

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

* * * * *

(e) * * *

(13) Metered-dose nedocromil sodium human drugs administered by oral inhalation.

* * * * *

Dated: January 15, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–1792 Filed 1–25–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 172

[Docket No. 90F–0446]

Food Additives Permitted for Direct Addition to Food for Human Consumption: Dimethyl Dicarbonate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethyl dicarbonate as a yeast inhibitor in dealcoholized and low alcohol wines. This action is in response to a petition filed by Miles, Inc. (formerly Mobay Corp.).

DATES: Effective January 26, 1993; written objections and requests for a hearing by February 25, 1993.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–207), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9515.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 20, 1990 (55 FR 48292), FDA announced that a food additive petition (FAP 0A4213) had been filed by Mobay Corp., 1575 I St. NW., Washington, DC 20005, proposing that § 172.133 *Dimethyl dicarbonate* (21 CFR 172.133) be amended to provide for the safe use of dimethyl dicarbonate as a yeast inhibitor in dealcoholized and low alcohol wine. The petitioner currently operates under the name of Miles, Inc.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed use of dimethyl dicarbonate in dealcoholized wine and low alcohol wine is safe. Dealcoholized wine and low alcohol wine will generally be consumed as substitutes for, rather than in addition to, wine. Thus, these uses will not increase consumer exposure to dimethyl dicarbonate or its decomposition products compared to that already deemed safe at the time § 172.133 was promulgated (53 FR 41325, October 21, 1988).

Dimethyl dicarbonate is unstable in aqueous solution and breaks down almost immediately after addition to beverages. In wine and other aqueous liquids, the principal breakdown products are methanol and carbon dioxide. Methyl ethyl carbonate, as well as carbomethoxy amino- and hydroxy-adducts of amines, sugars, and fruit acids, are also formed in minor amounts. Dimethyl carbonate is present as an impurity in dimethyl dicarbonate. Dimethyl dicarbonate also may react with traces of ammonia or ammonium ions in wines to form trace quantities of methyl carbamate, a compound that has been shown to cause cancer in laboratory animals (Ref. 1). In dealcoholized wine and low alcohol wine, the level of methyl carbamate formation is expected to be similar to that formed in standard wine because the critical parameters governing methyl carbamate formation, Ph and ammonium ion concentration, are not expected to be altered by the dealcoholization process (reverse osmosis) employed in the manufacture of dealcoholized wine and low alcohol wine (Ref. 2).

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. Under section 409(c)(5)(A) of the act (21 U.S.C. 348(c)(5)(A)), among the relevant factors to be considered in determining whether a proposed use of a food additive is safe is the probable consumption of the additive and of any substance formed in or on food because of the use of the additive. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not--and cannot--require proof beyond any possible doubt that no harm will result under any conceivable circumstance." (H. Rept. 2284, 85th Cong., 2d sess. 4 (1958)). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the Food Additives Amendment (section 409(c)(3)(A) of the act) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contained a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer but that contains a carcinogenic impurity, or whose use will lead to the formation of trace amounts of a carcinogenic substance in or on food, may be properly evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F. 2d. 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA s action and affirmed the listing regulation.

II. Safety of the Petitioned Use

In evaluating the safety of the food additive, dimethyl dicarbonate, FDA reviewed the byproducts formed during hydrolysis and the reaction of the food additive with other constituents found in wines. The results of that evaluation were discussed in the preamble to the final rule establishing § 172.133 and are included in the discussion below.

FDA finds that the petitioned use level of 100 to 200 parts per million (ppm) of dimethyl dicarbonate will result in virtually no exposure of consumers to the additive itself. Dimethyl dicarbonate is unstable in aqueous solution and breaks down almost immediately after addition to the food (beverages) to form primarily carbon dioxide and methanol. The instability of dimethyl dicarbonate is confirmed by data submitted by the petitioner showing that dimethyl dicarbonate cannot be detected by analysis of food to which it has been added (Ref. 2).

To establish that dimethyl dicarbonate is safe for use as an inhibitor of yeast in wine, dealcoholized wine, and low alcohol wine, the petitioner submitted data from acute, subchronic, and chronic toxicity studies. In the subchronic and chronic toxicity studies, rats received either water, orange juice, or wine treated with 4,000 ppm of dimethyl dicarbonate (20 times the proposed use level in wine or wine substitutes) as the drinking fluid while the controls received water, orange juice, or wine. These studies showed no adverse effects from water, orange juice, or wine treated with dimethyl dicarbonate.

In another chronic toxicity study, dogs received either water or orange juice treated with 4,000 ppm of dimethyl dicarbonate as the drinking fluid. This study also revealed no adverse effects from the water or orange juice treated with dimethyl dicarbonate.

The petitioner also submitted a two-generation reproduction study in which rats received drinking fluids that were treated with dimethyl dicarbonate (4,000 ppm). This study revealed no treatment-related adverse effects. These chronic and other multigeneration (lifetime) studies of dimethyl dicarbonate also did not produce any evidence that dimethyl dicarbonate is a carcinogen.

III. Safety of Substances That May Be Present in Wine or Wine Substitutes Due to the Use of the Additive

Because dimethyl dicarbonate may contain impurities and decomposes into other chemical species when added to aqueous solutions, such as wine, dealcoholized wine, and low alcohol wine, FDA has also evaluated the safety of the chemicals found in wine, dealcoholized wine, and low alcohol wine as a result of the use of dimethyl dicarbonate.

A. Minor Impurities and Reaction Products

The minor reaction products formed in wine, dealcoholized wine, and low alcohol wine from the use of dimethyl dicarbonate include methylethyl carbonate and carbomethoxy amino- and hydroxy-adducts of amines, sugars, and naturally occurring fruit acids such as lactic acid, citric acid, and ascorbic acid (vitamin C). Dimethyl carbonate, an impurity in dimethyl dicarbonate, is also present in minor amounts in wine, dealcoholized wine, and low alcohol wine, as a result of the use of the additive.

The petitioner presented data to show that the addition of 100 to 200 ppm of dimethyl dicarbonate to wine, dealcoholized wine, or low alcohol wine is effective in inhibiting the growth of most species of yeast found in such products. According to the U.S. Department of Agriculture Food Consumption Survey, 1977 1978, the 90th percentile consumption level for "drinkers only" of these products is 232 grams per person per day (g/person/day). Based upon a level of addition of dimethyl dicarbonate of 100–200 ppm, on consumption of 232 g of wine or wine substitutes, and on data submitted by the petitioner, the agency estimates that the maximum daily consumption of the minor reaction products resulting from the addition of dimethyl dicarbonate to wine or wine substitutes is from 2 to 5 milligrams per person per day (mg/person/day). Because these reaction products were formed in the dimethyl dicarbonate-treated fluids (water and wine) used in the subchronic and chronic rat and dog studies submitted by the petitioner, the safety of the reaction products is evidenced by the findings of no treatment-related adverse effects in these studies.

The safety of methylethyl carbonate was further evaluated in a subchronic toxicity study in rats in which the substance was added to the drinking water at levels of 0, 1,000, 3,000, and 10,000 ppm for 3 months. The average daily consumption of methylethyl carbonate ranged from approximately 0.1 mg/kilogram (kg) to 1 g/kg body weight/day. No adverse effects in rats from drinking the water treated with methylethyl carbonate were seen in this study.

A teratogenicity study was conducted with pregnant female rats of the Long-Evans FB30 strain. The animals were fed diets containing methylethyl carbonate at levels of 0, 100, 1,000, and 10,000 ppm. No signs of toxicity were noted. However, there was a dose-related reduction in fluid intake and a slight decrease in body weight gain in pregnant females receiving methylethyl carbonate throughout the gestational period. The reduced fluid intake appears to be attributable to the bad taste and smell of the water containing the methylethyl carbonate. All test and control females were sacrificed at day 20, Cesarean sections were performed, and the fetuses were examined. No embryotoxic or teratogenic effects were found in this examination.

To establish the safety of dimethyl carbonate, the petitioner submitted a subchronic study in rats in which dimethyl carbonate was incorporated into the drinking water at levels of 0, 1,000, 3,000 and 10,000 ppm. An increase in body weight gain was observed in male rats at all treatment levels. No adverse effects were found in this study at any level.

B. Carbon Dioxide

Carbon dioxide, one of the principal hydrolysis products of dimethyl dicarbonate, is a natural product of animal metabolism. Carbon dioxide is present in solution as the carbonate and bicarbonate anions, however, and is routinely used to carbonate beverages (Ref. 3). The levels of carbon dioxide present in wine or wine substitutes as a result of the use of dimethyl dicarbonate are well below the levels found in carbonated beverages. Thus, the agency has no evidence that carbon dioxide would be harmful under the intended conditions of use.

C. Methanol

Methanol is the principal reaction product of concern resulting from the addition of dimethyl dicarbonate to wine. Theoretically, complete hydrolysis of dimethyl dicarbonate would yield 2 moles of methanol and 2 moles of carbon dioxide from each mole of dimethyl dicarbonate added to wine or wine substitute. On a weight basis, this yield corresponds to approximately 48 mg of methanol for each 100 mg of the additive added to a liter (L) of wine or wine substitute. To estimate a worst-case exposure of consumers to methanol from the proposed use of the additive, the agency assumed complete hydrolysis of dimethyl dicarbonate to methanol and carbon dioxide. Based on the addition of 100 to 200 mg dimethyl dicarbonate to 1 L of wine or wine

substitute and on a beverage intake of 232 g/person/day (90th percentile consumption level), the agency estimates that the daily intake of methanol from this use of dimethyl dicarbonate would range from 11 to 22 mg/day (0.18 to 0.36 mg/kg body weight for a 60-kg person) (Ref. 4).

The agency considers the daily intake of methanol from the addition of dimethyl dicarbonate to wine or wine substitutes, even when added to the amount of methanol naturally present in other foods such as fresh fruits and vegetables and grain alcohol, to be safe. The no observed adverse effect level (NOAEL) in humans for methanol is 71 to 84 mg/kg body weight (Ref. 5). Because the NOAEL is derived from studies in humans, an acceptable daily intake (ADI) of 7.1 to 8.4 mg/kg body weight (426 to 500 mg/person for a 60-kg adult) is derived from the NOAEL by using a 10-fold safety factor (Ref. 5). The levels of methanol that occur naturally in fruit juices average 140 mg/L (140 ppm) and an additional 50 to 100 mg/L (50 to 100 ppm) may result from the use of dimethyl dicarbonate in wine (Ref. 4). Based upon consumption data from the U.S. Department of Agriculture Food Consumption Survey, 1977–1978, the total methanol exposure from these sources would be up to 50 to 60 mg/person/day (or one-tenth of ADI). There is, therefore, a large margin of safety between the methanol intake from the subject uses and the amount which can be safely ingested.

D. Methyl Carbamate

1. *Carcinogenicity.* Reaction of dimethyl dicarbonate with naturally occurring ammonia or ammonium ions in wine or wine substitutes may result in the formation of trace amounts of methyl carbamate, which has been shown to be carcinogenic in rats (Ref. 1). FDA has evaluated the safety of this reaction byproduct using risk assessment procedures to estimate the upper-bound limit of risk presented by the presence of this chemical as an impurity in wine treated with dimethyl dicarbonate. Based on this evaluation, the agency has concluded that under the proposed conditions of use, dimethyl dicarbonate is safe.

2. *Basis for evaluation.* The risk assessment procedures that FDA used in this evaluation are similar to the methods that it has used to examine the risk associated with the presence of minor carcinogenic impurities in various food and color additives (see e.g., 49 FR 13018, April 2, 1984). This evaluation of the risk from the use of dimethyl dicarbonate has two aspects: (1) Assessment of the probable exposure to methyl carbamate produced in food from the use of dimethyl dicarbonate; and (2) extrapolation of the risk observed in the animal bioassay to the conditions of probable exposure to humans.

Based on an estimate of the level of methyl carbamate that may be produced from the addition of dimethyl dicarbonate to wine or wine substitutes as a yeast inhibitor, as well as the estimated average daily intake of wine over a lifetime, FDA estimated the worst-case exposure to methyl carbamate to be 2.4 micrograms per person per day (µg/person/day) (Refs. 4, 6, and 7).

The agency used data in a carcinogenesis bioassay report on methyl carbamate conducted by the National Toxicology Program (NTP) (Ref. 6) to estimate the upper-bound level of lifetime human risk from exposure to this chemical stemming from the proposed use of dimethyl dicarbonate. The bioassay report consisted of results from studies of methyl carbamate in both rats and mice. The bioassay in B6C3F1 mice was reported by NTP to be negative. The bioassay of methyl carbamate in F344/N rats consisted of a 2-year chronic study and a parallel study with sacrifices at 6, 12, and 18 months. The 2-year study employed a high dosage level of 200 mg/kg body weight. The parallel study employed one dosage level of 400 mg/kg body weight. In the 2-year chronic study, an increase in hepatocellular neoplasms was found at the high dose in female F344/N rats. In the parallel study, hepatocellular neoplasms were found at 6 months in both sexes, and the sacrifices at the later times revealed a classic progression from benign to highly malignant neoplasms dependent upon the length of time of exposure. The NTP concluded that "there was clear evidence of carcinogenic activity for male and female F344/N rats given methyl carbamate as indicated by incidences of hepatocellular neoplastic nodules and hepatocellular carcinoma" (Ref. 1).

3. *Results of evaluation.* Using the NTP bioassay report, the Center for Food Safety and Applied Nutrition's Quantitative Risk Assessment Committee (QRAC) estimated the human cancer risk from the potential exposure to methyl carbamate stemming from the proposed use of dimethyl dicarbonate as a yeast inhibitor in wine (Ref. 7).

The QRAC used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment through zero to cover the very low doses expected to be encountered under the proposed conditions of use of the additive. This procedure is not likely to underestimate the actual risk from the very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and a maximum 200 ppm level of use of the food additive.

Based on a worst-case exposure to methyl carbamate (2.4 µg/person/day), FDA estimated, using the linear proportional model, that the upper-bound limit of individual lifetime risk from potential exposure to methyl carbamate is 2.4×10^{-8} or less than 1 in 42 million. Because of numerous conservatisms in the exposure estimate, lifetime averaged individual daily exposure to methyl carbamate is expected to be substantially less than the estimated daily intake, and, therefore, the calculated upper-bound risk would be less than 1 in 42 million. Thus, the agency concludes that there is a reasonable certainty of no harm from the exposure to methyl carbamate that may result from the use of up to 200 ppm of dimethyl dicarbonate in wine, dealcoholized wine, or low alcohol wine.

4. *Need for specifications.* The agency also has considered whether a specification is necessary to control the amount of methyl carbamate that may be formed in wine or wine substitutes treated with the additive. The agency finds that the amount of methyl carbamate formed in wine or wine substitutes may be controlled by limiting the amount of dimethyl dicarbonate that may be added to the wine or wine substitute to 200 ppm or less rather than setting a specification for the level of methyl carbamate impurity in the wine product. The petitioner submitted data to show that the maximum level of methyl carbamate impurity formed in commercial wine is less than 10 parts per billion for each 100 ppm of dimethyl dicarbonate added to wine. A 200 ppm level of dimethyl dicarbonate is sufficient to control the growth of all significant genera and species of yeast in wine and in wine substitutes that have been adequately pasteurized or ultra-filtered according to current good manufacturing practices to reduce the microbial count to 500 per milliliter or less.

E. Ethyl Carbamate

The agency is aware that ethyl carbamate, an animal carcinogen, occurs

as a "natural" contaminant in wine. The agency is in the process of obtaining as much information as possible about the levels of such ethyl carbamate contamination. In addition, in cooperation with the wine industry, a program has been instituted to find and control the formation of ethyl carbamate so as to reduce its concentration to the lowest levels possible (Ref. 8).

The petitioner submitted studies in which gas chromatography/mass spectroscopy was used to measure the formation of ethyl carbamate (urethane) in dimethyl dicarbonate treated-wine and model wine solutions, in the presence of high concentrations of ammonium ions. These studies, conducted over a 12-month period, did not show formation of ethyl carbamate in excess of endogenous levels found in wine. These studies also did not show evidence of formation of ethyl carbamate by transesterification of methyl carbamate. Thus, there is no evidence that the use of dimethyl dicarbonate affects the level of ethyl carbamate in wine.

IV. Conclusion on Safety

FDA has evaluated all of the data in the petition pertaining to the use of dimethyl dicarbonate in dealcoholized wine and low alcohol wine and has determined that the additive is safe for its proposed use.

To ensure the safe use of the additive, FDA, under 21 U.S.C. 348(c)(1)(A) and in accordance with section 403 of the act (21 U.S.C. 343), finds that it is necessary to require that the label of the package containing the additive include, in addition to other information required by the act: (1) The name of the additive, "dimethyl dicarbonate," and (2) directions to provide that not more than 200 ppm of dimethyl dicarbonate will be added to the dealcoholized wine or low alcohol wine.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. NTP Technical Report on the Toxicology and Carcinogenesis Studies of Methyl Carbamate in F344/N Rats and B6C3F1 Mice, NTP, U.S. Department of Health and Human Services, Report No. 328, 1986.

2. Memorandum from the Food and Color Additives Review Section to the Direct Additives Branch, "Dimethyl Dicarbonate (DMDC) in Dealcoholized and Low-alcohol Wines," dated October 4, 1990.

3. Mones, Martha, "Carbonated Beverages," in "Encyclopedia of Chemical Technology," 4:710–725, 1978.

4. Memorandum from the Regulatory Food Chemistry Branch to the GRAS Review Branch, "Dimethyl Dicarbonate in Wine. Submission of September 5, 1986; Exposure Estimate for Methyl Carbamate and Methanol in Wine," dated January 14, 1987.

5. Memorandum from the Standards and Monitoring Branch to the Division of Regulatory Guidance, "Methanol in Brandy," dated December 18, 1989.

6. Memorandum from QRAC to the Office of Toxicological Sciences, "Methyl Carbamate in Wine," dated October 28, 1986.

7. Memorandum from QRAC to the Office of Toxicological Sciences, "Methyl Carbamate in Wine," dated November 20, 1987.

8. "Ethyl Carbamate Voluntary Program," Final Agreement Between the Wine Institute, the Association of American Vintners, and FDA, January 7, 1988.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before February 25, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 376).

2. Section 172.133 is amended by revising the introductory text and paragraphs (b) and (c)(2) to read as follows:

§ 172.133 Dimethyl dicarbonate.

Dimethyl dicarbonate (CAS Reg. No. 4525–33–1) may be safely used in wine, dealcoholized wine, and low alcohol wine, in accordance with the following prescribed conditions:

* * * * *

(b) The additive is used or intended for use as an inhibitor of yeast in wine, dealcoholized wine, and low alcohol wine under normal circumstances of bottling where the viable yeast count has been reduced to 500 per milliliter or less by current good manufacturing practices such as flash pasteurization or filtration. The additive may be added to wine, dealcoholized wine, or low alcohol wine in an amount not to exceed 200 parts per million (ppm).

(c) * * *

(2) Directions to provide that not more than 200 ppm of dimethyl dicarbonate will be added to the wine, dealcoholized wine, or low alcohol wine.

* * * * *

Dated: January 15, 1993.
Michael R. Taylor,
Deputy Commissioner for Policy.
[FR Doc. 93–1795 Filed 1–25–93; 8:45 am]
BILLING CODE 4160–01–F

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Sulfadimethoxine Oral Solution and Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Agri Laboratories, Ltd. The ANADA provides for the use of a generic sulfadimethoxine oral solution as an antibacterial in drinking water for the treatment of broiler and replacement chickens for coccidiosis, fowl cholera, and infectious coryza; meat-producing turkeys for coccidiosis and fowl cholera; and in drinking water and as a drench for the treatment of dairy calves, dairy heifers, and beef cattle for shipping fever complex, bacterial pneumonia, calf diphtheria, and foot rot.

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8648.

SUPPLEMENTARY INFORMATION: Agri Laboratories, Ltd., P.O. Box 3103, St. Joseph, MO 64503, is the sponsor of ANADA 200–030, which provides for the use of a generic sulfadimethoxine oral solution as an antibacterial in drinking water for the treatment of broiler and replacement chickens for coccidiosis, fowl cholera, and infectious coryza; meat-producing turkeys for coccidiosis and fowl cholera; and in drinking water and as a drench for the treatment of dairy calves, dairy heifers, and beef cattle for shipping fever complex, bacterial pneumonia, calf diphtheria, and foot rot.

Approval of ANADA 200–030 for Agri Laboratories, Ltd.'s sulfadimethoxine 12.5 percent oral solution is as a generic copy of Hoffmann-La Roche's NADA 031–205 for Albon® 12.5 percent drinking water solution (sulfadimethoxine). The ANADA is approved as of December 31, 1992, and 21 CFR 520.2220a is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

2. Section 520.2220a is amended by revising the section heading and paragraphs (a), (b), and the introductory text of paragraph (e) to read as follows:

§ 520.2220a Sulfadimethoxine oral solution and soluble powder.

(a) *Specifications.* (1) The oral solution contains 12.5 percent (3.75 grams per ounce) sulfadimethoxine.

(2) Each packet of powder contains the equivalent of 94.6 grams of sulfadimethoxine (as the sodium salt).

(b) *Sponsors.* See Nos. 000004 and 057561 in § 510.600(c) of this chapter.

* * * * *

(e) *Conditions of use.* The oral solution is administered as a cattle drench or diluted as directed to prepare drinking water. The powder is used to prepare a drench or drinking water. The concentrations and uses of the various solutions are as follows:

* * * * *

Dated: January 14, 1993.
Gerald B. Guest,
Director, Center for Veterinary Medicine.
[FR Doc. 93–1794 Filed 1–25–93; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 906

[Docket No. R–93–1529; FR–2810–N–04]

RIN 2577–AA90

Extension of Section 5(h) Homeownership Program for Public and Indian Housing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice extends the period that the interim rule for the Section 5(h) Homeownership Program will be in effect, from January 20, 1993 until the effective date of final rule.

EFFECTIVE DATE: January 20, 1993.

FOR FURTHER INFORMATION CONTACT: C. Wayne Hunter, Senior Homeownership Programs Advisor, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., room 4118, Washington, DC 20410. Telephone number (202) 708–4233, TDD (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A regulatory codification of the requirements of the Section 5(h) Homeownership Program for public (24 CFR part 906) and Indian (24 CFR part 905) housing was published as an interim rule in the **Federal Register** on September 20, 1991 (56 FR 47852). The primary statutory mandate for this program is section 5(h) of the United States Housing Act of 1937 (Act). Secondary authority is found in section 6(c)(4)(D) of the Act.

As the primary statutory mandate, section 5(h) authorizes PHAs to sell public housing to residents "on such terms and conditions as the [PHA] may determine." That emphasis on local initiative and discretion is reinforced by section 6(c)(4)(D), which speaks of "the development by local housing authority managements of viable homeownership opportunity programs." These two complementary portions of the Act constitute what is essentially one provision that established the statutory

basis for local homeownership activities under the section 5(h) Homeownership Program.

The preamble to the interim rule stated that the rule would cease to be effective after July 20, 1992, unless before that date the Department published it as a final rule. Because the Department determined that some additional time and experience in working with the interim rule would be appropriate before issuing a final rule, a notice extending the time period during which the interim rule would be in effect for an additional six months (to January 20, 1993) was published on July 20, 1992 (57 FR 31962).

Although the Department expects to publish the final rule in the very near future, the final rule cannot be effective until 30 days following **Federal Register** publication. To prevent a transition period during which there is no rule in effect, this notice extends the effective date of the interim rule for the Section 5(h) Homeownership Program at 24 CFR part 905, subpart O, and 24 CFR part 906, from January 20, 1993 until the effective date a final rule for the Section 5(h) Homeownership Program.

Dated: January 15, 1993.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–1766 Filed 1–25–93; 8:45 am]

BILLING CODE 4210–33–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA–7–1–5652; FRL–4552–2]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On November 29, 1991 (56 FR 60924), EPA approved with a few exceptions Chapter V, Air Pollution, of the Polk County, Iowa, Board of Health Rules and Regulations, as part of the Iowa State Implementation Plan (SIP). Portions of Chapter V, Article VI, Section 5–16, Specific emission standards, were inadvertently omitted from the codification portion of the rulemaking, which identifies the regulations approved by EPA. This action will correct that error and approve paragraphs (a)–(m) of Section 5–16. The intended effect of this notice is to correct the earlier rulemaking and to approve the aforementioned paragraphs of the Polk County, Iowa, air rules.

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: As noted in the summary section above, this action corrects an omission in the earlier rulemaking. Article VI of Chapter V of the county rules, Section 5–16, Specific emission standards, paragraphs (a)–(m), contain particulate emission standards for specific source categories such as asphalt batch plants, cement plants, lime kilns, etc. In the November 29, 1991, rulemaking, EPA stated that it was approving Article VI, except for the portions relating to EPA standards promulgated under sections 111 and 112 of the Clean Air Act. Section 5–16 (a) through (m) does not relate to the sections 111 and 112 standards, and they were intended to be approved. However, they were inadvertently omitted from the incorporation by reference in the codified portion of the rulemaking. EPA, therefore, approves these paragraphs of Section 5–16.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: December 9, 1992.

Morris Kay,

Regional Administrator.

40 CFR part 52, subpart Q, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart Q—Iowa

2. Section 52.820 is amended by revising paragraph (c)(55) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(55) * * *

(i) Incorporation by reference.

(A) Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution, Ordinances 28, 72 and 85, effective May 1, 1991, except for the following: Article I, definition of variance; Article VI, Section 5–16 (n), (o), and (p); Article VI, Section 5–17(d), variance provision; Article VIII; Article IX, Sections 5–27(3) and 5–27(4); and Article X, Division 5—Variance.

* * * * *

[FR Doc. 93–1797 Filed 1–25–93; 10:17 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[GA–020–3–5417; FRL–4537–6]

Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the Stack Definitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 15, 1986, the State of Georgia through the Georgia Department of Natural Resources submitted revised regulations which limit stack height credit and dispersion techniques in accordance with EPA's requirements. EPA proposed approval of the Georgia Stack Height regulations, but noted that Georgia had not yet adopted the definitions of "stack" and "stack in existence." On January 3, 1991, the State of Georgia submitted a revision incorporating these definitions into the stack height regulations. However, it was not until April 3, 1991, that all the required elements were submitted, making the package a complete submittal. The revisions meet the requirements of title 40, part 51, subpart I of the Code of Federal Regulations. The revisions define "stack in existence" and also define "stack" to include any point designed to emit solids, liquid or gases into the air. EPA is approving the revisions to the Georgia State Implementation Plan (SIP) which were submitted to EPA by the State of Georgia on December 15, 1986, January 3, 1991, and April 3, 1991.

EFFECTIVE DATE: This action will become final February 25, 1993.

ADDRESSES: Copies of the material submitted by the Georgia Department of Natural Resources may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Region IV Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 205 Butler Street,

Southeast, room 1162, East Tower, Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Diane Altsman of the EPA, Region IV, Air Programs Branch at (404) 347–2864 and at the above address.

SUPPLEMENTARY INFORMATION: On July 8, 1985 (50 FR 27892), EPA published a final rule for the Stack Height Regulations. It required states to: (1) Review and revise as necessary, their State Implementation Plans (SIP) to include provisions that limit stack height credits and dispersion techniques in accordance with this regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above "Good Engineering Practice" (GEP), or by any other dispersion techniques. On June 15, 1989 (54 FR 25451), and September 29, 1989 (54 FR 40001), EPA published final rules approving Georgia's declaration that the stack height revisions did not necessitate source specific revisions to the SIP.

On February 15, 1989 (54 FR 6937), EPA published a proposed rule to approve revisions to the Georgia Stack Height regulations. At that time Georgia did not have a definition for stack or existing stack, and did not have grandfathering provisions. The proposal was made on the condition that the State of Georgia would adopt the definition of "stack" and "stack in existence" and incorporate into their rules the grandfathering provisions before final rulemaking. On December 5, 1990, the Georgia Department of Natural Resources adopted the revisions to the Georgia SIP, which define "stack" and "stack in existence." They have not adopted the grandfathering provisions. The Georgia Department of Natural Resources submitted the revisions to EPA on January 3, 1991, which were State effective January 9, 1991. Georgia requested that the revisions be adopted as part of the federally approved SIP. EPA is approving the Georgia Stack Height regulations even though the grandfathering provisions have not been adopted, not been adopted, because the **Federal Register** of June 15, 1989 (54 FR 25451), approved Georgia's grandfathered sources. EPA is today approving revisions to the stack height regulations proposed in the **Federal Register** of February 15, 1989 (54 FR 6936), and the following additions:

391–3–1–.01 Definitions

Add the following definitions:

(bbbb) "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares;

(cccc) "stack in existence" means that the owner or operator had: (1) Begun, or caused to begin, a continuous program of physical on-site construction of the stack, or (2) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed within a reasonable time.

FINAL ACTION: EPA is today approving the revision to the Georgia air quality regulations listed above. All of the revisions being approved are consistent with agency policy.

Today's action makes final the action proposed at 54 FR 6936, February 15, 1989. EPA has received no adverse public comments relevant to this action. As a direct result, the Regional Administrator has reclassified this action from Table 1 to Table 2 under the processing procedures established at 54 FR 2214, January 19, 1989.

On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver until such time as it rules on EPA's request.

The Agency has reviewed this request for revision of the federally approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Although the EPA generally approves Georgia's stack height rules on the grounds that they satisfy 40 CFR part 51, the EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If the EPA's response to the NRDC remand modifies the July 8, 1985 regulations, the EPA will notify the State of Georgia that its rules must be changed to comport with the EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by Georgia and source owners or operators.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals of the appropriate circuit by March 29, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to the 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 technical statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not for profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirement, Sulfur oxides.

Dated: October 22, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(42) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(42) Revisions to the Georgia stack height regulations; Chapter 391–3–1 of the Georgia Department of Natural Resources Administrative Code which were submitted on December 15, 1986, and January 3, 1991.

(i) Incorporation by reference.

(A) Rule 391–3–1–.02 (2)(g), which was adopted by the Georgia Dept. of Natural Resources on December 3, 1986.

(B) Rule 391–3–1–.01 (Definitions) to include definitions (bbbb) and (cccc) for "stack" and "stack in existence"; and Rule 391–3–1–.02 (2)(a)4., which were adopted on December 5, 1990 by the Georgia Department of Natural Resources, and became State law effective January 9, 1991.

[FR Doc. 93–1798 Filed 1–25–93; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 433 and 447

[MB–062–CN]

RIN 0938–AF42

Medicaid Program; Limitations on Provider-Related Donations and Health Care-Related Taxes; Limitations on Payments to Disproportionate Share Hospitals; Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: **Federal Register** document 92–28621, published on November 24, 1992, beginning on page 55118, amended 42 CFR parts 433 and 447 to revise Medicaid rules applicable to limitations on Federal financial participation (FFP) in State medical assistance expenditures when States receive funds from provider-related donations and revenues generated by certain health care-related taxes. The document also revised Medicaid rules applicable to limitations on the aggregate amount of payments a State may make to disproportionate share hospitals for which FFP is available. This notice:

- Corrects an editing error that resulted in duplicated regulatory text;
- Corrects in 42 CFR 447.297(d)(1) the method of notifying States of updated national and State DSH allotments to make it consistent with the description of the method in the preamble (see description beginning on page 55132, third column, third line from the bottom of the page); and
- Corrects editorial and typographical errors in the interim final rule.

FOR FURTHER INFORMATION CONTACT: Valerie Krauss (410) 966–4670.

Corrections

1. On page 55123, in the second column, in the third full paragraph, in line 12 "regulatory" should read "regularly".

2. On page 55124, in the first column:

(a) In line 6 "outstanding" should read "outstationing".

(b) In line 27 "§ 433.58k(e)" should read "§ 433.58(e)".

3. On page 55125, in the second column, in the first paragraph, in the third line "denied" should read "denies".

4. On page 55127, in the second column, in line 8 "1903(a)(w)(3)(A)(i)" should read "1903(w)(3)(A)(i)".

5. On page 55128:

(a) In the second column, in the first bullet in the first full paragraph, in the second line "is" should read "in".

(b) In the third column, in lines 5 and 6 from the bottom of the page, the phrase "+ Physicians in primarily medically underserved areas" should be deleted.

6. On page 55130, in the second column, in line 11 the word "or" should be inserted between the comma and "any".

7. On page 55131, in the first column, in the third full paragraph, in line 10 "1991" should read "1992".

8. On page 55132, in the third column, in the third line from the bottom of the page "are" should read "as".

9. On page 55133:

(a) In the first column, in the first full paragraph, beginning in line 19 "Those allotments DSH expenditures that are in excess of the final State DSH will be disallowed." should read "Those DSH expenditures that are in excess of the final State DSH allotments will be disallowed.".

(b) In the second column, in the third full paragraph, in the third line "§ 447.297(c)" should read "§ 447.272(c)".

(c) In the third column, in the second full paragraph, in the first line "§ 447.299(a)(3)" should read "§ 447.298(a)(3)".

10. On page 55138:

(a) In the first column, in subpart A, two additional amendatory language instructions should be inserted after instruction 3., and instruction 4. should be renumbered as 6., to read as follows:

§ 433.33 [Redesignated and Amended]

4. Section 433.33 is redesignated as § 433.53 of subpart B and the title is revised to read *"State plan requirements."*

§ 433.45 [Redesignated]

5. Section 433.45 is redesignated as § 433.51 under subpart B.

(b) In the second column, in § 433.50(b)(2), in the first line "Defense" should read "Defines".

11. On page 55140, in the third column, in the third line "§" should be inserted before "433.60(a)".

12. On page 55141, in the first column, in the second line "paragraph (b)(1)(i)" should read "paragraph (b)(1)".

13. On page 55143:

(a) In the first column, line 15 "requirement by April 1, 1993 the tax is" should read "requirement by April 1, 1993. If, by April 1, 1993, the tax is".

(b) In the third column, in part 447, two additional amendatory language instructions should be inserted after instruction 2., and instruction 3. should be renumbered as 5., to read as follows:

"Subpart D—[Redesignated as Subpart F]

3. Subpart D is redesignated as subpart F.

Subpart D—[Reserved]

4. Subpart D is reserved."

14. On page 55144, in the second column, in § 447.297(d)(1), the first sentence "HCFA will advise the State Medicaid Directors by April 1 of each year of updated national limits and updated State DSH allotments." should read "HCFA will publish in the **Federal Register** by April 1 of each year updated national limits and updated State DSH allotments.".

(Catalog of Federal Domestic Assistance Program No. 93.714, Medical Assistance)

Dated: January 15, 1993.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 93–1740 Filed 1–25–93; 10:15 am]

BILLING CODE 4120–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7562]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Suspensions				
Region IV				
North Carolina: Mecklenburg County, unincorporated areas.	370158	May 17, 1973, Emerg.; June 1, 1981, Reg.; Feb. 3, 1993, Susp.	Feb. 3, 1993	Feb. 3, 1993.
Region V				
Illinois:				
Aroma Park, village of Kankakee County	170740	Aug. 25, 1975, Emerg.; Nov. 2, 1977, Reg.; Feb. 3, 1993, Susp.	do	Do.
Kankakee County, unincorporated areas	170336	Apr. 28, 1972, Emerg.; July 2, 1979, Reg.; Feb. 3, 1993, Susp.	do	Do.
Kankakee, city of Kankakee County	170339	May 29, 1973, Emerg.; Apr. 17, 1978, Reg.; Feb. 3, 1993, Susp.	do	Do.
Momence, city of Kankakee County	170340	Aug. 8, 1975, Emerg.; Nov. 2, 1977, Reg.; Feb. 3, 1993, Susp.	do	Do.
Sun River Terrace, village of Kankakee County.	171015	Oct. 26, 1984, Emerg.; June 19, 1985, Reg.; Feb. 3, 1993, Susp.	do	Do.
Indiana: Warrick County, unincorporated areas	180418	Apr. 11, 1975, Emerg.; May 17, 1982, Reg.; Feb. 3, 1993, Susp.	do	Do.
Michigan:				
Greenbush, township of Alconia County	260001	Aug. 26, 1975, Emerg.; Sept. 30, 1988, Reg.; Feb. 3, 1993; Susp.	do	Do.
Pinconning, township of Bay County	260025	Mar. 30, 1973, Emerg.; Sept. 1, 1978, Reg.; Feb. 3, 1993, Susp.	do	Do.
Sims, township of Arenac County	260015	May 7, 1973, Emerg.; June 1, 1978, Reg.; Feb. 3, 1993, Susp.	do	Do.
Region VI				
Texas: San Diego, city of Duval and Jim Wells Counties.	481199	Dec. 26, 1975, Emerg.; Mar. 1, 1987, Reg.; Feb. 3, 1993, Susp.	do	Do.
Region VII				
Kansas: St. George, city of Pottawatomi County	200274	Apr. 8, 1988, Emerg.; Feb. 3, 1993, Reg.; Feb. 3, 1993, Susp.	do	Do.
Region IV				
Georgia: Chattooga County, unincorporated areas.	130036	Apr. 13, 1989, Emerg.; Feb. 17, 1993, Reg.; Feb. 17, 1993, Susp.	Feb. 17, 1993	Feb. 17, 1993.
Region V				
Michigan: Alpena, township of Alpena County	260011	Oct. 2, 1975, Emerg.; Jan. 21, 1983, Reg.; Feb. 17, 1993, Susp.	Feb. 3, 1993	Do.
Wisconsin:				
Biron, village of Wood County	555545	Apr. 2, 1971, Emerg.; Mar. 25, 1973, Reg.; Feb. 17, 1993, Susp.	Feb. 17, 1993	Do.
Nekoosa, city of Wood County	550516	May 16, 1975, Emerg.; July 16, 1987, Reg.; Feb. 17, 1993, Susp.	do	Do.
Port Edwards, village of Wood County	555572	July 2, 1971, Emerg.; Apr. 13, 1973, Reg.; Feb. 17, 1993, Susp.	do	Do.
Wisconsin Rapids, city of Wood County	555587	Apr. 30, 1971, Emerg.; Sept. 14, 1973, Reg.; Feb. 17, 1993, Susp.	do	Do.
Wood County, unincorporated areas	550513	Mar. 5, 1971, Emerg.; Mar. 15, 1978, Reg.; Feb. 17, 1993, Susp.	do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: January 19, 1993.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 93–1882 Filed 1–25–93; 8:45 am]

BILLING CODE 6718–21–M

Proposed Rules

Federal Register
Vol. 58, No. 15
Tuesday, January 26, 1993

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40, 72, 74, 75, 150

RIN 3150–AE35

Licensee Submittal of Data in Computer Readable Form

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing an amendment to its regulations that would require certain licensees to submit data to the NRC in computer readable form. The proposed rule is intended to streamline the collection of nuclear material transaction data and increase the accuracy of the reported information. The proposed rule would result in an annual cost savings of approximately $100,000 in the data collection effort.

DATES: Comments must be received on or before April 26, 1993. Comments received after this date will be considered if it is practical to do so, but only those comments received on or before this date can be assured of consideration.

ADDRESSES: Comments or suggestions regarding the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received will be available in the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Richard H. Gramann, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504–2456.

SUPPLEMENTARY INFORMATION: The NRC has a major interest in the potential use for computer readable submittal. This innovation not only can result in monetary savings but also can increase efficiency and accuracy of data collection efforts. In April 1989 the NRC notified licensees reporting special nuclear material transactions on hard copy forms that they could instead submit their reports in machine readable form. Specific submittal procedures, as detailed in the "Personal Computer Data Input for NRC Licensees" (Nuclear Materials Management and Safeguards System (NMMSS) Report D–24) was to be followed.

The NRC is proposing to amend its regulations to require licensees satisfying reporting requirements using DOE/NRC Form 741, "Nuclear Material Transaction Report," DOE/NRC Form 741A, "Nuclear Material Transaction Report (Continuation Page)," DOE/NRC Form 740M, "Concise Note," DOE/NRC Form 742, "Material Balance Report," and DOE/NRC Form 742C, "Physical Inventory Listing," to submit the reports in computer readable form. This proposed regulatory change makes mandatory the reporting in computer readable form in the format prescribed by that document. This proposed change would streamline the collection of nuclear material transaction data and result in greater accuracy. It would eliminate the need for paper forms, thus providing a cost savings for the NRC in satisfying its statutory and treaty obligations.

The proposed amendments would affect each specific licensee who transfers, receives, or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin or who imports or exports 1 kilogram or more of uranium or thorium source material of any origin. Each specific licensee who transfers or receives 1 gram or more of contained uranium-235, uranium-233, or plutonium would also be affected.

These proposed amendments are intended only to take advantage of current computer technology to make more efficient and less costly the data collection process. The Commission believes there will be minimal costs associated with implementation of these proposed amendments but nonetheless encourages licensees to comment on the cost impact of complying with the rule, if such impact is considered significant.

Most licensees already have their material accounting automated and can easily generate computer readable reports. For those licensees who have not yet automated their reporting, a diskette with the appropriate formats and user prompts may be obtained from the NRC to facilitate this process. Licensees may obtain a copy of the NMMSS report or the diskette by writing the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555.

Submission of Comments in Electronic Format

Commenters are encouraged to submit, in addition to the original paper copy, a copy of the letter in electronic format on 5.25 or 3.5 inch computer diskette; IBM PC/DOS or MS/DOS format. Text files should be provided in WordPerfect format or unformatted ASCII code. The format and version should be identified on the diskette's external label.

Environment Impact: Categorical Exclusion

The NRC has determined that this proposed change is the type of action described in the categorical exclusion 10 CFR 51.33(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for the proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Since the rule would eliminate the need for certain paper forms, the public reporting burden for the collection of information is expected to be reduced. The resulting burden reduction for DOE/NRC Forms 741, 741A, 742, and 740M is estimated to average .25 hours per response. The resulting burden reduction for DOE/NRC Form 742C is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for further reducing

reporting burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0003, –0004, –00057, and –0058), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

These proposed amendments would have no significant impact on State and local governments and geographical regions. They would have a significant positive impact on the efficiency and accuracy of the data collection process. The proposed amendments would not have a significant impact on health, safety, and the environment. This rule would make all licensees submit computer readable reports regarding special nuclear material transactions. The NRC would realize a cost savings of approximately $100,000. Licensees have already demonstrated their computer expertise by generating near perfect copies of the current forms on Laser Jet printers. Generating computer readable data in accordance with a prescribed format offers less burden than producing these forms. The rule would facilitate the collection of data by the NRC to satisfy its statutory and treaty obligations. This constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this change will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule would affect all licensees required to report special nuclear material transactions using DOE/NRC Forms 741, 741A, 742, 742C, and 740M. The companies that own nuclear power plants or nuclear fuel fabrication plants have already automated their material accounting program and can easily generate computer readable reports. Other companies that have not yet automated their reporting may obtain a diskette from the NRC to assist them in satisfying their reporting requirements. These companies may fall within the scope of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this proposed change because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials-transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials-transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 150

Criminal penalties, Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 40, 72, 74, 75, and 150.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)–(3), 40.35 (a)–(d) and (f), 40.41 (b) and (c), 40.46, 40.51 (a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b); 40.10 is issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201 (b); (42 U.S.C. 2201(i)); and 40.5, 40.9, 40.25 (c), (d)(3), and (4), 40.26(c)(2), 40.35(e), 40.42, 40.60, 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 40.64, paragraph (a) is revised to read as follows:

§ 40.64 Reports.

(a) Except as specified in paragraphs (d) and (e) of this section, each specific licensee who transfers, receives, or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin or who imports or exports 1 kilogram of uranium or thorium source material of any origin shall complete a Nuclear Material Transaction Report in computer readable form in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. Each licensee who transfers the material shall submit a Nuclear Material Transaction Report in computer readable form in accordance with instructions no later than the close of business the next working day. Each licensee who receives the material shall submit a Nuclear Material Transaction Report in computer readable form in accordance with instructions within ten (10) days after the material is received. The Commission's copy of the report must be submitted to the address specified in the instructions. These prescribed computer readable forms replace the DOE/NRC Form 741 which has been submitted in paper form.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

3. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148 (c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 72.6, 72.12, 72.22, 72.24, 72.26, 72.28(d), 72.30, 72.32, 72.44(a), (b)(1), (4), (5), (c), (d)(1), (2), (e), (f), 72.48(a), 72.50(a), 72.52(b), 72.72(b), (c), 72.74(a), (b), 72.76, 72.78, 72.104, 72.106, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.140(b), (c), 72.148, 72.154, 72.156, 72.160, 72.166, 72.168, 72.170, 72.172, 72.176, 72.180, 72.184, 72.186 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 72.10(a), (e), 72.12, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.44(a), (b)(1), (4), (5), (c), (d)(1), (2), (e), (f), 72.48 (a), 72.50(a), 72.52(b), 72.90(a)-(d), (f), 72.92, 72.94, 72.98, 72.100, 72.102(c), (d), (f), 72.104, 72.106, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.140(b), (c), 72.142, 72.144, 72.146, 72.148, 72.150, 72.152, 72.154, 72.156, 72.158, 72.160, 72.162, 72.164, 72.166, 72.168, 72.170, 72.172, 72.176, 72.180, 72.182, 72.184, 72.186, 72.190, 72.192, 72.194 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 72.10(e), 72.11, 72.16, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.44(b)(3), (c)(5), (d)(3), (e), (f), 72.48(b), (c), 72.50(b), 72.54(a), (b), (c), 72.56, 72.70, 72.72, 72.74(a), (b), 72.76(a), 72.78(a), 72.80, 72.82, 72.92(b), 72.94(b), 72.140(b), (c), (d), 72.144(a), 72.146, 72.148, 72.150, 72.152, 72.154(a), (b), 72.156, 72.160, 72.162, 72.168, 72.170, 72.172, 72.174, 72.176, 72.180, 72.184, 72.186, 72.192, 72.212(b), 72.216, 72.218, 72.230, 72.234 (e) and (g) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. In § 72.76, paragraph (a) is revised to read as follows:

§ 72.76 Material status reports.

(a) Except as provided in paragraph (b) of this section, each licensee shall complete in computer readable form and submit to the Commission a material status report in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. These reports provide information concerning the special nuclear material contained in the spent fuel possessed, received, transferred, disposed of, or lost by the licensee. Material status reports must be made as of March 31 and September 30 of each year and filed within 30 days after the end of the period covered by the report. The Commission may, when good cause is shown, permit a licensee to submit material status reports at other times. The Commission's copy of this report must be submitted to the address specified in the instructions. These prescribed computer readable forms replace the DOE/NRC Form 742 which has been submitted in paper form.

* * * * *

5. Section 72.78 is revised to read as follows:

§ 72.78 Nuclear material transfer reports.

(a) Except as provided in paragraph (b) of this section, whenever the licensee transfers or receives spent fuel, the licensee shall complete in computer readable form a Nuclear Material Transaction Report in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24, "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. Each ISFSI licensee who receives spent fuel from a foreign source shall complete both the supplier's and receiver's portion of the Nuclear Material Transaction Report, verify the identity of the spent fuel, and indicate the results on the receiver's portion of the form. These prescribed computer readable forms replace the DOE/NRC Form 741 which has been submitted in paper form.

(b) Any licensee who is required to submit Nuclear Material Transactions Reports pursuant to § 75.34 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit the reports only as provided in that section instead of as provided in paragraph (a) of this section.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

6. The authority citation for part 74 continues to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948,953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 201, as amended 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 74.17, 74.31, 74.33, 74.51, 74.53, 74.55, 74.57, 74.59, 74.81, and 74.82 are issued under secs. 161b and 161i, 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b) and 2201(i)); and §§ 74.11, 74.13, 74.15, and 74.17 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

7. In § 74.13, paragraph (a)(1) is revised to read as follows:

§ 74.13 Material status reports.

(a)(1) Each licensee authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit in computer readable form material balance reports concerning special nuclear material received, produced, possessed, transferred, consumed, disposed of, or lost by it. These prescribed computer readable reports replace the DOE/NRC Form 742 which has been submitted in paper form. Each nuclear reactor licensee, as defined in §§ 50.21 and 50.22 of this chapter, also shall prepare in computer readable form a statement of the composition of the ending inventory. The inventory composition report must be submitted with each material balance report. This prescribed computer readable report replaces the DOE/NRC Form 742C which has been submitted in paper form. Each licensee shall prepare and submit the reports described in this paragraph in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. Each licensee shall compile a report as of March 31

and September 30 of each year and file it within 30 days after the end of the period covered by the report. The Commission may permit a licensee to submit the reports at other times when good cause is shown.

* * * * *

8. Section 74.15 is revised to read as follows:

§ 74.15 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall complete in computer readable form a Nuclear Material Transaction Report. This should be done in accordance with instructions whenever the licensee transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Copies of these instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees") may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. This prescribed computer readable form replaces the DOE/NRC Form 741 which has been submitted in paper form.

(b) Each licensee who receives 1 gram or more of contained uranium-235, uranium-233, or plutonium from a foreign source shall:

(1) Complete in computer readable form both the supplier's and receiver's portion of the Nuclear Material Transaction Report;

(2) Perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and

(3) Indicate the results of these tests on the receiver's portion of the form.

(c) Any licensee who is required to submit inventory change reports pursuant to § 75.34 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit these reports only as provided in that section (instead of as provided in paragraphs (a) and (b) of this section).

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

9. The authority citation for Part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841). Section 75.4 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); the provisions of this part are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

10. Section 75.31 is revised to read as follows:

§ 75.31 General requirements.

Each licensee who has been given notice by the Commission in writing that its installation has been identified under the Agreement shall make an initial inventory report in computer readable form, and thereafter shall make accounting reports, with respect to such installation and, in addition, licensees who have been given notice, pursuant to § 75.41, that their installations are subject to the application of IAEA safeguards, shall make the special reports described in § 75.36. These reports must be based on the records kept in accordance with § 75.21. At the request of the Commission, the licensee shall amplify or clarify any report with respect to any matter relevant to implementation of the Agreement. Any amplification or clarification must be in writing and must be submitted, to the address specified in the request, within twenty (20) days or other time as may be specified by the Commission.

11. In § 75.32, paragraph (b) is revised to read as follows:

§ 75.32 Initial inventory report.

* * * * *

(b) The initial inventory report, to be submitted to the Commission in computer readable form, in accordance with instructions (NUREG/BR–0007 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"), must show the quantities of nuclear material contained in or at an installation as of the initial inventory reporting date. The information is the initial inventory report may be based upon the licensee's book record.

* * * * *

12. In § 75.33, paragraph (a) is revised to read as follows:

§ 75.33 Accounting reports.

(a) (1) The accounting reports for each IAEA material balance area consists of

(i) Computer readable Nuclear Material Transaction Reports (Inventory Change Reports) and

(ii) Computer readable Material Balance Reports showing the material balance based on a physical inventory of nuclear material actually present.

(2) These prescribed computer readable forms replace the following forms which have been submitted in paper form:

(i) The DOE/NRC Form 741; and

(ii) The DOE/NRC Form 742.

* * * * *

13. Section 75.34 is revised to read as follows:

§ 75.34 Inventory change reports.

(a) Nuclear Material Transaction Reports (Inventory Change Reports) in computer readable form to be completed in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"), must specify identification and batch data for each batch of nuclear material, the date of the inventory change, and, as appropriate,

(1) The originating IAEA material balance area or the shipper; and

(2) The receiving IAEA material balance area or the recipient.

Each licensee who receives special nuclear material from a foreign source shall complete both the supplier's and receiver's portion of the form.

(b) Nuclear Material Transactions Reports (Inventory Change Reports), when appropriate, must be accompanied by computer readable Concise Notes, completed in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. This prescribed computer readable form replaces the DOE/NRC Form 740M which has been submitted in paper form. This Concise Note is used in:

(1) Explaining the inventory changes on the basis of the operating records provided for under § 75.23; and

(2) Describing, to the extent specified in the license conditions, the anticipated operational program for the installation, including particularly, but not exclusively, the schedule for taking physical inventory.

14. In § 75.35, paragraph (a) is revised to read as follows:

§ 75.35 Material status reports.

(a) A material status report must be submitted for each physical inventory which is taken as part of the material accounting and control procedures required by § 75.21. The material status report must include a computer readable Material Balance Report and a computer readable Physical Inventory Listing which lists all batches separately and specifies material identification and batch data for each batch. When appropriate, the material status report must be accompanied by a computer readable Concise Note. The reports

described in this section must be prepared and submitted in accordance with instructions (NUREG/BR–0007, NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. These prescribed computer readable forms replace the DOE/NRC Form 742, 742C, and 740M which have been submitted in paper form.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

15. The authority citation for part 150 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 150.20(b)(2)–(5) and 150.21 are issued under sec.161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 150.14 and 150.20(b)(5) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 150.16–150.19 and 150.20(b)(1) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

16. In § 150.16, paragraph (a) is revised to read as follows:

§ 150.16 Submission to Commission of nuclear material transfer reports.

(a) Each person who transfers and each person who receives special nuclear material pursuant to an Agreement State license shall complete and submit in computer readable form Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees") whenever he transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Each person who transfers this material shall submit in accordance with instructions the computer readable form promptly after the transfer takes place. Each person who receives special nuclear material shall submit in accordance with instructions the computer readable form within ten (10) days after the special nuclear material is received. Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. These prescribed computer readable forms replace the DOE/NRC Form 741 which have been submitted in paper form.

* * * * *

17. In § 150.17, paragraph (a) is revised to read as follows:

§ 150.17 Submission to Commission of source material reports.

(a) Except as specified in paragraph (d) of this section and § 150.17a, each person who, pursuant to an Agreement State specific license, transfers or receives or adjusts the inventory in any manner by 1 kilogram or more of uranium or thorium source material of foreign origin or who imports 1 kilogram or more of uranium or thorium source material of any origin shall complete and submit in computer readable form Nuclear Material Transaction Reports in accordance with instructions (NUREG/BR–0006 and NMMSS Report D–24 "Personal Computer Data Input for NRC Licensees"). Copies of the instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Safeguards and Transportation, Washington, DC 20555. Each person who receives the material shall submit in accordance with instructions the computer readable form within ten (10) days after the material is received.

* * * * *

Dated at Rockville, MD this 19th day of January 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–1809 Filed 1–25–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 355

[Docket No. 80N–0042]

RIN 0905–AA06

Anticaries Drug Products for Over-the-Counter Human Use; Tentative Final Monograph; Reopening of Administrative Record; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to March 26, 1993, the comment period for the reopening of the administrative record for the proposed rulemaking for over-the-counter (OTC) anticaries drug products to obtain public comment on whether the labeling of OTC fluoride-containing drug products should include the quantity of fluoride, i.e., the specific amount of fluoride present in the product (57 FR 55199, November 24, 1992). This action is being taken because the agency recognizes the possible relevance to this issue of data and information presented at a National Institute of Dental Research (NIDR) workshop entitled "Methods for Assessing Fluoride Accumulation and Effects in the Body," held on January 13 to 15, 1993. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by March 26, 1993.

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: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 24, 1992 (57 FR 55199), FDA published a notice of proposed rulemaking reopening the administrative record for the rulemaking for OTC anticaries drug products. Interested persons were given until January 25, 1993 to respond.

In that document, the agency discussed recommendations made by the Public Health Service Ad Hoc Subcommittee on Fluoride of the

Committee to Coordinate Environmental Health and Related Programs (the Subcommittee) that the U.S. Public Health Service sponsor a scientific conference(s) to recommend both the optimal level of flouride exposure from all sources combined (including drinking water) and the appropriate usage of flouride-containing dental products. In considering the Subcommittee's recommendations, FDA requested input from three professional associations on the possibility of having OTC fluoride-containing drug products labeled to identify their fluoride levels. One association (dental group) submitted information in support of having fluoride levels listed in product labeling as percent weight/volume. The other two associations (trade groups) responded in opposition to changing the labeling of OTC fluoride-containing drug products to identify fluoride levels.

FDA has received a request from the latter two associations to extend the comment period for an additional 60 days to permit industry and other interested parties to prepare and submit additional information that may be developed for or in response to a NIDR workshop to be held on January 13 to 15, 1993. The request included a copy of the preliminary agenda for the workshop entitled "Methods for Assessing Fluoride Accumulation and Effects in the Body" (Ref. 1). The request stated its belief that important information may be forthcoming from the workshop.

FDA has carefully considered the request and believes that additional time for comment is in the public interest. The agency concurs with the request that important information may be forthcoming from the workshop. In fact, agency staff attended the workshop. Thus, the agency considers the limited extension of the comment period requested to be appropriate. Accordingly, the comment period is extended to March 26, 1993.

Interested persons may, on or before March 26, 1993, submit to the Dockets Management Branch (address above) written comments on whether the labeling of OTC fluoride-containing drug products should include the quantity of fluoride present in the product and how that information should be presented. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Reference

(1) Comment No. EXT 8, Docket No. 80N–0042, Docket Management Branch.

Dated: January 15, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–1826 Filed 1–25–93; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–62–92]

RIN 1545–AR09

Nondiscrimination Requirements for Qualified Plans; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed Income Tax Regulations requiring contributions or benefits provided under a tax-qualified retirement plan not discriminate in favor of highly compensated employees.

DATES: The public hearing will begin on Friday, April 23, 1993, and continue if necessary, on Monday, April 26, 1993, beginning each day at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, April 2, 1993.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [EE–62–92], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the final regulations under section 401(a)(4) of the Internal Revenue Code of 1986. These proposed regulations were published in the **Federal Register** on Tuesday, January 12, 1993 (58 FR 3876).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, April 2, 1993, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

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

[FR Doc. 93–1404 Filed 1–25–93; 8:45 am]

BILLING CODE 4830–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Cost Accounting Standards for Composition, Measurement, Adjustment, and Allocation of Pension Costs

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), proposes to revise the Cost Accounting Standards relating to accounting for pension costs under negotiated government contracts. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, publish a report and an ANPRM. This ANPRM addresses certain problems that

have emerged since the original promulgation (in the 1970's) of the pension Standards; CAS 412—"Cost Accounting Standard for composition and measurement of pension cost." and 413, "Adjustment and allocation of pension cost." Proposed changes address the issue of pension cost recognition under qualified pension plans subject to the "full funding limits" of the Federal Tax Code, and problems associated with pension plans that are not qualified plans under the Federal Tax Code.

DATES: Requests for a copy of the Board's ANPRM must be in writing and must be received by March 29, 1993. Comments on the ANPRM must be in writing and must be received by April 12, 1993.

ADDRESSES: Comments should be addressed to Robert Lynch, Project Director, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street NW., room 9001, Washington, DC 20503. Attn: CASB Docket Nos. 91–03 and 91–05.

FOR FURTHER INFORMATION CONTACT: Robert Lynch, Project Director, Cost Accounting Standards Board (telephone: 202–395–3254).

Allan V. Burman,

Administrator for Federal Procurement Policy and Chairman, Cost Accouting Standards Board.

[FR Doc. 93–1627 Filed: 1–25–93; 8:45 am]

BILLING CODE 3110–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 27A)]

Rail General Exemption Authority: Used Motor Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is seeking public comment on whether to exempt the rail transportation of used motor vehicles (STCC 41–118) [1] from our regulations. In order to exempt this transportation, the Commission must find that regulation of the rail transportation of used motor vehicles is not necessary to carry out the rail transportation policy, and that such regulation is not needed to protect shippers from an abuse of market power. If the Commission issues the exemption, used motor vehicles would be added to the list of exempt commodities in our regulations, as set forth below.

DATES: Comments must be submitted by February 25, 1993.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 346 (Sub-No. 27A) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To receive a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927–7428. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Environmental and Energy Considerations

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Initial Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 603, we are required to examine the impact of a proposed action on small entities. We preliminarily conclude that the action proposed in this proceeding will not have a significant impact on a substantial number of small entities. We invite comment on the issue of the economic impact of our proposal on small entities.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

Decided: January 14, 1993.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Walden. Commissioner Walden did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1039 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1039—EXEMPTIONS

1. The authority citation for part 1039 would continue to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10708, 10761, 10762, 11105, 11902, 11903, and 11904; and 5 U.S.C. 553.

2. In § 1039.11, paragraph (a) is proposed to be amended by adding to the chart, after STCC No. 39, STCC No. 41–118 (Used motor vehicles):

§ 1039.11 Miscellaneous commodities exemptions.

(a) * * *

STCC No.	STCC tariff	Commodity
* * * * *		
41 118	6001–T, eff. 1–1–92.	Used motor vehicles.
* * * * *		

[FR Doc. 93–1856 Filed 1–25–93; 8:45 am]

BILLING CODE 7035–01–M

[1] STCC is the acronyn for the Standard Transportation Commodity Code.

Notices

Federal Register
Vol. 58, No. 15
Tuesday, January 26, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Privacy Act; Systems of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act Systems of Records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is revising one of its Privacy Act Systems of Records, USDA/FmHA–1, "Applicant/Borrower or Grantee File," and is deleting the Privacy Act System of Records, USDA/FmHA–3, "Credit Report Filed."

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on March 29, 1993, unless modified by a subsequent notice to incorporate comments received from the public. Comments must be received by the contact person listed below on or before February 25, 1993.

FOR FURTHER INFORMATION CONTACT: Dorothy Hinden, Freedom of Information Officer, General Services Staff, Farmers Home Administration (FmHA), USDA, Room 6847, South Building, Washington, DC 20250; Telephone: (202) 720–9638.

SUPPLEMENTARY INFORMATION: The purpose of this revision is to amend the USDA/FmHA–1 "Applicant/Borrower, or Grantee File." "System name" and "System location" are modified to include tenants. The locations of the following three State Offices have changed: Colorado, Delaware/Maryland, and Maine. "Categories of individuals covered by the system" and "Categories of records in the system" are modified to add tenants and members of applicant, borrower, grantee, tenant households. "Categories of records in the system" has been further modified to clarify that the system contains "credit reports and personal references from credit agencies, lenders, businesses and individuals."

This system notice also modifies the "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" to clarify that routine use allows referral of information, without an individual borrower's name or other identifying information, when grouped by geographic or other statistical categories, to provide the basis for statistical reports, and for news releases citing borrowers' progress. It also clarifies that a routine use allows referral of information to management and resident agents, contractor agents, local, State, Federal, and foreign agencies, and others, to determine repayment ability and eligibility for Federal benefits.

This notice includes a new routine use which allows referral to business firms in a trade area that buy chattel or crops or sell them for commission. The purpose of this use is to ensure that proceeds from the sale of crops or other goods in which FmHA has rights are available to satisfy FmHA interests. Release of debtor names to dealers is necessary to protect FmHA interests, in accordance with the notification provisions of section 1324 of the Food Security Act of 1985 (7 U.S.C. 1631(e)). Another new routine use allows disclosure to a tribe, tribemember, or the Indian Housing Authority to encourage selected borrowers to transfer or assign their loan to prevent liquidation, as required by the Cranston-Gonzalez National Affordable Housing Act.

A third new routine use allows referral to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, when FmHA determines such referral is appropriate to encourage contacting selected borrowers to facilitate the refinancing of their FmHA indebtedness as required by Title V of the Housing Act of 1949, as amended.

A fourth new routine use allows the release of information to the Department of Housing and Urban Development (HUD) as a record of location utilized by Federal agencies for an automatic credit prescreening system. A fifth new routine use allows referral to the Department of Labor, State Wage Information Collection Agencies, and other Federal, State, and local agencies, as well as those responsible for verifying information furnished to qualify for Federal benefits, to conduct wage and benefit matching through manual and/or automated means, for the purpose of determining compliance with Federal regulations and appropriate servicing actions against those not entitled to program benefits, including possible recovery of improper benefits. A sixth new routine use allows referral to lending institutions for the servicing of FmHA guaranteed loans, when FmHA determines that such referral is appropriate.

The notice has been amended to include three routine uses, originally published in the **Federal Register**, Vol. 53, No. 34, page 5206, dated February 22, 1988, that were inadvertently omitted from the **Federal Register**, Vol. 54, No. 170, page 36833, dated September 5, 1989. These uses regard:

a. Referral of legally enforceable debts to the Department of the Treasury, Internal Revenue Service (IRS) to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made.

b. Referral of information regarding indebtedness to the Defense Manpower Data Center, Department of Defense, and the United States Postal Service for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments who are delinquent in their repayment of debts owed to the U.S. Government under certain FmHA programs.

c. Referral to lending institutions, when appropriate for allowing potential commercial creditors to determine if they would consider financing loans guaranteed by the FmHA.

"Retention and disposal" under the heading "Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system" is modified to bring it up to date with the most recent revision of the FmHA Federal Records Retention Schedule.

USDA/FmHA–3, "Credit Report File" is hereby deleted because these records are now maintained in USDA/FmHA–1, "Applicant/Borrower or Grantee File." Credit reports and personal references are included in information regulated by "Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system." Credit reports and personal references in "Record Source categories" are primarily from credit agencies and creditors. Two footnotes have been added.

Accordingly, USDA amends the FmHA Systems of Records, USDA/

FmHA–1 "Applicant/Borrower or Grantee File, USDA/FmHA," originally published in 50 FR 25727, June 21, 1985.

Signed at Washington, DC, on January 15, 1993.

Edward Madigan,

Secretary of Agriculture.

USDA/FmHA–1

SYSTEM NAME:

Applicant, Borrower, Grantee or Tenant File, USDA/FmHA

SYSTEM LOCATION:

Each Farmers Home Administration applicant's borrower's, grantee's, or tenant's file is located in the County, District, or State Office through which the financial assistance is sought or was obtained, and in the Finance Office in St. Louis, Missouri. A State Office version of the County or District Office file may be located in or accessible by the State Office which is responsible for that County or District Office. Correspondence regarding borrowers is located in the State and National Office files.

A list of all State Offices and any additional states for which an office is responsible follows: Montgomery, AL; Palmer, AK; Little Rock, AR; Phoenix, AZ; Woodland, CA—NV; Lakewood, CO; Camden, DE—MD, DC; Gainesville, FL; Athens, GA; Hilo, HI—Western Pacific Terr.; Boise, ID; Champaign, IL; Indianapolis, IN; Des Moines, IA; Topeka, KS; Lexington; KY; Alexandria, LA; Bangor, ME; Amherst, MA—CT, RI; East Lansing, MI; St. Paul, MN; Jackson, MS; Columbia, MO; Bozeman, MT; Lincoln, NE; Mt. Holly, NJ; Albuquerque, NM; Syracuse, NY; Raleigh, NC; Bismarck, ND; Columbus, OH; Stillwater, OK; Portland, OR; Harrisburg, PA; Hato Rey, PR; Columbia, SC; Huron, SD; Nashville, TN; Temple, TX; Salt Lake City, UT; Montpelier, VT—NH, VI; Richmond, VA; Wenatchee, WA; Morgantown, WV; Stevens Point, WI; Casper, WY.

The addresses of County, District, and State Offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Farmers Home Administration." The Finance Office is located at 1520 Market Street, St. Louis, Missouri 63103.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former FmHA applicants, borrowers, grantees, tenants, and their respective household members, including members of associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes files containing applicant's, borrower's, grantee's, tenant's, and their respective household members' characteristics, such as gross and net income, sources of income, capital, assets and liabilities, net worth, age, observed race, number of dependents, marital status, reference material, and operating plans. The system also includes credit reports and personal references from credit agencies, lenders, businesses, and individuals. In addition, a running record of observation concerning the operations of the person being financed is included. A record of deposits in and withdrawals from an individual's supervised bank account is also contained in those files where appropriate. In some County Offices, this record is maintained in a separate folder containing only information relating to activity within supervised bank accounts. Some items of information are extracted from the individual's file and placed in a card file for quick reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 et seq., 42 U.S.C. 1471 et. seq., 42 U.S.C. 2706.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting an violation of law, or of enforcing or implementing a statute, rule, regulation, or order issued pursuant thereto, of any record within this system, when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto.*

Referral of information, without an individual borrower's name or other identifying information, when grouped by geographic or other statistical categories, to provide the basis for statistical reports and news releases citing borrowers' progress.

Referral to employers, businesses, landlords, management and resident agents, contractor agents, creditors, local, State, Federal, and foreign agencies, and others, to determine repayment ability and eligibility for FmHA programs and benefits.**

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.*

Disclosure may be made of borrowers' names, and addresses to business firms in a trade area that buy chattel or crops or sell them for commission in order that FmHA may benefit from the purchaser notification provisions of Section 1324 of the Food Security Act of 1985 (7 U.S.C. 163(e)).

Disclosure may be made to a tribe, tribemember, or the Indian Housing Authority when FmHA determines such referral is appropriate to encourage selected borrowers to transfer or assign their loan to prevent liquidation as required by the Cranston-Gonzalez National Affordable Housing Act.

Referral to a collection or servicing contractor, or a local, State, or Federal agency, when FmHA determines such referral is appropriate for servicing or collecting the borrower's account or as provided for in contracts with servicing or collection agencies.*

Referral to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of the discovery, to the extent that the information disclosed is relevant and necessary to the proceeding.*

Referral of commercial credit information, which is filed in a system of records, to a commercial credit reporting agency for it to make the information publicly available.

Referral to financial consultants, advisors, or underwriters, when FmHA determines such referral is appropriate for developing packaging and marketing strategies involving the sale of FmHA loan assets as required by the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99–509.

Referral to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, when FmHA determines such referral is appropriate to encourage contacting selected borrowers to facilitate the refinancing of

*The credit reports and personal references from credit agencies, lenders, and individuals may be disclosed under the conditions of the six asterisked routine uses only.

**These referrals are made to determine if the information the borrower has provided is accurate, evaluate the applicant's credit history, and allow the FmHA to determine if the applicant's income is sufficient to repay the loan in accordance with the loan agreement. In addition, the FmHA must establish the applicant's income and inability to obtain credit elsewhere to determine eligibility for credit and other benefits such as interest credit.

their FmHA indebtedness as required by Title V of the Housing Act of 1949, as amended.

Referral of legally enforceable debts to the Department of the Treasury, Internal Revenue Service (IRS), to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A.

Referral of information regarding indebtedness to the Defense Manpower Data Center, Department of Defense, and the United States Postal Service for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by the FmHA in order to collect debts under the provisions of the Debt Collection Act of 1982 (Pub. L. No. 97–365), by voluntary repayment, administrative or salary offset procedures, or by collection agencies.

Referral to lending institutions, when FmHA determines such referral is appropriate for allowing potential commercial creditors to determine if they would consider financing a loan guaranteed by the FmHA.

Referral to lending institutions to allow the servicing of FmHA guaranteed loans, when FmHA determines that such referral is appropriate.

Referral to private attorneys under contract with either FmHA or with the Department of Justice for the purpose of foreclosure and possession actions and collection of past due accounts in connection with FmHA loans.

Referral to the Department of Justice for the purpose of litigation arising under statutes administered by FmHA.*

Referral to the Department of Housing and Urban Development (HUD) as a record of location utilized by Federal agencies for an automatic credit prescreening system.

Referral to the Department of Labor, State Wage Information Collection Agencies, and other Federal, State, and local agencies, as well as those responsible for verifying information furnished to qualify for Federal benefits, to conduct wage and benefit matching through manual and/or automated means, for the purpose of determining compliance with Federal regulations and appropriate servicing actions against those not entitled to program benefits, including possible recovery of improper benefits.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Records are maintained in file folders at the County, District, State, and National Offices. A limited subset of personal, financial, and characteristics data required for effective management of the programs and borrower repayment status is maintained on disc or magnetic tape at the Finance Office. This subset of data may be accessed by the authorized personnel from each office.

RETRIEVABILITY:

Records are indexed by name, identification number and type of loan or grant. Data may be retrieved from the paper records or the magnetic tapes. A limited subset of data is available through telecommunication capability, ranging from telephones to intelligent terminals. All FmHA offices have the telecommunications capability available to access this subset of data.

SAFEGUARDS:

Records are kept in locked offices at the County, District, State, and National Offices. A limited subset of data is also maintained in a tape and disc library and an on-line retrieval system at the Finance Office. Access is restricted to authorized FmHA personnel. A system of operator and terminal passwords and code numbers is used to restrict access to the on-line system. Passwords and code numbers are changed as necessary.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 366–380), and in accordance with FmHA's disposal schedules. The County, District, State, and National offices dispose of records by shredding, burning, or other suitable disposal methods after established retention periods have been fulfilled. Finance Office records are disposed of by overprinting. (Destruction methods never may compromise the confidentiality of information contained in the records.)

Applications, including credit reports and personal references, which are rejected, withdrawn, or otherwise terminated are kept in the County, District, or State Office for two full fiscal years and one month after the end of the fiscal year in which the application was rejected, withdrawn, cancelled, or expired. If final action was taken on the application, including an appeal, investigation, or litigation, the application is kept for one full fiscal year after the end of the fiscal year in which final action was taken.

The records, including credit reports, of borrowers who have paid or otherwise satisfied their obligation are retained in the County, District, or State Office for one full fiscal year after the fiscal year in which the loan was paid in full. Correspondence records at the National Office which concern borrowers and applicants are retained for three full fiscal years after the last year in which there was correspondence.

SYSTEM MANAGER(S) AND ADDRESS:

The County Supervisor at the County Office, the District Director at the District Office, and the State Director at the State Office, the Director of the Finance Office at the Finance Office, and the FmHA Administrator at the National Office.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or determine whether the system contains records pertaining to him or her, from the appropriate system manager. If the specific location of the record is not known, the individual should address his or her request to:

Administrator, FmHA, Attention: Freedom of Information Officer, United States Department of Agriculture, 14th and Independence Avenue SW., Washington, DC 20250.

A request for information pertaining to an individual must include: A name; an address; the FmHA office where the loan or grant was applied for, approved, and/or denied; the type of FmHA program; and the date of the request or approval.

RECORD ACCESS PROCEDURES:

Any individual may obtain information regarding the procedures for gaining access to a record in the system which pertains to him or her by submitting a written request to one of the system managers referred to above.

*The credit reports and personal references from credit agencies, lenders, and individuals may be disclosed under the conditions of the six asterisked routine uses only.

CONTESTING RECORD PROCEDURES:

Same as record access procedures.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the applicant, borrower, grantee, or tenant. Credit reports and personal references come primarily from credit agencies and creditors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 93–1890 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–07

Agricultural Marketing Service

[Docket No. TB–93–03]

Burley Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. app.) announcement is made of the following committee meeting:

Name: Burley Tobacco Advisory Committee.

Date: February 11, 1993.

Time: 10 a.m.

Place: Campbell House Inn, North Colonial Hall, 1375 Harrodsburg Road, Lexington, Kentucky 40405.

Purpose: Elect new officers, review the past marketing season, consider changes to the policies and procedures, review regulations pursuant to the Tobacco Inspection Act, 7 U.S.C. 511 *et seq.*, and other related issues.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Tobacco Division, AMS, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: January 19, 1993.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 93–1892 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Mt. Baldy Village Land Exchange; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement for a Land for Land Exchange in the Mt. Baldy Village and San Antonio Canyon area. This is in response to the Mt. Baldy Homeowners Associations proposal to acquire National Forest System lands within Mt. Baldy Village. Mt. Baldy Village is located on the Mt. Baldy Ranger District, on the Angeles National Forest, in the Counties of Los Angeles and San Bernardino, California. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decisionmaking process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by March 22, 1993.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Susan Swinson, Deputy Forest Supervisor, Angeles National Forest, 701 N. Santa Anita Avenue, Arcadia, CA 91006–2799.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and Environmental Impact Statement to Ms. Swinson at the above address or phone (818) 574–5220.

SUPPLEMENTARY INFORMATION: The Angeles National Forest Land and Resources Management Plan, Final Environmental Impact Statement and Record of Decision have been issued. These documents permit, under certain conditions, the exchange of National Forest System lands.

In preparing the Environmental Impact Statement, the Forest Service will identify and consider a range of alternatives. One of these alternatives will be a no exchange alternative.

The Regional Lands Director, Region 5, Pacific Southwest Region, San Francisco, California, is the responsible official.

Public Participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest will be seeking information, comments and assistance from Federal, State and local agencies, the proponent and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the Draft Environmental Impact Statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (ie., direct, indirect and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task agreements.

The Forest Service will hold the following public scoping meetings:

February 11, 1993, 2–8 pm at the Glendora Library, 140 S. Glendora Ave. Glendora, CA.

February 12, 1993, 2–8 pm and February 20, 1993, 10 am–5 pm at the Mt. Baldy School House Forest Service facility, on Mt. Baldy Road, Mt. Baldy Village, CA.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The DEIS is expected to be available for public review by June, 1993. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions.

Vermont Yankee, Nuclear Power Corp. v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th CIR. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. WIS. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the

alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: January 13, 1993.

Michael J. Rogers,

Forest Supervisor.

[FR Doc. 93–1613 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption of Decision for Marks Creek Salvage Sale From Appeal, Ochoco National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Marks Creek Salvage Sale on the Big Summit Ranger District of the Ochoco National Forest is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Thomas A. Schmidt, Forest Supervisor, Ochoco National Forest, P.O. Box 490, Prineville, Oregon 97754; or Bruce Wilson, District Ranger, Big Summit Ranger District, Ochoco National Forest, Prineville, Oregon 97754, Phone (503) 447–9641.

SUPPLEMENTARY INFORMATION: During the last decade the defoliation and mortality caused by the western spruce budworm and associated pests of Douglas-fir and white fir stands of the Ochoco National Forest has become epidemic and forest-wide. In some stands the mortality was nearly total, and no stand with fir was left unaffected. One of the hardest hit areas is in and around the Marks Creek Planning Area on the Big Summit Ranger District.

In the Marks Creek Planning Area the outbreak of the western spruce budworm occurred in 1983, and spread throughout the area by 1985. The infestation increased in severity with each year. Though some death was always associated with the outbreak, widespread mortality has occurred only during the last three years, 1990–1992, taking as much as 80 percent the Douglas-fir and white fir within some stands.

Recognizing the infestation had not run its anticipated course, and that unexpectedly high mortality would occur, the area was examined to determine an appropriate course of action. An environmental analysis was completed in December 1992, and discloses effects of alternatives to rehabilitate the resources within the project area.

An interdisciplinary team (IDT) identified the following needs: To balance market and non-market outputs; improve forest health; reduce fuels loading and risk of catastrophic fire; and improve riparian and stream conditions. The proposed project is timber harvest with the related activities of reforestation, road construction and reconstruction, and fuel treatment. Mitigation measures include log and boulder placement and riparian plantings in three miles of creeks, road closures, soil tilling, and water and spring development.

The IDT began scoping in February 1992, with a scoping letter mailed to individuals, groups, and other Federal agencies. Scoping continued throughout the process via open house meetings, newsletters, tours, coordination meetings with other agencies, and written and verbal communications.

From the meetings, press releases, and contacts with individuals and State and other Federal agencies, the following seven issues were identified:

1. Potential effects of timber harvest, road management, and insects on the quality and quantity of wildlife habitat and biodiversity.
2. Potential effects of timber harvest and connected actions on water quality, riparian, and fisheries habitat.
3. Effects of the current insect outbreak and associated tree mortality on the ability of the forest to meet management objectives identified for the area.
4. Potential timber harvest effects of adding slash to already heavy fuel loadings from mortality and of increasing the risk of catastrophic fire.
5. Potential effects, from both timber harvest and connected actions, to recreation opportunities and the forest scenery viewed from U.S. Highway 26 and camping areas.
6. There is potential for below cost timber sales due to the dead trees losing value and volume from decay and checking, low value species, and small size material.
7. Potential effects of harvesting and road construction on sensitive plant species and levels of noxious weeds populations.

The IDT developed three alternatives to analyze, including the No-Action Alternative. The effects of these alternatives are disclosed in the Marks Creek Planning Area environmental assessment which was prepared for the proposal. Alternative 3 would harvest about 1509 acres of area: 1012 acres of shelterwood and seed tree cut and 467 acres of partial cut. Alternative 3 would harvest about 4.5 million board feet: Approximately 30 percent of Douglas-fir; 65 percent of white fir; and 5 percent of ponderosa pine and western larch. Approximately 2.2 miles of roads would be constructed and 1.6 miles of roads reconstructed. This alternative is the most effective in meeting the purpose and need and responding to the issues.

The Marks Creek Salvage Sale and accompanying work is designed to accomplish the forest health objectives as quickly as possible and minimize the amount of salvage volume lost. To expedite Marks Creek Salvage Sale and the accompanying work, this project is exempted from appeal (36 CFR part 217). Under this Regulation, the following is exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of notice in the **Federal Register**, the Decision Notice for the Marks Creek Salvage Sale may be signed by the Forest Supervisor. Therefore, this project will not be subject to review under 36 CFR part 217.

Dated: January 14, 1993.

Nancy Graybeal,

Deputy Regional Forester.

[FR Doc. 93–1851 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption of Decision for Black Olive Salvage Sale From Appeal, Umatilla National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Black Olive Salvage Sale, located on the North Fork John Day Ranger District, Umatilla National Forest, is exempted from appeal. This is in conformance with provisions of 36 CFR part 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 3342).

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Craig Smith-Dixon, District Ranger, North Fork John Day Ranger District; P.O. Box 158; Ukiah, Oregon 97880, Phone (503) 427–3231.

SUPPLEMENTARY INFORMATION: In 1986 a large wildfire burned approximately 3,200 acres in the Black Olive Planning Area. In 1989 the Rusty Salvage Timber Sale harvested approximately 550 acres of fire-damaged trees. In the Summer of 1991, a district interdisciplinary team (IDT) surveyed much of the remaining burn to assess what could be salvaged and the effects on wildlife, raparian, and in-stream habitat.

The IDT identified the need to salvage dead trees while they were still merchantable and the desirability to complete the salvage quickly so that establishment of new forest stands could take place promptly.

The analysis of the proposed action for the Black Olive area began in early 1992. Scoping included individuals, groups, State and other federal agencies, and the Confederated Tribes of the Umatilla Indian Reservation.

The proposed action will salvage harvest 900,000 board feet on approximately 110 acres. Only dead trees will be harvested. No road construction or reconstruction will be required. The harvest method would be ground based. Reforestation with serial species will occur where post harvest surveys indicate that natural regeneration will not be adequate. All main skid trails and landings will be subsoiled to relieve soil compaction and grass seeded to minimize sedimentation.

This action fits within category 4 of section 31.2 of Forest Service Handbook 1509.15. Therefore, this action may be categorically excluded from documentation in an environmental impact statement or an environmental assessment.

Biological evaluations have been completed for all plant, wildlife, and fish Proposed, Endangered, Threatened and Sensitive (PETS) species within the project area. There will be no effect on any PETS species or the critical habitat. Cultural resource surveys indicate that this project will have no effect on native American religious sites, archeological sites, or historic properties or areas.

The Black Olive Salvage Sale and accompanying work are designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost and resource damage. To expedite this salvage sale and the accompanying work, this project is exempted from appeal (36 CFR part 217). Under this Regulation, the following are exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, this Decision Memo for the Black Olive Salvage Sale may be signed by the North Fork John Day District Ranger. Therefore, this project will not be subject to review under 36 CFR part 217.

Dated: January 14, 1993.

Nancy Graybeal,

Deputy Regional Forester.

[FR Doc. 93-1848 Filed 1-25-93; 8:45 am]

BILLING CODE 3410-11-M

Forest Service

Exemption of Decision For Touchet Salvage Timber Sale From Appeal, Umatilla National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Touchet Salvage Timber Sale, located on the Walla Walla Ranger District, Umatilla National Forest, is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Tom Reilly, District Ranger, Walla Walla Ranger District; 1415 West Rose Street; Walla Walla, Washington 99362, Phone (509) 522-6290.

SUPPLEMENTARY INFORMATION: From early 1991 to the present, there has been a need to remove insect-infested, diseased and wind-damaged trees along the heavily travelled roads on the Umatilla National Forest. Much of the heaviest damage has been on the Walla Walla Ranger District. The decline in Forest Health has dramatically increased in the Touchet Salvage area in the last two years. In the Fall of 1990, a district interdisciplinary team (IDT) surveyed much of salvage area to assess the damage to the resources that had occurred. The wind-damage includes: Windthrow; mortality in diseased stands of Englemann spruce, subalpine fir, and white fir; and mortality in spruce beetle and western spruce budworm infested stands of Englemann spruce, subalpine fir, white fir, and Douglas fir. Other resource areas identified were: Loss of riparian and in-stream habitat; increased risk to public safety; and increased risk of catastrophic fire.

The IDT has identified the need to salvage the diseased, wind-damaged, and insect-killed trees in as short a time as possible while the logs are still merchantable. Rapid deterioration of diseased, wind-damage, and insect-infested trees, especially those of the smaller diameter, will quickly reduce their merchantable and economic value. The IDT also identified the need and desirability to complete the logging quickly so that establishment of new forest stands, and other restoration measures can take place promptly.

An environmental analysis of these actions for the Touchet area began in February 1991. After public meetings and contracts with individuals, groups, State, and other federal agencies, the following major issues were identified: Stand health; public safety; soil resources; snag habitat; long-term site productivity; and riparian rehabilitation.

The proposed action will salvage harvest approximately 130 acres of diseased, wind-damaged, and insect-damaged stands. Stands selected for harvest exhibited high to extreme levels of damage from disease, the wind and mortality by spruce beetle and western spruce budworm. Within the stands, only dead and down or dying host species (Englemann spruce, subalpine fir, Douglas-fir, and white fir) will be selected for harvest. The proposed action would produce about 165,000 board feet of timber. No road construction or reconstruction is planned. Logging systems will include skyline yarding on 130 acres.

This action fits within category 4, (salvage less than 1 million board feet and assures regeneration) of section 31.2 of Forest Service Handbook 1909.15. Therefore, this action may be categorically excluded from documentation in an environmental impact statement or an environmental assessment.

Biological evaluations have been completed for all plant, wildlife, and fish. Proposed Endangered, Threatened and Sensitive species habitat within the project area is present. The biological evaluations concluded that this project would not contribute to the loss of viability of the species or cause the species to move toward federal listing. All biological evaluations indicated that projects could proceed as planned.

The Touchet Salvage Timber Sale and accompanying work are designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost. To expedite this salvage sale and the accompanying work, this project is exempted from appeal (36 CFR part 217). Under this

Regulation, the following are exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Memo for the Touchet Salvage Timber Sale may be signed by the Forest Supervisor. Therefore, this project will not be subject to review under 36 CFR part 217.

Dated: January 14, 1993.

Nancy Graybeal,

Deputy Regional Forester.

[FR Doc. 93–1849 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption of Decision For Ninemile Salvage Timber Sale From Appeal, Umatilla National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice to exempt decisions from administrative appeal.

SUMMARY: This is a notification that the decision to implement the Ninemile Salvage Timber Sale, located on the Walla Walla Ranger District, Umatilla National Forest, is exempted from appeal. This is in conformance with provisions of 36 CFR 217.4(a)(11) as published in the **Federal Register** on January 23, 1989 (54 FR 3342).

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Tom Reilly, District Ranger, Walla Walla Ranger District; 1415 West Rose Street; Walla Walla, Washington 99362, Phone (509) 522–6290.

SUPPLEMENTARY INFORMATION: From January 1990 to the present, several catastrophic windstorms have damaged major forested portions of the Umatilla National Forest. Much of the heaviest damage has been on the Walla Walla Ranger District. The amount of wind-damage has dramatically increased in the Ninemile Salvage Area in the last two years. In the Fall of 1991, a district interdisciplinary team (IDT) surveyed much of he wind-damaged area to assess the damage to the resources. The wind damage included: Windthrow; mortality in diseased stands of Engelmann spruce, subalpine fir. and white fir; and mortality in spruce beetle infested stands of Engelmann spruce and subalpine fir. Other resources areas identified were loss of riparian and instream habitat and increased risk of catastrophic fire.

The IDT has identified the need to salvage the wind-damaged and insect-killed trees in as short a time as possible while the logs are still merchantable. Rapid deterioration of wind-damaged and insect-infested trees, especially those of the smaller diameter, will quickly reduce their merchantable and economic value. The IDT also identified the need and desirability to complete the logging quickly so that establishment of new forest stands and other restoration measures can take place promptly.

An environmental analysis of these actions for the Ninemile area began in December 1991. After public meetings and contacts with individuals, groups, State and other Federal agencies, the following major issues were identified: Stand health; timber salvage; snag habitat; long-term site productivity; and riparian rehabilitation.

The proposed action will salvage harvest approximately 120 acres of wind-damaged and insect-damaged stands. Stands selected for harvest exhibited high to extreme levels of damage from the wind and mortality by spruce beetle. Within the stands, only dead and down or dying host species (Engelmann spruce, subalpine fir and white fir) will be selected for harvest. The proposed action would produce about 800 thousand board feet of timber. No road construction or reconstruction is planned. Logging system will include tractor yarding on 120 acres. Reforestation with seral species will occur on 10 acres.

This action fits within category 4 (salvage less than 1 million board feet and assures regeneration) of section 31.2 of Forest Service Handbook 1909.15. Therefore, this action may be categorically excluded from documentation in an environmental impact statement or an environmental assessment.

Biological evaluations have been completed for all plant, wildlife, and fish. Proposed Endangered, Threatened and Sensitive species habitat within the project area is present. The biological evaluations concluded that this project would not contribute to the loss of viability of the species or cause the species to move toward federal listing. All biological evaluations indicated that this project could proceed as planned.

The Ninemile Salvage Timber Sale and accompanying work are designed to accomplish the objectives as quickly as possible and minimize the amount of salvage volume lost. To expedite this salvage sale and the accompanying work, this project is exempted from appeal (36 CFR part 217). Under this Regulation, the following are exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as wildfires * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

After publication of this notice in the **Federal Register**, the Decision Memo for the Ninemile Salvage Timber Sale may be signed by the Forest Supervisor. Therefore, this project will not be subject to review under 36 CFR part 217.

Dated: January 14, 1993.

Nancy Graybeal,

Deputy Regional Forester.

[FR Doc. 93–1850 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–11–M

Santiam Pass Demo Project, Willamette National Forest, Linn County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to harvest trees, regenerate stands, construct roads, and use prescribed fire in Santiam Pass. The need for the demonstration project is to change forest stand structure and composition to address forest health problems in Santiam Pass. Three of the four proposed units would be in Roadless Areas. Project is proposed for fiscal year 1993. The Willamette National Forest invites written comments on the scope of the analysis. The agency will give full notice of the full environmental analysis and decision making process for the proposal so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by February 15, 1993.

ADDRESSES: Send written comments to Joe Zook, District Planner, McKenzie Ranger District, McKenzie Bridge, Oregon 97413.

FOR FURTHER INFORMATION CONTACT: Joe Zook, District Planner, McKenzie Ranger District, McKenzie Bridge, Oregon 97413, Phone (503) 822–3381.

SUPPLEMENTARY INFORMATION: The USDA, Forest Service proposal includes: the harvest of trees through

commercial thinning, understory removal, and regeneration harvest on about 257 acres, for an estimated volume of 2.4 MMBF (million board feet); to construct spur roads as necessary to access units; to prescribe burn some understory layers in selected stands before thinning; to regenerate new stands after harvest; and to educate the public on forest health options. Of the four proposed units, unit 2 would be in Mt. Jefferson South Roadless Area, and units 3 and 4 would be in Mt. Washington West Roadless Area.

Preliminary issues have been identified and include: readless areas; forest health, long-term productivity, and biodiversity; spotted owls; recreation experience; fire hazard and air quality; old growth and fragmentation; socio-economic; Pacific yew trees; threatened, endangered, and sensitive species (plants and animals); and cultural resources. A range of alternatives will be developed including a no action alternative.

This draft EIS will tier to the 1990 Final EIS for the Willamette National Forest Land and Resource Management Plan and will be consistent with the Forest Plan. The Forest Service is the lead agency.

Initial scoping began in May 1992. Extensive scoping has already been done on the project proposal through field trips, newsletters, and public meetings. The public is invited to offer suggestions and comments in writing.

The draft EIS is expected to be completed in February 1993. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled to be completed in May 1993. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the Santiam Pass Demo Project. Darrel L. Kenops, Forest Supervisor, is the Responsible Official. As the Responsible Official, he will decide whether to implement the project. The Responsible Official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 217).

Dated: January 1993.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 93–1820 Filed 1–25–93; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Alabama Advisory Committee to the U.S. Commission on Civil Rights will meet on February 23, 1993, from 7 p.m. until 8:30 p.m. at the Sheraton Riverfront Hotel, 200 Coosa Street, Montgomery, Alabama 36104. The purpose of the meeting is to discuss follow up activities to the report, From the Dream of the Sixties to the Vision of the Nineties—The Case For An Alabama Human Relations Commission.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Division (816) 426–5253; (TTY 816—426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 15, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–1845 Filed 1–25–93, 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 631]

Expansion of Foreign-Trade Zone 17, Kansas City, KS

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), and the FTZ Board Regulations (15 CFR part 400), the FTZ Board (the Board) adopts the following Resolution and Order:

Whereas, an application from the Greater Kansas City Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 17, Kansas City, Kansas for authority to expand its general-purpose zone to include a site in Leavenworth, Kansas, adjacent to the Kansas City Customs port of entry, was filed by the Board on November 6, 1991, and notice inviting public comment was given in the **Federal Register** on January 2, 1992 (Docket 81–91, 57 FR 41);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Kansas City area; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied, and that approval is in the public interest;

Now, therefore, the Board hereby orders:

That the grantee is authorized to expand its zone in accordance with the application filed on November 6, 1991, subject to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), including § 400.28.

Signed at Washington, DC, this 15th day of January, 1993.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration; Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–1899 Filed 1–25–93; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker From Mexico; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of this merchandise to the United States during the period April 12, 1990, through July 31, 1991. Based on our review of these exports, we preliminarily find existence of dumping margins.

We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 26, 1993.

FOR FURTHER INFORMATION CONTACT: Marina McCelland or Melissa Skinner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone (202) 482–4852.

SUPPLEMENTARY INFORMATION:

Background

The final determination of the investigation in this case was published in the **Federal Register** on July 18, 1990 (55 FR 29244), and the antidumping duty order was published on August 29, 1990 (55 FR 35371). On August 21, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on gray portland cement and clinker from Mexico (56 FR 41506).

In accordance with 19 CFR 353.22(a)(1), the Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement company of California (the petitioner) requested an administrative review for CEMEX, S.A. (CEMEX) and Apasco S.A. de C.V. (Apasco). CEMEX also requested a review of its shipments. Thus, the Department is now conducting a review of these respondents pursuant to section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

On December 23, 1991, CEMEX responded to the Department's questionnaire. Thereafter, the Department accepted petitioner's allegations of sales below the cost of production (COP) and, on March 13, 1992, we issued a COP questionnaire to CEMEX. CEMEX responded to the COP questionnaire on April 30, 1992. Petitioner also filed fictitious market allegations against CEMEX. The Department issued a fictitious market questionnaire on May 11, 1992. CEMEX responded to the fictitious market questionnaire on May 19, 1992. From May 18, 1992, through May 29, 1992, the Department conducted verification of CEMEX's questionnaire responses and COP response and investigated petitioner's fictitious market allegations.

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement.

Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under number 2523.10. Gray portland cement has also been entered under number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and U.S. Customs Service purposes only. The written description remains dispositive as to the scope of the product coverage.

The period of review (POR) is April 12, 1990, through July 31, 1991.

United States Price

We based United States price on purchase price, where sales were made directly to unrelated parties prior to importation into the United States, in accordance with section 772(b) of the Tariff Act, and on exporter's sales price (ESP), where sales to the first unrelated purchaser took place after importation into the United States, in accordance with section 772(c) of the Tariff Act. For purchase price sales, we made adjustments for ocean freight, inland freight, foreign brokerage, foreign inland freight, marine insurance, import duties, U.S. brokerage, early payment discount, customer trade discount, trade discount, credit and debit memos, and uncollected taxes. In calculating ESP, we made adjustments for ocean freight, inland freight, foreign brokerage, foreign inland freight, import duties, U.S. brokerage, inland freight to terminal, freight to the further manufacturing site, marine insurance, early payment discount, customer trade discount, trade discount, inventory carrying costs, credit and debit memos, special charges, indirect selling expenses incurred in the U.S. and Mexico, credit, handling revenue, billing adjustments, and uncollected taxes. In addition, we adjusted the U.S. price of the further-manufactured merchandise by deducting the U.S. cost of further manufacturing, the selling, general and administrative expenses applicable to the further-manufactured goods, and the profit realized from the further manufacturing.

Foreign Market Value

Petitioner alleged, as noted, that CEMEX created a fictitious market in the home market. Petitioner claims that CEMEX altered its pricing practice for Type I and Type II cement sales in the home market to eliminate or reduce CEMEX's financial burden resulting from the assessed large antidumpting duty.

After examining the pricing trends of Type I and Type II cement in the home market during the POR, we have found no indication that CEMEX created a fictitious market.

Petitioner, as noted above, also alleged that CEMEX sold Type I and Type II cement in the home market at prices below their COP. We considered the allegation sufficient to warrant an investigation of possible home market sales below the COP. As a result of the investigation, we found less than 10 percent of the sales of Type I cement below cost and these sales have not been eliminated from the home market data base. We found substantial quantities of Type II sales made at prices below the COP over an extended period of time. Therefore, we disregarded those sales of Type II cement sold at below COP. Subsequently, where we were not able to find contemporaneous sales of Type II cement in the home market to compare with sales of Type II cement in the United States, either within the same month or 90 days before or 60

days after that month, the Department based FMV on a constructed value, as described in § 353.50 of our regulations.

In accordance with section 773(a)(1)(A) of the Tariff Act, we calculated FMV based on home market sales, including sales to related customers. We conducted an arms-length test and determined CEMEX's sales to related parties were at prices comparable with those to unrelated customers. We excluded one home market sale made for "goodwill" purposes. We calculated FMV based on packed, f.o.b. ex-factory prices and c.i.f. prices.

Pursuant to section 773(a)(4)(B) of the Tariff Act and 19 CFR 353.56(a), we made circumstance of sales adjustments, where appropriate, for differences in credit expenses. We also made circumstance of sales adjustments to eliminate any differences in taxation between the two markets. For comparisons of bagged cement, we deducted home market packing costs from FMV and added to FMV U.S. packing costs incurred in Mexico. Where appropriate, we also made deductions from home market prices for discounts, rebates, and inland freight and added packing revenue, handling revenue, and credit revenue.

For comparisons to ESP sales, we made additional deductions from the FMV for home market indirect selling expenses, which consist of general indirect selling expenses and inventory carrying costs. We limited the amount deducted for indirect selling expenses incurred in the home market by the amount of indirect selling expenses incurred on sales in the U.S. market in accordance with 19 CFR 353.56(b)(2).

Monetary Correction

During the POR, CEMEX experienced both foreign exchange gains and losses on its monetary assets and liabilities denominated in foreign currencies. The monetary gains and losses represent the effect of inflation on the company's net monetary assets and liabilities.

Petitioner argues that in calculating CEMEX's financing expenses for COP purposes, the Department should not include an adjustment for monetary position gain. According to petitioner, the Department's application of a monetary correction to assets, liabilities and, consequently, CEMEX's income would cause distortion in this case.

Respondent CEMEX argues that because debt principal is not indexed or restated in Mexico, the financial position of the company would deteriorate without monetary correction.

The Department has long held the position that financing expenses are vulnerable to inflation. Monetary correction is used only for the holding of monetary assets and liabilities, which have fixed nominal values such as debt, therefore affecting the financial position of the company. Mexico's GAAP recognizes that inflation is at such a level that without monetary correction a misrepresentation of a company's financial expenses would result. Therefore, based on Mexican GAAP, the Department has used monetary correction when calculating financial expenses.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period April 12, 1990, through July 31, 1991, to be:

Company	Margin percentage
CEMEX, S.A	30.74
Apasco, S.A. de C.V	[1]53.26

[1]For the period April 12, 1990–July 31, 1991, Apasco, S.A. de C.V. made no shipments. In the final determination of sales at less than fair value, the Department determined a margin percentage of 53.26% for Apasco, S.A. de C.V.

On December 2, 1991, Apasco informed the Department that it made no shipments of the merchandise covered by the order during the POR. The Department has contacted U.S. Customs to verify the lack of imports of the covered merchandise produced by Apasco.

Case briefs and/or written comments from interested parties may be submitted no later than 30 days of the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 37 days of the date of publication of this notice.

Within 10 days of the date of publication of this notice, interested parties to this proceeding may request a disclosure and/or a hearing. The hearing, if requested, will take place no later than 44 days of publication of this notice. Persons interested in attending the hearing should ascertain with the Department the date and time of the hearing.

The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1900 Filed 1–25–93; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-819, A-427-811, and A-533-808]

Initiation of Antidumping Duty Investigations: Certain Stainless Steel Wire Rods from Brazil, France and India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 25, 1993.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-2778.

INITIATION OF INVESTIGATIONS:

The Petitions

On December 30, 1992, we received three petitions filed in proper form by the Al Tech Specialty Steel Corp., Armco Stainless & Alloy Products, Carpenter Technology Corp., Republic Engineered Steels, Talley Metals Technology, Inc., and United Steelworkers of America, AFL-CIO/CLC (petitioners). On January 12, 1993, we received a supplement to the petitions, at the Department's request. In accordance with 19 CFR 353.12, the petitioners allege that certain stainless steel wire rods (SSWR) from Brazil, France and India are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioners have stated that they have standing to file the petitions because they are interested parties, as defined under section 771(9)(C) of the Act, and because the petitions were filed on behalf of the U.S. industry producing the product subject to these investigations. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, these petitions, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

Scope of Investigations

For purposes of these investigations, certain stainless steel wire rods (SSWR) are products which are hot-rolled or hot-rolled annealed and pickled rounds, squares, octagons, hexagons or other shapes, in coils, for subsequent cold-drawing or cold-rolling. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are always sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States are round in cross-sectional shape, annealed and pickled, and later cold-drawn into stainless steel wire. The most common size is 5.5 millimeters in diameter.

The SSWR subject to these investigations are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, 7221.00.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

United States Price and Foreign Market Value

Brazil

Petitioners based United States Price (USP) on information obtained by a U.S. industry consultant. The consultant provided price quotes for two different grades (304 and 316) of the subject merchandise. Petitioners calculated USP by subtracting the duty rate, harbor maintenance fee, merchandise processing fee, ocean freight and marine insurance.

Foreign Market Value (FMV) is based on home market prices obtained by an industry consultant for two grades (304 and 316) of SSWR. The prices were converted to a per pound basis. No conversion into dollars was necessary since the prices were quoted in U.S. dollars.

France

Petitioners based USP on information obtained through their own business activity. This information included C.I.F. prices for one grade of SSWR from the two known French producers. Petitioners calculated a net price by making deductions for the duty rate, ocean freight, marine insurance, harbor maintenance fee, merchandise processing fee, U.S. inland freight and foreign inland freight. Petitioners used U.S. import statistics to estimate ocean freight and marine insurance charges, while figures for foreign inland freight and insurance charges were supplied by a European steel consultant. No adjustments to USP were made for brokerage and handling charges or for any selling expenses.

The European steel consultant obtained information on prices for FMV. Petitioners provided C.I.F. prices in French Francs for the same grade from the two known French producers. Petitioners converted the prices to dollars using the contemporaneous exchange rate found in the Federal Reserve Statistical Release. In addition, the units of weight were converted from dollars per metric ton to dollars per pound. Based on information received from the European steel consultant, petitioners deducted amounts for foreign inland freight and insurance charges and made an adjustment for the lower carbon content of the SSWR sold in French as compared to that sold in the United States.

Finally, the home market prices used by petitioners are exclusive of value-added taxes. In accordance with current Department policy, petitioners calculated the amount of such taxes which would be applicable to sales to the United States and added the resulting amount to both USP and FMV.

India

A consultant was used to obtain information on USP for two grades of SSWR from two producers. These prices were quoted as FOB U.S. dock. Net USP was calculated by subtracting the duty rate, ocean freight, marine insurance, harbor maintenance fee, merchandise processing fee and foreign inland freight.

For FMV, an industry consultant obtained a range of prices for two grades of SSWR from two producers. These prices were exfactory prices. The petitioners averaged the high and low price for each grade. These average prices were used in the margin calculation after some adjustments were made. The prices were converted from rupees to dollars using an exchange rate from the monthly Federal Reserve Statistical Release. Also, adjustments for differences in credit expenses between U.S. and Indian sales were made.

The range of dumping margins of SSWR from Brazil based on a comparison of USP to FMV alleged by petitioners is 23.5% to 26.5%. The range of dumping margins of SSWR from France is 17.8% to 25.5%, and the range for India is 41.1% to 48.8%.

Critical Circumstances

Petitioners also allege that "critical circumstances" exist, within the meaning of Section 733(e) of the Act, with respect to imports of the subject merchandise form Brazil and France.

Initiation of Investigations

We have examined, the petitions for SSWR from Brazil, France and India, as amended, and have found that the petitions meet the requirements of section 732(b) of the Act. We have studied the information provided in the petitions and for purposes of the initiation we accept petitioners' calculations. Therefore, we are initiating antidumping duty investigations to determine whether imports of SSWR from Brazil, France and India are being, or are likely to be, sold in the United States at less than fair value. If investigations proceed normally, we will make our preliminary determinations by June 8, 1993.

ITC Notification

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of these actions and we have done so.

Preliminary Determinations by the ITC

The ITC will determine by February 16, 1993, whether there is a reasonable indication that imports of SSWR from Brazil, France and India are materially injurying, or threaten material injury to, a U.S. industry. A negative ITC determination will result in these investigations being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: January 19, 1993.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 93–1905 Filed 1–25–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Marine Mammals

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

ACTION: Issuance of permit modification (P135C).

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR part 216) and § 222.25 of the regulations governing endangered species permits (50 CFR part 222), Scientific Research Permit No. 789 issued to Dr. James H.W. Hain, Associated Scientists at Woods Hole, Inc., Box 721, Woods Hole, MA 02543, on August 24, 1992 (57 FR 39672), has been modified to allow the Holder to descend to a minimum altitude of 200 ft with a minimum slant range of 350 ft for right whales during aerial surveys, photo-identification and behavioral observations from an airship. This modification becomes effective upon signature.

Issuance of this permit, as modified, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Act. This permit was also issued in accordance with and is subject to the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 220–222).

Documents submitted in connection with this Permit and modification are available, by appointment, in the:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 7324, Silver Spring, MD 20910 (301/713–2289);

Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200); and

Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141).

Dated: January 14, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–1823 Filed 1–25–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

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

ACTION: Notice of receipt of application for scientific research permit (P504B).

Notice is hereby given that the U.S. Army Corps of Engineers (Corps), Walla Walla District has applied in due form for a permit to take endangered and threatened species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 217–227).

The applicant requests authorization to collect and transport juvenile Snake River sockeye salmon (*Oncorhynchus nerka*) and juvenile Snake River spring/summer and fall chinook salmon (*O. tshawytscha*) around mainstem dams and associated downstream reservoirs on the Snake and Columbia rivers for the purpose of increasing their chances of survival over the alternative of in-river passage, given current in-river conditions. Collection and transportation of juvenile salmon is projected to occur March 25 through October 31 at Lower Granite, Little Goose, and Lower Monumental dams, and March 25 through December 31 at McNary Dam. The requested duration of the permit is March 25 through December 31, 1993.

The Corps proposes to route the fish to raceways and then load them into trucks or barges for transportation to the Columbia River, below Bonneville Dam, without further handling except for those salmon subsampled for research conducted by agents acting on behalf of the Corps. Subsets of salmon collected for transportation and additional listed salmon will be used for smolt monitoring and research purposes. This research involves a number of institutions for a variety of different projects, including the following: (1) Handling; (2) PIT tagging; (3) Freeze branding; (4) Scale sampling; (5) Sacrifice for Fish Guidance Efficiency (FGE) tests; (6) Sacrifice for blood chemistry work; (7) Sacrifice for bacterial kidney disease studies and smoltification analysis; (8) Stunning or killing by underwater video studies; and (9) Illumination by lasers. Adults of any of the three species that are collected incidental to the transportation or the research would be returned to the river without further handling.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application summary are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230–5400).

Dated: January 14, 1993.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–1824 Filed 1–25–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Bangladesh

January 19, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: January 21, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 338/339 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 1146, published on January 10, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 19, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 7, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1992 and extends through January 31, 1993.

Effective on January 21, 1993, you are directed to amend further the directive dated January 7, 1992 to increase the limit for Categories 338/339 to 977,085 dozen [1], as provided under the terms of the current bilateral agreement between the Governments of the United States and People's Republic of Bangladesh.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–1831 Filed 1–25–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of The Secretary

Notice of Cancellation

AGENCY: Office of The Under Secretary of Defense (Acquisition), Defense.

SUMMARY: Pursuant to section 807 of Public Law 102–120, the National Defense Authorization Act for Fiscal Years 1992 and 1993, a Government-Industry Technical Data Committee was formed. The committee will make recommendations to the Secretary of Defense for the final regulations required by subsection (a) of 10 U.S.C. 2320, "Rights in Technical Data."

The committee meetings scheduled for February 9 and 10, 1993, (Federal **Register** Notice, December 28, 1992, page 61597) are hereby cancelled. For more information, please contact the Committee Executive Secretary, Angelena Moy at (703) 693–5639.

Dated: January 21, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–1832 Filed 1–25–93; 8:45 am]

BILLING CODE 3810–01–M

[1] The limit has not been adjusted to account for any imports exported after January 31, 1992.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2362–002 Minnesota]

Blandin Paper Company; Notice of Availability of Environmental Assessment

January 19, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new major license for the existing Blandin Hydroelectric Project, located on the Mississippi River in Itasca County, Minnesota, in the city of Grand Rapids, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that approval of the project would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1868 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

Additional Environmental Compliance Training Courses

January 19, 1993.

The Office of Pipeline and Producer Regulation (OPPR) will present two environmental compliance training courses in addition to the four announced on September 17, 1992. These courses are being held so that the regulated pipeline industry and interested individuals and/or

organizations can gain a better understanding of the requirements and objectives of the Commission in ensuring compliance with all environmental certificate conditions and meeting its responsibilities under the National Environmental Policy Act and other laws and regulations. Interested organizations are urged to take advantage of these courses.

Course discussion will include the following topics:

- Objectives and requirements of FERC construction orders;
- Preconstruction clearance filings and obtaining Notices to Proceed; and
- Environmental Inspection as it relates to:
  - Right-of-way preparation;
  - General erosion control;
  - Right-of-way restoration;
  - Topsoil segregation;
  - Stream and river crossing;
  - Wetland construction;
  - Residential area construction;
  - Construction and restoration in arid climates;
  - Cultural resources/Paleontology; and
  - Right-of-way maintenance.

The training courses will be given in the locations identified below. Details on location and time may be obtained from Mr. George Willant at the number listed below.

Houston, TX—May 4, 5, and 6, 1993
Washington, DC—June 8, 9, and 10, 1993

The course is designed for individuals directly involved in environmental performance such as environmental and right-of-way inspectors, and construction contractor personnel. Training will be conducted by Ebasco Environmental (Ebasco), the Commission's environmental support contractor, under the direction of the staff of OPPR. There will be no registration fee.

Any organization or individual interested in participating in this course should preregister by sending in a written request to George Willant at: Ebasco Environmental, 211 Congress Street, Boston, MA 02110–2410.

The request should include names, addresses and telephone numbers. Session attendance will be limited to 200 and only one set of course materials will be available per preregistered attendee.

Additional information may be obtained from Mr. John Leiss at (202) 208–1106 or Mr. George Willant of Ebasco at (617) 451–1201.

Previous sessions have been very popular so we urge those interested in attending to send in their written request early. Preregistration must be received at least 30 days prior to the date of the session.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1786 Filed 1–25–93, 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF93–18–000]

Staten Island Cogeneration Corp.; Amendment to Filing

January 15, 1993

On January 11, 1993, Staten Island Cogeneration Corporation (Applicant) tendered for filing a supplement to its filing in this docket.

The amendment provides additional information pertaining to the ownership and technical aspects of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 4, 1993, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1787 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

Magic Water Co., Inc.; Application Accepted for Filing with the Commission

January 15, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Original License for Minor Project (Tendered Notice).

b. Project No.: 7923–004.

c. Date Filed: January 4, 1993.

d. Applicant: Magic Water Company, Inc.

e. Name of Project: Magic Water Company Hydroelectric Project.

f. Location: Partially on lands administered by the Bureau of Land Management, on Salmon Falls Creek, near the town of Buhl, in Twin Falls County, Idaho. Section 2 in T10S, R13E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. Applicant Contact: John J. Straubhar, P.E., P.O. Box 820, Twin Falls, ID 83303, (208) 736–8255.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Description of Project: The project would consist of: (1) The applicant's existing 12-foot-high, 150-foot-long dam; (2) a 2,584-foot-long, 36-inch-diameter steel penstock; (3) a powerhouse containing one generating unit with an installed capacity of 113 kW; (4) a tailrace; (5) a 50-foot-long underground transmission line interconnecting with an existing Idaho Power Company transmission line; and (6) appurtenant facilities.

k. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

l. Under § 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, SHPO, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission no later than 60 days after the application is filed, (March 5, 1993) and must serve a copy of the request on the applicant.

m. The Commission's deadline for the applicant's filing of a final amendment to the application is April 4, 1993.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1788 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–02898T New Mexico–36]

Department of the Interior, Bureau of Land Management; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

January 15, 1993.

Take notice that on January 11, 1993, the United States Department of the Interior's Bureau of Land Management (BLM) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Dakota Formation in San Juan County, New Mexico,

qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is described on the attached appendix.

The notice of determination also contains BLM and the New Mexico Department of Energy, Minerals and Natural Resources' findings that the referenced portion of the Dakota Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix

Township 26 North, Range 11 West
Township 27 North, Range 11 West
Township 29 North, Range 11 West
Township 30 North, Range 11 West
Township 29 North, Range 12 West
Township 30 North, Range 12 West
Township 31 North, Range 12 West
Township 30 North, Range 13 West
Sections 1–36: All
Township 28 North, Range 11 West
Township 28 North, Range 12 West
Sections 7–36: All
Township 31 North, Range 11 West
Sections 2–11: All
Sections 14–21: All
Sections 28–33: All
Township 32 North, Range 11 West
Sections 28–33: All
Township 27 North, Range 12 West
Sections 1–7: All
Sections 8–9: N/2
Sections 10–15: All
Township 32 North, Range 12 West
Sections 25–27: All
Sections 32–36: All
Township 27 North, Range 13 West
Sections 1–2: All
Sections 3 and 10: E/2
Sections 11–13: All
Township 28 North, Range 13 West
Sections 10–15: All
Sections 22–27: All
Section 34: E/2
Sections 35 and 36: All
Township 29 North, Range 13 West
Sections 1–3: All
Sections 10–15: All
Section 20: E/2
Sections 21–28: All
Sections 29 and 32: E/2
Sections 33–36: All
Township 31 North, Range 13 West
Section 13: All
Sections 22–27: All
Sections 33–36: All
Township 30 North, Range 14 West
Sections 13 and 14: All
Sections 24 and 25: All
Sections 35 and 36: All

The area of application contains 287,243 acres, more or less, of Federal (66.9%), State (6.8%), Fee (22.1%) and Indian (4.2%) lands.

[FR Doc. 93–1789 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–02315T California-3]

State of California; NGPA Notice of Determination By Jurisdictional Agency Designating Tight Formations

January 19, 1993.

Take notice that on December 28, 1992, the California Division of Oil and Gas (California) submitted the above-referenced notice of determination pursuant to section 271.703(c)(3) of the Commission's regulations, that the N-Point Chert Zone, Paloma Field, Kern County, California, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application is more fully described on the attached appendix.

The notice of determination also contains California's findings that the referenced portion of the N-Point Chert Zone meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

Appendix

The proposed area is the N-Point Chert Zone between the MM marker and the top of the Paloma or Stevens Sands, Paloma Field, Kern County, California underlying the following lands:

Paloma Unit—indicated by the unit boundary on Exhibit B:

Township 31 South, Range 26 East
Section 28: Partly
Section 29: Partly
Section 30: Partly
Section 32: Partly
Section 33: All
Section 34: Partly
Township 32 South, Range 26 East
Section 1: Partly
Section 2: All
Section 3: Partly
Section 4: Partly
Section 5: Partly
Section 11: Partly
Section 12: Partly
Anderson Lease
Township 31 South, Range 26 East
Section 35: S/2
KCL "L" Lease
Township 32 South, Range 26 East
Section 10: S/2 of NE/4, N/2 of NE/4 of SW/4, SE/4 of NW/4,
Section 11: N/2 of NW/4 of SW/4 of NW/4, SW/4 of NE/4.

[FR Doc. 93–1867 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–02318T Texas–94]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

January 15, 1993.

Take notice that on December 28, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wilcox Sands (L–14 and L–15) in the Bob West Field underlying a portion of Zapata and Starr Counties, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The designated area is within Railroad Commission District 4 and is described as the Southwestern portion of Porcion 55, East of Falcon Reservoir in Starr County, Texas; the northwest most portion of shares No. 28–A and No. 46; the western portion of share No. 29–A; the eastern portion of share No. 11 and all of share No. 36, all in Porcion 14, Zapata County, Texas. These areas are further defined as being within the fault lines as shown on the revised field area map.

The notice of determination also contains Texas' findings that the referenced portion of the Wilcox Sands meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1790 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TM93-2-33-001 and RP93-38-001]

El Paso Natural Gas Company; Notice of Compliance Filing

January 19, 1993.

Take notice that on January 12, 1993, El Paso Natural Gas Company ("El Paso") gave notice pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, and in compliance with the Commission's order issued December 31, 1992 at Docket Nos. TM93-2-33-000 and RP93-38-000, certain tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective January 1, 1993.

El Paso states that by order issued December 31, 1992 at Docket Nos. TM93-2-33-000 and RP93-38-000, the Commission accepted certain reserved tariff sheets, subject to El Paso filing, within fifteen (15) days of the date of said order, revised tariff sheets which identify in the text of each sheet, what tariff sheets are superseded by each sheet in lieu of designating what sheets El Paso wants reserved for future use. El Paso states that it has tendered the appropriately revised tariff sheets.

El Paso requested that the Commission grant such waivers of its applicable rules and regulations as may be necessary to permit the tendered tariff sheets to become effective on January 1, 1993, the date on which the Commission accepted such tariff sheets in its December 31, 1992 order.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system sales customers and all interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before January 26, 1993. 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 the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-1874 Filed 1-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-41-001, RP92-179-002]

Florida Gas Transmission Company; Notice of Compliance Filing

January 19, 1993.

Take notice that on January 13, 1993 Florida Gas Transmission Company (FGT) tendered for filing the information required by the Commission in its "Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions" issued on December 31, 1992.

FGT states that in compliance with ordering paragraph (B) of the December 31 Order, FGT has submitted herein working papers related to the debiting of FGT's TCR Account. In particular, the working papers show that FGT has not included carrying charges prior to the date that costs were debited to the TCR Account. Additionally, because there is no change in the 3.5¢ surcharge, FGT has not submitted a revised tariff sheet.

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 January 26, 1993. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-1873 Filed 1-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-50-002 and CP90-406-007]

High Island Offshore System; Notice of Compliance Tariff Filing

January 19, 1993.

Take notice that High Island Offshore System ("HIOS") on January 12, 1993, tenered to the Federal Energy Regulatory Commission ("Commission") for filing as part of its FERC Gas Tariff, First Revised Volumes No. 1, the following tariff sheets:

Second Revised Sheet No. 9
Third Revised Sheet No. 74

The tariff sheets are proposed to be effective January 1, 1993.

HIOS states that the tariff sheets are being filed to comply with the Commission's letter order issued December 28, 1992, in *High Island Offshore System*, Docket Nos. RP92-50-001 and CP90-406-000 ("Order") wherein HIOS was required to file tariff sheets reflecting the termination of its capacity brokering program effective January 1, 1993.

HIOS further states that since its Fourth Revised Sheet No. 8A had been included in the tarifff solely for purposes of capacity brokering, and will no longer be used in the future, a new tariff Sheet 8A has not been included in this filing, and HIOS's Fourth Revised Sheet No. 8A should therefore be removed from the tariff to reflect the termination of the capacity brokering program.

HIOS also states that copies of this filing were posted and served on all of its shippers, and upon all parties listed on the service list maintained by the Commission's Secretary in this proceeding.

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 January 26, 1993. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-1872 Filed 1-25-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-715-000 et al.]

Liberty Pipeline Co.; et al.; Site Visit

In the matter of Texas Eastern Transmission Corporation, Docket Nos. CP92-716-000, CP92-719-000, CP92-720-000, and CP93-108-000; Texas Eastern Transmission Corporation, Docket No. CP92-717-000, and Trunkline Gas Company, Docket No. CP92-718-000; Transcontinental Gas Pipe Line Corporation, Docket No. CP92-721-000; Texas Gas Transmission Corporation, Docket Nos. CP92-730-000 and CP92-734-000.

January 15, 1993.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission will conduct a site visit with the applicants for the facilities proposed in the Liberty Project. The proposed facilities are located in Kentucky, Indiana, Ohio, Pennsylvania, New Jersey, and New York. This site visit will take place February 1 through

4, 1993. Those planning to attend must provide their own transportation. For further information, call Jeff Gerber, (202) 208–0282.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1791 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–73–000]

National Fuel Gas Supply Corporation; Notice of Informal Settlement Conference

January 19, 1993.

Take notice that an informal settlement conference will be convened in this proceeding at 10 p.m. on Friday, January 29, 1993. The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the above-captioned proceeding, including the Staff's settlement offer of January 15, 1993 and any counter-offer that National Fuel Gas Supply Company may submit by the time of the meeting.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Joanne Leveque at (202) 208–5705 or Warren Wood at (202) 208–2091.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1870 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT88–28–010]

Valero Interstate Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

January 19, 1993.

Take notice that Valero Interstate Transmission Company ("Vitco"), on January 12, 1993, tendered for filing the following tariff sheets:

FERC Gas Tariff, First Revised Volume No. 1

3rd Revised Sheet No. 71
2nd Revised Sheet No. 71.01

Vitco states that the purpose of this filing is to revise the list of operating personnel shared by Vitco and its marketing affiliates.

The proposed effective date of the above filing is February 12, 1993. Vitco requests a waiver of any Commission order or regulations which would prohibit such filing or implementation by February 12, 1993.

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 sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 26, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–1869 Filed 1–25–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–75–NG]

MCV Gas Acquisition General Partnership; Order Granting Blanket Authorization to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting MCV Gas Acquisition General Partnership blanket authorization to import up to 20 Bcf of natural gas from Canada over a two-year period beginning on the first date of delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 15, 1993.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–1885 Filed 1–25–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–115–NG]

Selkirk Cogen Partners, L.P.; Blanket Authorization to Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting blanket authorization to Selkirk Cogen Partners, L.P. to import and export up to 57 Bcf of natural gas over a two-year period beginning on the date of first import or export delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 15, 1993.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–1886 Filed 1–25–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4556-3]

Notice of a Public Meeting on the Hazardous Waste Identification System

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: We are giving notice of a February 4–5 meeting to discuss issues specifically related to contaminated media. We will also discuss how best to address the issues relating to other waste streams. The meeting is open to the public without advance registration.

DATES: The February 4 meeting will run from 8:30 a.m. to 5 p.m. The February 5th meeting will run from 8:30 a.m. to 12 p.m.

LOCATION: The meeting will be held at the Quality Hotel, 415 New Jersey Avenue NW., Washington, DC (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact William A. Collins, Jr., Office of Solid Waste, OS–333, Environmental Protection Agency, Washington, DC 20460; phone (202)

260–4791. Persons needing further information on procedural matters should call the meeting Co-facilitator, Denise Madigan, of Endispute, Washington, DC (202) 429–8782.

Dated: January 21, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–1877 Filed 1–25–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: The Federal Deposit Insurance Corporation (Corporation) has adopted a policy statement concerning 12 U.S.C. 1825(b)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and 28 U.S.C. 2410(c). The policy statement and an initial listing of financial institutions in liquidation were published in July 2, 1992 edition of the **Federal Register**. The following is a list of financial institutions which have been placed in liquidation since the December 14, 1992 publication.

FEDERAL DEPOSIT INSURANCE CORPORATION ACTIVE INSTITUTIONS IN LIQUIDATION ALPHA LISTING (NAME)

Institution name, city/state	Date closed, region	Ref No.
Burritt Interfinancial Bancorporation, New Britain, CT.	12/04/92, New York ...	4551
Eastland Bank, Woonsocket, RI.	12/11/92, New York ...	4557
Eastland Savings Bank, Woonsocket, RI.	12/11/92, New York ...	4558
Heritage Bank for Savings, Holyoke, MA.	12/04/92, New York ...	4553
Huntington Pacific Thrift & Loan, Huntington Beach, CA.	12/04/92, San Francisco.	4552
Meritor Savings Bank, Philadelphia, PA.	12/11/92, New York ...	4556
Sailors and Merchants B&T Co., Vienna, VA.	12/11/92, Chicago	4554

FEDERAL DEPOSIT INSURANCE CORPORATION ACTIVE INSTITUTIONS IN LIQUIDATION ALPHA LISTING (NAME)—Continued

Institution name, city/state	Date closed, region	Ref No.
The Bremen State Bank, Bremen, KS.	12/18/92, Chicago	4559
The Rushville National Bank, Rushville, IN.	12/18/92, Chicago	4560

Dated: January 19, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–1758 Filed 1–25–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before March 29, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2624.

Type: Extension of 3067–0188.

Title: Disaster Response Questionnaire.

Abstract: The Disaster Response Questionnaire, FEMA Form 90–2, is used to assess the effectiveness of State and/or local response to actual disasters and to also evaluate FEMA programs that support and enhance local capabilities as directed by the Federal Civil Defense Act of 1950, as amended.

Type of Respondents: State and local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 540 hours.

Number of Respondents: 360.

Estimated Average Burden Time per Response: 1.5 hours.

Frequency of Response: On occasion.

Dated: January 7, 1993.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 93–1881 Filed 1–25–93; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–976–DR]

Delaware; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Delaware (FEMA–976–DR), dated January 15, 1993, and related determinations.

EFFECTIVE DATE: January 15, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 15, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Delaware, resulting from a severe coastal storm and flooding on December 11–14, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Delaware.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for

Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alfred A. Hahn of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Delaware to have been affected adversely by this declared major disaster:

Sussex County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director.

[FR Doc. 93–1883 Filed 1–25–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–975–DR]

Massachusetts; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts (FEMA–975–DR), dated December 21, 1992, and related determinations.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT:

Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Massachusetts, dated December 21, 1992, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 21, 1992:

The county of Middlesex for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 93–1884 Filed 1–25–93; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Allied Irish Banks Limited plc; 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 February 19, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Allied Irish Banks Limited plc, Dublin, Ireland, and First Maryland Bancorp, Baltimore, Maryland; to acquire Internet, Inc., Reston, Virginia, and thereby engage in providing data processing switching services for automatic teller machines and point of sale networks pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 19, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1852 Filed 1–25–93; 8:45 am]

BILLING CODE 6210–01–F

City Bancshares, Inc. Employee Stock Ownership Plan, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 16, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. City Bancshares, Inc. Employee Stock Ownership Plan, Oklahoma City, Oklahoma; to acquire an additional 4.46 percent of the voting shares of City Bancshares, Inc., Oklahoma City, Oklahoma, for a total of 19.66 percent, and thereby indirectly acquire City Bank and Trust, Oklahoma City, Oklahoma.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Therman Coy Noe, Henderson, Texas; to acquire an additional 2.06 percent of the voting shares of Rusk County Bancshares, Inc., Henderson, Texas, for a total of 12.06 percent, and thereby indirectly acquire Peoples State Bank of Henderson, Henderson, Texas.

Board of Governors of the Federal Reserve System, January 19, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1854 Filed 1–25–93; 8:45 am]

BILLING CODE 6210–01–F

Mainline Bancorp, 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 February 19, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Mainline Bancorp, Inc., Portage, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Portage National Bank, Portage, Pennsylvania.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First Amarillo Bancorporation, Inc., Amarillo, Texas; to acquire 13.2 percent of the voting shares of The Bank of New Mexico Holding Company, Albuquerque, New Mexico, and thereby indirectly acquire The Bank of New Mexico, Albuquerque, New Mexico.

Board of Governors of the Federal Reserve System, January 19, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–1855 Filed 1–25–93; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Report on New System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of establishment of a system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent by the General Services Administration to establish and maintain a system of records.

The system of records, Citizens' Commission on Public Service and Compensation (CCPSC) Candidate and Alternate Member Files, will be established to assemble in one system information on potential candidates for appointment by the Administrator of General Services as members on the CCPSC. The information assembled will be that necessary to establish the eligibility of potential candidates and alternates for membership and to determine whether or not the candidate or alternate is restricted by law or regulation from serving as a member of the CCPSC. A system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget.

DATES: Any interested party may submit written comments about this new system. Comments must be received on or before the 30th day following publication of this notice (February 25, 1993). The system will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to the General Services Administration (CAIR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Cunningham, GSA Privacy Act Officer, telephone (202) 501–2691.

Background

The system of records, Citizens' Commission on Public Service and Compensation (CCPSC) Candidate and Alternate Member Files (HRO–38), is being established by the Administrator of the General Services Administration to determine the eligibility of potential candidates for appointment as one of the five members of the CCPSC to be designated by the Administrator of General Services. The CCPSC was established by Title VII of the Ethics Reform Act of 1989, Pub. L. 101–194, which requires that five of its eleven members be appointed by the Administrator of General Services from voter registration lists, subject to qualification requirements established by law. The other members are to be appointed by the President, the Chief Justice of the United States, the Speaker of the House of Representatives, and the President pro tempore of the Senate. The revised system of records is as follows:

HRO–38

SYSTEM NAME:

Citizens' Commission on Public Service and Compensation (CCPSC) Candidate and Alternate Member Files.

SYSTEM LOCATION:

This system of records is located in the Committee Management Secretariat, General Services Administration, Suite 816, 1730 K St. NW., Washington, DC 20006.

PURPOSE:

This system is established to enable GSA to screen candidates and select the five GSA-designated members and ten alternates therefrom, according to law and GSA regulation to serve on the CCPSC. If one or several of the GSA-designated members chosen cannot continue as members of the CCPSC for any reason, further review of the records will be conducted only as necessary to replace these former members from predesignated alternates and only during the one-year period of their term.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are those randomly selected by GSA to be potential members of the CCPSC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include the following information on each individual in the system: (1) Information from state precinct voter registration lists, which may include name, address, Social Security Number, and date of birth; (2) information collected from individuals via questionnaires, which may include the above information, plus home and work telephone numbers, whether or not said individual is an officer or employee of the Federal Government, or is a relative or dependent relative of any officer or employee of the Federal Government, whether or not said individual is registered as a lobbyist or required to register as a lobbyist, or is a relative or a dependent relative of any registered lobbyist or any individual required to register as a lobbyist, and whether or not said individual is currently under indictment for a felony offense, or has ever been convicted of a

felony offense; (3) information required to validate the information from the questionnaires as to registered lobbyist status; (4) information extracted from various sources and maintained on databases; and (5) correspondence with, or relating to individual potential candidates or alternates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The collection of this information is authorized by section 701(b) of the Ethics Reform Act of 1989 (2 U.S.C. 352), which provides that the individuals appointed as members of the Citizens' Commission on Public Service and Compensation by the Administrator of General Services must be selected from voter registration lists and must meet stated qualification requirements; and by 5 CFR part 731 pertaining to suitability determinations for persons appointed to a Federal Government position. The collection of Social Security Numbers (SSN) is authorized by Executive Order 9397.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

a. To disclose information to the Office of Personnel Management under the agency's responsibility for conducting those evaluations and suitability checks necessary to qualify candidates for membership on the CCPSC.

b. To disclose information to another Federal agency or a court when the Government is a party to a proceeding before that court.

c. To disclose information to a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made in behalf of a constituent.

d. To disclose information to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the General Services Administration becomes aware of a violation or potential violation of civil or criminal law or regulation.

e. To disclose information to the Clerk of the U.S. House of Representatives and to the Secretary of the Senate, to verify compliance with restrictions on committee service by registered lobbyists.

f. To disclose to the CCPSC information regarding selected members for personnel management purposes and to determine continued eligibility to serve on the committee.

g. To disclose to the press and to the public information regarding selected members and alternates.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and cabinets; electronic media copies of records are stored on CD–ROM disks and in electronic databases.

RETRIEVABILITY:

Filed at system location by name and geographic region.

SAFEGUARDS:

Paper records and CD–ROM disks are stored in lockable containers or secured rooms; the electronic database is password protected.

RETENTION AND DISPOSAL:

Disposal of records is described in the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER AND ADDRESS:

Director, Committee Management Secretariat, General Services Administration, 1730 K St., NW., Washington, DC 20006.

NOTIFICATION PROCEDURE:

Inquiries from individuals should be addressed to the system manager.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the system manager. Individuals must furnish their full name, Social Security Number, address, and telephone number. For identification requirements, refer to the agency regulations outlined in 41 CFR part 105–64 of the Code of Federal Regulations.

CONTESTING RECORD PROCEDURES:

General Services Administration rules for contesting the contents and appealing initial decisions are issued in 41 CFR part 105–64.

RECORD SOURCE CATEGORIES:

Individuals, in voluntarily-completed questionnaires; state precinct voter registration files; the Office of Personnel Management; and lists of registered lobbyists maintained by the Clerk of the House of Representatives and the Secretary of the Senate.

Dated: January 15, 1993.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 93–1846 Filed 1–25–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Field Methods for the Analysis of Airborne Particulate Lead; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Field Methods for the Analysis of Airborne Particulate Lead.

Time and Date: 1 p.m.–5p.m., February 17, 1993.

Place: Alice Hamilton Laboratory, Conference Room B–227, NIOSH, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available. Viewpoints and suggestions from industry, labor, academia, other government agencies, and the public are invited.

Purpose: To conduct an open review of a NIOSH research project in the Division of Physical Sciences and Engineering entitled "Field Methods for the Analysis of Airborne Particulate Lead." This project concerns the investigation of proposed sampling and analytical methodology for monitoring exposure to airborne lead particles, using field-readable instrumentation.

Contact Person for Additional Information: Kevin E. Ashley, Ph.D., NIOSH, CDC, 4676 Columbia Parkway, Mailstop R7, Cincinnati, Ohio 45226, telephone 513/841–4402.

Dated: January 19, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–1821 Filed 1–25–93; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on State and Community Health Statistics; Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting (working session).

Name: NCVHS Subcommittee on State and Community Health Statistics.

Time and Date: 9 a.m.–5 p.m., February 18, 1993.

Place: Room 303A–305A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The subcommittee's report on State and Community Health Status will be reviewed for further consideration before submission to the full committee.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of

committee members may be obtained from Gail F. Fisher, Ph. D., Executive Secretary, NCVHS, NCHS, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: January 19, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–1822 Filed 1–25–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92G–0451]

Scienco/FAST; Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (GRASP 4G0037) proposing that sodium hypochlorite in an aqueous solution (up to 200 parts per million (ppm) available chlorine) for intermittent spraying of beef, lamb, and hog carcasses during the cooler-chilling process be affirmed as generally recognized as safe (GRAS). The petition was withdrawn by Scienco/FAST (previously Scienco Inc.), which purchased the petition rights.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9519.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 26, 1974 (39 FR 11215), FDA published a notice that a petition (GRASP 4G0037) had been filed by Morton Salt Co., 110 North Wacker Dr., Chicago, IL 60606. The petition proposed that sodium hypochlorite in an aqueous solution (up to 200 ppm available chlorine) for intermittent spraying of beef, lamb, and hog carcasses during the cooler-chilling process be affirmed as GRAS. Scienco/FAST, 3240 North Broadway, St. Louis, MO 63147–3515, which purchased the petition rights, has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: January 12, 1993.

Frank R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–1793 Filed 1–25–92; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92N–0434]

Draft Policy Statement on Industry-Supported Scientific and Educational Activities; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to February 25, 1993, the comment period for the notice, which appeared in the **Federal Register** of November 27, 1992 (57 FR 56412). The document asked for public comment on FDA's current draft policy statement on industry-supported scientific and educational activities. FDA is taking this action in response to a request for an extension of the comment period.

DATES: Comments by February 25, 1993.

ADDRESSES: Submit 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: Mary C. Gross, Office of External Affairs (HF–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3390.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 27, 1992 (57 FR 56412), FDA published a notice for public comment on its current draft policy statement on industry-supported scientific and educational activities on therapeutic and diagnostic products (human and animal drugs, biological products, and medical devices) for health care professionals. Interested persons were given until January 26, 1993, to respond to the notice.

In response to the notice, FDA has received a request for an extension of the comment period for an additional 90 days because the original 60–day comment period does not allow sufficient time to prepare a comprehensive response. After careful consideration, the agency is granting an extension of the comment period. However, the agency is granting a 30–day extension, rather than the requested 90 days. Accordingly, the comment period is extended to February 25, 1993.

Interested persons may, on or before February 25, 1993, submit to the Dockets Management Branch (address above) written comments regarding the draft policy statement. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 19, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–1910 Filed 1–21–93; 3:22 pm]

BILLING CODE 4160–01–F

[Docket No. 93N–0005]

Public Hearing: Regulatory Approach to Positron Emission Tomographic (PET) Radiopharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the location for a March 5, 1993, public hearing that will be held to discuss FDA intentions regarding the regulation of positron emission tomographic (PET) radiopharmaceuticals. Representatives of the nuclear medicine physician, pharmacy, and industry communities have expressed interest in a number of different regulatory alternatives. FDA will present its proposal regarding regulation of PET radiopharmaceuticals after which an opportunity will be given for comments from the various groups. A draft policy proposal, entitled "Regulatory Approach to PET Radiopharmaceuticals," has been developed and is available prior to the hearing.

DATES: The public hearing will be held on Friday, March 5, 1993, 9 a.m. to 4 p.m. Persons interested in making oral presentations at this hearing should notify the contact person (address below) by February 19, 1993. Written comments will be accepted until March 20, 1993.

ADDRESSES: The public hearing will be held at the Parklawn Bldg., conference rms. D and E, 5600 Fishers Lane, Rockville, MD 20857. Written comments, in lieu of an oral presentation, may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Submit written requests for copies of the draft policy proposal to the Center for Drug Evaluation and Research, Executive Secretariat Staff (HFD–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food

and Drug Administration, 5600 Fishers Lane, Rockville, MD 29857, 301–443–5455, facsimile 301–443–0699.

SUPPLEMENTARY INFORMATION: Under the procedures governing the hearing found at 21 CFR part 15, FDA is announcing that a public hearing will be held on March 5, 1993, to discuss FDA intentions regarding the regulation of PET radiopharmaceuticals. The purpose of the public hearing is to permit FDA to take into consideration the regulatory issues that may be raised in a public forum. Persons interested in making oral presentations at this hearing should notify the contact person (address above) by February 19, 1993. Written comments, in lieu of an oral presentation, may be submitted to the Dockets Management Branch (address above). Written comments will be accepted until March 20, 1993. Submit written requests for copies of the draft policy proposal entitled "Regulatory Approach to PET Radiopharmaceuticals" to the Center for Drug Evaluation and Research, Executive Secretariat Staff (address above). Send a self-addressed adhesive label to assist that office in processing your requests. Requests and comments should be identified with the docket number found in brackets in the heading of this document.

Dated: January 19, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–1810 Filed 1–25–93; 8:45 am]

BILLING CODE 4160–01–F

Office of the Assistant Secretary for Health

Secretary's Council on Health Promotion and Disease Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting of the Secretary's Council on Health Promotion and Disease Prevention, scheduled to meet Thursday, March 4, 1993.

Name: Secretary's Council on Health Promotion and Disease Prevention.

Date and Time: March 4, 1993, 9 a.m. to 5 p.m. Stonehenge, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Open, except for working breakfast and lunch.

Purpose: The Secretary's Council on Health Promotion and Disease Prevention is charged to provide advice to the Secretary and to the Assistant Secretary for Health on national goals and strategies to achieve those goals for improving the health of the Nation through disease prevention and health promotion and to provide a link to the private sector regarding health promotion activities.

Agenda: This will be the twelfth meeting of the Secretary's Council. The topic of this meeting is Prevention Research.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Deborah R. Maiese, Staff Director for the Council, Office of Disease Prevention and Health Promotion, Public Health Service, U.S. Department of Health and Human Services, Washington, DC 20201, Telephone (202) 205–8583.

Agenda items are subject to change as priorities dictate.

J. Michael McGinnis,

Deputy Assistant Secretary for Health, Director, Office of Disease Prevention and Health Promotion.

[FR Doc. 93–1835 Filed 1–25–93; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–3481; FR–3306–N–02]

Housing Opportunities for Persons with AIDS Program; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this notice announces the funding decisions made by the Department in a competition for funding under the Fiscal Year 1992 Housing Opportunities for Persons with AIDS (HOPWA) program. The notice contains the names of award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: James N. Forsberg, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, room 7262, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–4300. The TDD number for the hearing impaired is (202) 708–2565. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The purpose of the competition was to award grants to be used for housing assistance and supportive services by two types of projects: projects of national significance that, due to their unique or innovative nature, are likely to serve as effective models in addressing the housing and related needs of low-income persons living with acquired immunodeficiency syndrome or related diseases; and other projects that will address housing and related needs of low-income persons living with acquired immunodeficiency syndrome or related diseases.

The assistance made available in this announcement is authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), and was appropriated by the Department's appropriation act for fiscal year 1992 (Pub. L. 102–139, approved October 29, 1991). The competition was announced in a Notice of Funding Availability (NOFA) published in the **Federal Register** on August 25, 1992 (57 FR 38552). Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

A total of $4,771,000 was awarded to ten applicants under two categories of assistance: $2,385,000 in five grants for projects of national significance; and $2,386,000 in five grants for other projects. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the grantees and amounts of the awards as follows:

Chart 1. FY 1992 HOPWA national significance projects:

The State of New York, Department of Health ...	$425,834
The City of Boston, MA, Public Facilities Department	500,000
The City of Philadelphia, PA, Office of Housing and Community Development	485,000
The City of Sacramento, CA, Housing and Redevelopment Agency	500,000
The City of Dallas, TX, Department of Housing and Neighborhood Services	474,166

Chart 2. FY 1992 HOPWA other projects:

The State of Indiana, Department of Health	438,111
The City of Savannah, GA, Bureau of Public Development	500,000
The City of Milwaukee, WI, Department of City Development	500,000
The City of El Paso, TX, Department of Community and Human Development	500,000
The City of Key West, FL, Community Development Office	447,889

Total grants for FY 1992 in charts 1 and 2	4,771,000

Dated: January 14, 1993.

Don I. Patch,

Acting Assistant Secretary for Community Planning and Development.

[FR Doc. 93–1767 Filed 1–25–93; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3566; FR–3433–N–01]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice of change in debenture interest rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under section 221(g)(4) of the Act during the six-month period beginning January 1, 1993, is 6⅞ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1993, is 7¾ percent.

FOR FURTHER INFORMATION CONTACT: Fred E. McLaughlin, Financial Policy Division, room 9132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–4325 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e) (6), and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of section 224, that the statutory maximum interest rate for the period beginning January 1, 1993, is 7¾ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 7¾ percent for the six-month period beginning January 1, 1993. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the last six months of 1993.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993.	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the six-month period beginning January 1, 1993, is 6⅞ percent.

HUD expects to publish its next notice of change in debenture interest rates in July 1993.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.20(1). For that reason, no environmental finding has been prepared for this notice.

Authority: Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

Dated: January 14, 1993.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 93–1765 Filed 1–25–93; 8:45 am]

BILLING CODE 4210–27–M1

DEPARTMENT OF THE INTERIOR

Office of the Secretary

The Sport Fishing and Boating Partnership Council; Notice of Establishment

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior is announcing establishment of the Sport Fishing and Boating Partnership Council. The purpose of the Council is to provide advice to the Secretary of the Interior through the Director of the Fish and Wildlife Service (Service) to help the Department of the Interior (Department) and the Service achieve their goal of increasing the public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating.

DATES: The Charter will be filed under the Federal Advisory Committee Act on February 10, 1993.

FOR FURTHER INFORMATION CONTACT: Further information regarding the Board may be obtained from Mr. Timothy Rupli, Office of the Secretary, U.S. Department of the Interior, Washington, DC 20240, telephone (202) 208–6182.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the Sport Fishing and Boating Partnership Council.

The Council will represent the interests of the sport fishing and boating constituencies and industries and will consist of no more than 18 voting members appointed by the Secretary to assure a balanced cross-sectional representation of public and private sector organizations. The Council shall consist of representatives from the following organizations: Director, Service, Ex-officio; President, International Association of Fish and Wildlife Agencies (IAFWA); Director of a state agency responsible for the management of recreational fishery and wildlife resources, selected from a coastal state if the President of IAFWA is from an inland state, or selected from an inland state if the President of IAFWA is from a coastal state; two individuals who are representatives from national saltwater and freshwater angler organizations; two individuals who are representatives from national boating consumer organizations; four individuals who are national representatives from recreational fishing tackle and boating industries; one individual who is a representative of a national aquatic resource education organization; one individual who is a representative of a national organization for boating access; one individual who is a representative of a national organization for tourism; one individual who is a representative of a national organization for boating law administrators; and four individuals at large.

The Council will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act.

Certification

I hereby certify that the establishment of Sport Fishing and Boating Partnership Council is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by those statutory authorities as defined in Federal laws including, but not restricted to, the Federal Aid in Sport Fish Restoration Act, Fish and Wildlife Coordination Act, and the Land and Water Conservation Fund and in furtherance of the Secretary of the Interior's statutory responsibilities for administration of the U.S. Fish and Wildlife Service's mission to conserve, protect, and enhance fish, wildlife, and habitats for the continuing benefit of the American people (Fish and Wildlife Act of 1956). The Council will assist the Secretary and the Department of the Interior by providing advice on activities to enhance fishery and aquatic resources education and outreach projects.

Dated: January 19, 1993.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 93–1907 Filed 1–25 –93; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CO–920–93–4120–03; COC 54360]

Colorado; Invitation for Coal Exploration License Application, Mountain Coal Co.

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to title 43, Code of Federal Regulations, subpart 3410, members of the public are hereby invited to participate with Mountain Coal Company in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Gunnison County, Colorado:

T. 13 S., R. 89 W., 6th p.m.,
- Sec. 16, SW¼;
- Sec. 17, all;
- Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
- Sec. 19, lots 1 to 4, inclusive, E½W½, and E½;
- Sec. 20, all;
- Sec. 21, W½;
- Sec. 28, W½;
- Sec. 29, all;
- Sec. 30, lots 1 to 4, inclusive, E½W½, and E½;
- Sec. 31, lots 3 to 6, inclusive, E½W½, and E½;
- Sec. 32, all;
- Sec. 33, W½.

T. 14 S., R. 89 W., 6th p.m.,
- Sec. 4, lots 7, 8, S½NW¼, and SW¼;
- Sec. 5, lots 3 to 6, inclusive, S½N½ and S½;
- Sec. 6, lots 4 to 10, inclusive, S½NE¼, SE¼NW¼, W½SW¼, and SE¼.

T. 13 S., R. 90 W., 6th p.m.,
- Sec. 13, lots 1 to 16, inclusive;
- Sec. 14, lots 1, 2, 7 to 10, inclusive, 15 and 16;
- Sec. 22, lots 1 to 16, inclusive;
- Sec. 23, lots 1 to 16, inclusive;
- Sec. 24, lots 1 to 16, inclusive;
- Sec. 25, all;
- Sec. 26, lots 1 to 16, inclusive;
- Sec. 35, lots 1 to 16, inclusive;
- Sec. 36, all.

T. 14 S., R. 90 W., 6th p.m.,
- Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 11, N½N½;
- Sec. 12, N½N½.

The area described contains approximately 14, 448.33 acres.

The application for coal exploration license is available for public inspection during normal business hours under serial number COC 54360 at the Bureau of Land Management (BLM), Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215, and at the BLM Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401.

Written notice of Intent to Participate should be addressed to the attention of the following persons and must be received by them within 30 days after the publication of this Notice of Invitation in the **Federal Register**:

Richard D. Tate, Chief, Mining Law and Solid Minerals Adjudication Section, Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215,

and

Mark W. Scanlon, Sr. Geologist, Mountain Coal Company, P.O. Box 591, Somerset, Colorado 81434.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate.

Dated: January 12, 1993.

Alexa L. Watson,

Acting Chief, Mining Law and Solid Minerals Adjudication Section.

[FR Doc. 93–1840 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–JB–M

[AK–070–03–4230–23; F–167]

Lease of Public Land, Salmon Lake, Alaska; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: This notice of realty action involves a proposal to renew an airport lease issued to the State of Alaska. The lease is intended to authorize improvement, maintenance and

operation of an aircraft landing strip for 20 years.

DATES: Comments must be received by March 12, 1993.

ADDRESSES: Comments must be submitted to the Kobuk District Manager, 1150 University Avenue, Fairbanks, Alaska 99709–3844 and include a reference to this notice.

FOR FURTHER INFORMATION CONTACT: Betsy Bonnel, Realty Specialist, (907) 474–2336.

SUPPLEMENTARY INFORMATION: The site examined and found suitable for leasing under the provisions of the Act of May 24, 1928, as amended, 49 U.S.C. Appendix 211–213, and 43 CFR Part 2911, is described as near Salmon Lake within:

Secs. 5 & 6, T. 7 S., R. 31 W., Kateel River Meridian. Annual rental shall be $100.00 or one-half the fair market value as determined by appraisal, whichever is greater.

Dated: January 8, 1993.

Larry Knapman,

Acting Kobuk District Manager.

[FR Doc. 93–1751 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–JA–M

[WY–030–4210–05; WYW 127563]

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action Amendment; Proposed Direct Sale of Public Land Parcel in Fremont County, Wyoming.

SUMMARY: The Bureau of Land Management received a proposal to sell the following described public lands to the Fremont County Solid Waste Disposal District pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, 1719:

Sixth Principal Meridian

T. 34 N., R. 96 W.,
Sec. 26, W½W½NE¼, NW¼, NE¼SW¼, NW¼SE¼.

The above lands aggregate 280 acres.

This same proposal was originally described in a Notice of Realty Action (NORA) published in the **Federal Register** on April 17, 1992, and the proposal was redescribed when the NORA was reissued and republished in the **Federal Register** on December 30, 1992. This notice amends both the original NORA published on April 17, 1992, and the reissued NORA published on December 30, 1992.

Both the original and the reissued NORA state that the existing 80 acre lease, WYW 79452, would be cancelled simultaneously with the issuance of the patent for the proposed sale of the 280 acres. In addition to the lease being cancelled, the existing classification for lease for public purposes under the provisions of the Recreation and Public Purposes Act of June 14, 1926 (43 USC 869 et seq.) as amended and the related segregation on the 80 acres of leased land will also be cancelled simultaneously with the issuance of the patent. Everything else contained in the original April 17, 1992 NORA and in the reissued December 30, 1992, NORA remain unchanged.

Dated: January 15, 1993.

Jack Kelly,

Area Manager.

[FR Doc. 93–1750 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–22–M

[ID–942–03–4730–02]

Idaho: Filing of Plats of Survey

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., December 15, 1992.

The supplemental plat prepared to correct the acreage in original section 37 and to change section 37 to Tract 38, T. 39 N., R. 1 W., Boise Meridian, Idaho, was accepted December 14, 1992.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: December 15, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–1841 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–942–03–4730–12]

Idaho: Filing of Plats of Survey

The plat of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., February 25, 1993.

The plat representing the dependent resurvey of portions of Homestead Entry Survey No. 537 and the adjusted meanders of the 1920 left bank of the Salmon River, the survey of Tract 37, and the meanders of the 1992 left bank of the Salmon River in unsurveyed T. 24 N., R. 8 E., Boise Meridian, Idaho, Group No. 850, was accepted, January 14, 1993.

This survey was executed to meet certain administrative needs of the USDA Forest Service, Region 1, Nez Perce National Forest.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: January 14, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–1843 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–942–03–4730–02]

Filing of Plats of Survey; Idaho

The plat of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., February 25, 1993.

The plat representing the retracement of the International Boundary between the United States and Canada, the dependent resurvey of portions of Homestead Entry Survey No. 520 and Tract 38, and the survey of Tract 39, T. 65 N., R. 2 E., Boise Meridian, Idaho, Group No. 851, was accepted January 14, 1993.

This survey was executed to meet certain administrative needs of the USDA Forest Service, Region I, Idaho Panhandle National Forest.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: January 14, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–1844 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 16, 1993. 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 February 10, 1993.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Alamosa County

Denver and Rio Grande Railroad Depot, 610 State St., Alamosa, 93000034

El Paso County

Evergreen Cemetery, 1005 S. Hancock Ave., Colorado Springs, 93000035

Mesa County

Margery Building, 519—527 Main St., Grand Junction, 93000033

KENTUCKY

Barren County

Glosgow Central Business District, 207 W. Main—117 E. Main, 100–114 S. Green and 104 and 109 N. Race Sts., Glasgow, 93000051

Bourbon County

Aker, Jocob, Farm, 795 Bethlehem Rd., Paris vicinity, 93000050

Bullit County

Barnes, Henry J., House, 144 N. Bardstown Rd., Mt. Washington, 93000049

Lloyd, James M., House, Jct. of US 31 E and East St., NE corner, Mt. Washington, 93000048

Stansbury, Zack, House, 1430 Bardstown Rd., Mt. Washington vicinity, 93000047

Crittenden County

Frances School Gymnasium, 100 Elementary Cir., Marion, 93000046

Harrison County

Colemon—Desha Plantation, US 62 E, Oddville Pike, 1 mi. NE of Cynthiana, Cynthiana vicinity, 93000045

Henderson County

Delano—Alves House, 536 Chestnut St., Henderson, 93000044

Jefferson County

Dogwood Hill (Louisville and Jefferson County MPS), 7001 US 42, Lyndon vicinity, 93000043

Webster County

Providence Commercial Historic District, 100—200 blks. on E. and W. Main and N. and S. Broadway, Providence, 93000042

LOUISIANA

Rapides Parish

Crowell Sawmill Historic District, 11789 US 165 S., Long Leaf, 93000036

MONTANA

Cascade County

Great Falls Railroad Historic District, Park and River Drs., 100—400 blks, 2nd St. S., 100—200 blks. 1st and 2nd Aves. S. and 100—300 blks. 3rd St. S., Great Falls, 93000038

OREGON

Clackamas County

Francis, Clarence E., House, 9717 SE. Cambridge Ln., Milwaukie, 93000015

Robbins—Melcher—Schatz Farmstead, 4875 SW. Schatz Rd., Tualatin, 93000017

Klamath County

Mills, Harren, House, 123 High St., Klamath Falls, 93000016

Lane County

Southern Pocific Railroad Passenger Stotion ond Freight House, 101 S. A St., Springfield, 93000012

Multnomah County

Hamilton, Alexander B. and Anno Balch Hamilton, House., 2723—2729 NW. Savier St., Portland, 93000021

Hancock Street Fourplex, 1414 NE. Hancock St., Portland, 93000023

Lindquist Apartment House, 711 NE. Randall St., Portland, 93000022

Olsen and Weygandt Building, 1421—1441 NE. Broadway, Portland, 93000024

Portland Cardoge Company Building, 1313 NW. Marshall St., Portland, 93000018

Smith, Halter V., House, 1943 SW. Montgomery Dr., Portland, 93000020

Wilcox, Theodore B., Country Estate, 3787 SW. 52nd Pl., Porland, 93000019

Washington County

Feldman, Adam and Johanna, House, 8808 SW. Rambler Ln., Porland, 93000013

Shaver—Bilveu House, 16445 SW. 92nd Ave., Tigard, 93000014

TENNESSEE

Macon County

Galen Elementary School (Education Related Properties of Macon County MPS), Jct. of Galen and Tucker Rds., Galen, 93000030

Keystone School (Education Related Properties of Macon County MPS), TN 52 W of Lafayette, just E of Gap of the Ridge, Lafayette vicinity, 93000031

Long Creek School (Education Related Properties of Macon County MPS), Long Creek Rd. NW of Lafayette, Lafayette vicinity, 93000032

VIRGINIA

Botetourt County

Annendale, VA 608, 1.5 mi. E of jct. with VA 609, Gilmore Mills vicinity, 93000039

Buckingham County

Woodside, VA 631 N side, 0.5 mi. SW of jct. with US 60, Buckingham vicinity, 93000040

Giles County

Johnston, Andrew, House, 208 N. Main St., Pearisburg, 93000041

WISCONSIN

Dane County

Crosse, Dr. Charles G., House, 133 W. Main St., Sun Prairie, 93000029

Kewaunee County

Haloda, George, Farmstead, E–1113 Co. Trunk Hwy. F, Montpelier Township, Ellisville vicinity, 93000026

La Crosse County

Nichols, Frank Eugene, House, 421 N. Second St., Onalaska, 93000027

Rock County

Merrill Avenue Historic District, 103, 107, 111, 115 Merrill Ave., Beloit, 93000028

Winnebago County

Read School, 1120 Algoma Blvd., Oshkosh, 93000025

WYOMING

Natrona County

Rialto Theoter, 102 E. Second St., Casper, 93000037

[FR Doc. 93–1640 Filed 1–25–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development and Economic Cooperation; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the One Hundred and Fourteenth Meeting of the Board for International Food and Agricultural Development and Economic Cooperation (BIFADEC) on February 18, 1993 from 8 a.m. to 3 p.m.

The purposes of the meeting are: (1) To hear status reports on the University Center activities; (2) to discuss a draft paper on higher education policy for A.I.D.; (3) to review the current evaluation agenda of A.I.D.; and (4) to learn more on the status of pending or proposed legislation concerning A.I.D.

This meeting will be held in the Pan American Health Organization Building located at 525 23rd Street (between 23rd and Virginia Avenue), Washington, DC 20037. At this address it will be held in Conference Room C. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent time available for the meeting permits.

C. Stuart Callison, Deputy Executive Director, Agency Center for University Cooperation in Development, Bureau for Research and Development, Agency for International Development, will be the A.I.D. Advisory Committee Representative at this meeting. Those desiring further information may write to Dr. Callison, in care of the Agency for International Development, room 900,

SA–38, Washington, DC 20523–3801 or telephone him on (703) 816–0258.

Dated: January 14, 1993.

Ralph H. Smuckler,

Executive Director, Agency Center for University Cooperation in Development.

[FR Doc. 93–1847 Filed 1–25–93, 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 8, 1993, a proposed Consent Decree in *United States* v. *B&B Wrecking & Excavating, Inc., et al.*, Civil No. 1:89CV1591, was lodged with the United States District Court for the Northern District of Ohio. The Complaint in this case alleged violations of certain notification and work practice standards of the National Emissions Standards for Hazardous Air Pollutants ("NESHAPs") for asbestos, promulgated under sections 112 and 123 of the Clean Air Act, 42 U.S.C. 7412 and 7413, codified at 40 CFR part 61, subpart M, which relate to the renovation of buildings containing asbestos materials.

The proposed Consent Decree requires that defendants B&B Wrecking & Excavating, Inc. ("B&B"), Hannan-110 Limited Partnership, Kenneth Young, Jeffrey Young, Kevin Young, James N. Rubin and the City of Massillon, Ohio comply with the NESHAPs. Also, B&B is subject to specific inspection, training and reporting requirements. Under the proposed Decree, B&B will be subject to stipulated penalties for specified failures to comply with the consent decree. The proposed Decree also provides that B&B, on behalf of all defendants, will pay the United States a civil penalty of $50,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *B&B Wrecking & Excavating, Inc., et al.*, DOJ Ref. No. 90–5–2–1–1388.

The proposed Consent Decree may be examined at the Offices of the United States Attorney, United States Courthouse, room 208, 2 South Main Street, Akron, Ohio 44308, at the Region V Office of the United States Environmental Protection Agency, 111 West Jackson Street, 3rd Floor, Chicago, Illinois 60604, and at the Consent Decree Library, 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 Consent Decree Library. In requesting a copy, please enclose a check in the amount of $4.75 (25 cents per page reproduction costs) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–1836 Filed 1–25–93; 8:45 am]

BILLING CODE 4410–01–M

Reliable Equipment Corp.; Notice of Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Reliable Equipment Corporation*, Civil Action No. 1:90CV209, was lodged on January 11, 1993 with the United States District Court for the Western District of Michigan. The decree pertains to Reliable Equipment Corporation's electroplating facility in Grand Rapids, Michigan.

The proposed Consent Decree requires Reliable to comply with the Resource Conservation and Recovery Act (RCRA) and prohibits Reliable from treating, storing or disposing of hazardous wastes at its facility. The Consent Decree also grants access to the United States Environmental Protection Agency (U.S. EPA), the Michigan Department of Natural Resources (MDNR), and their contractors and representatives, for activities undertaken pursuant to RCRA or the Comprehensive Environmental Response, Compensation, and Liability Act. Finally, the Decree requires payment of a $15,000.00 civil penalty and includes provisions for stipulated penalties for any future violations of any requirement of the Consent Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to *United States* v. *Reliable Equipment Corporation* (W.D. Mich.) and DOJ Ref. No. 90–7–1–544.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of Michigan, 99 Ford Federal Building, Grand Rapids, Michigan, 49503; the Region V office of U.S. EPA, 77 West Jackson Blvd., Chicago, Illinois, 60604–3590; and at the Consent Decree Library, 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 Consent Decree Library. In requesting a copy please enclose a check in the amount of $6.75 (25 cents per page reproduction costs) payable to "Consent Decree Library."

Vicki A. O'Meara,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–1837 Filed 1–25–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Pilot Business Review Program

AGENCY: Antitrust Division, Department of Justice.

ACTION: Notice.

SUMMARY: This notice announces the release by the Department of a pilot program to expedite its consideration of certain requests for business reviews. Under the Department's long-standing business review procedure, see 28 CFR 50.6, persons concerned about the legality under the antitrust laws of proposed business conduct can request the Department's Antitrust Division to state its current enforcement intentions with respect to that conduct. Under the pilot program, if persons seeking business review determinations voluntarily provide certain specified information and documents to the Department when the initial request is submitted, the Department will use its best efforts to respond to those requests within sixty to ninety days. At this time, the pilot program extends only to business review requests involving proposals to form joint ventures and to exchange business information.

DATES: Issued December 1, 1992.

ADDRESSES: Department of Justice, 10th & Constitution Avenue, NW., Washington, DC 20530.

Dated: January 12, 1993.

J. Mark Gidley,

Acting Assistant Attorney General, Antitrust Division, Department of Justice.

Business Reviews

Persons concerned about the legality under the antitrust laws of proposed business conduct may ask the Department of Justice for a statement of its current enforcement intentions with respect to that conduct pursuant to the

Department's Business Review Procedure. See 28 CFR § 50.6.

The Department believes that the business review process provides the business community an important opportunity to receive guidance from the Department with respect to the scope, interpretation, and application of the antitrust laws to particular proposed conduct. The Department realizes, however, that if the business review process is not timely, the value of the process, and therefore its utilization, may be diminished.

Two of the most frequent types of business review requests the Department has received have involved proposals to form joint ventures or to collect and disseminate business information. Because of the nature of these requests, the Department often finds it difficult to opine on such matters based solely on the information typically provided with the initial requests. Consequently, the Department must subsequently seek additional information. This inevitably adds time and expense to the business review procedure.

In an effort to expedite the business review process with respect to these two types of requests, the Department will offer parties seeking a business review determination the option of providing certain specified information and documents contemporaneously with their initial business review submissions. Where the specified information and documents are provided, and where such submissions provide an adequate basis upon which to determine the Department's enforcement intentions, the Department will make its best effort to resolve the business review request within sixty to ninety days.

This program is subject to the following conditions:

1. The request must comply with the procedures for business reviews specified in 28 CFR 50.6.

2. Parties invoking this expedited procedure must represent in writing that they have undertaken a good faith search for the documents and information specified herein and, where applicable, have provided all responsive material.

3. The expedited procedure should not be interpreted as a representation by the Department that it will not request additional documents and information where necessary to assess the conduct under review.

4. The Department is unable to commit to a rigid deadline for processing business review requests. The time frames specified herein are targets, not deadlines.

5. This program is being implemented on a pilot basis. The Department reserves the right to alter the expedited review procedure at any time.

Parties seeking review determinations are welcome to submit such additional information as they deem appropriate to assist the Department in understanding the proposed conduct.

Information and Documents to be Submitted

A. Joint Ventures

Information sufficient to show:

1. The name of the venture, the address of its principal place of business, and its legal form and ownership structure;

2. The persons or firms expected to participate in the venture and the nature of their contribution;

3. The purposes and objectives of the venture, together with any limitations on the nature or scope of its activities or operations;

4. The products or services the venture will develop, produce, market or distribute;

5. The extent to which participants in the venture currently develop, produce, market or distribute products or services that will be developed, produced, marketed or distributed by the venture;

6. The identity and competitive significance (described in terms of market shares, capacities, etc.) of all persons or firms that participate in the relevant product and geographic markets in which the venture will operate;

7. Any restrictions on the ability of participants in the venture to compete with the venture, individually or through other entities;

8. Any restrictions on the flow of information from the venture to its owners;

9. The ten largest customers (actual or projected) for any products or services that will be offered by the venture in the relevant geographic market and an estimate of their annual purchases;

10. The requirements for entry into any relevant product or geographic market in which the venture will operate, together with the identity of other persons or firms believed to be positioned to enter within one or two years; and

11. Any business synergies, efficiencies or other benefits likely to flow from the venture.

All documents:

1. Reflecting or effectuating formation of the venture, including charters, by-laws, articles of incorporation, and partnership, joint venture or asset purchase agreements, or the most recent drafts of such documents;

2. Discussing, reflecting or representing the business plans or strategies for the venture;

3. Prepared within two years prior to formation of the venture, discussing, reflecting or representing the business plans or strategies of any venture participant with respect to any product or service that will be offered by the venture; and

4. Discussing or relating to the legality or illegality under the antitrust laws of the venture, or the impact of the venture on competition or the price of any product or service.

B. Information Exchanges

Information sufficient to show:

1. The persons or firms expected to participate in the information exchange;

2. The purposes and objectives of the information exchange;

3. The nature, type, timeliness, and specificity of the information to be exchanged (a sample of all information to be exchanged should be provided);

4. The method by which the information will be exchanged;

5. The characteristics of the market(s) in which the information will be exchanged, including the product(s) or services(s) related to the information to be exchanged, the homogeneity of the product(s) or service(s), the pricing and marketing practices typically employed by firms in the market(s), and the availability of information concerning market conditions, individual transactions and individual competitors;

6. The identity and competitive significance (described in terms of market shares, capacities, etc.) of persons or firms that participate in the relevant product and geographic markets, but will not participate in the information exchange;

7. The ten largest customers in the relevant geographic market for any product(s) or service(s) involved in the information exchange and an estimate of their annual purchases;

8. Any safeguards that are planned to prevent disclosure of firm-specific information to competitors; and

9. Any business synergies, efficiencies or other benefits likely to flow from the venture.

All documents:

1. Reflecting or representing the agreement(s) among the parties to exchange information or the most recent drafts of such documents; and

2. Discussing or relating to the legality or illegality under the antitrust laws of the information exchange or the impact of the information exchange on

competition or the price of any product or service.

[FR Doc. 93–1838 Filed 1–25–93; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.
The title of the recordkeeping/reporting requirement.
The OMB and/or Agency identification numbers, if applicable.
How often the recordkeeping/reporting requirement is needed.
Whether small businesses or organizations are affected.
An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comments on recordkeeping/reporting requirement which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment Standards Administration

Comparability of Current Work to Coal Mine Employment; Coal Mine Employment Affidavit; Affidavit of Deceased Miner's Condition
1215–0056; CM 913; CM 918; CM 1093
On occasion
Individuals or households
3,800 respondents; 30/10/20 minutes per form; 1,850 total hours;
3 forms

The CM 913 is completed by claimants and compares non-coal mine work to coal mine work; the CM 918 is completed by persons knowing the miner's coal mine employment; the CM 1093 is completed by persons or relatives knowing of the deceased miner's medical condition and is used only if other medical evidence is insufficient.

Employment and Training Administration

Benefits Rights and Experience 1205–0177; ETA 218.

Form	Affected public	Respondents	Frequency	Average time per response
53	Regular States	53	Quarterly	30 minutes.
2	EB States	2	Quarterly	30 minutes.

107 total hours.

Provides information for solvency studies, in budgeting projections and for evaluation of adequacy of benefit formulas to analyze effects of proposed changes in State law.

Signed at Washington, DC, this 19th of January, 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–1858 Filed 1–25–93; 8:45 am]
BILLING CODE 4510–27–M; 4510–30–M

Secretary of Labor and the Deputy Secretary of Labor; National Advisory Commission on Work-Based Learning; Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary of Labor has determined that the renewal of the National Advisory Commission on Work-Based Learning (the Advisory Commission) is in the public interest.

The Advisory Commission will have broad responsibility for advising the Secretary on ways to improve productivity through increasing the skills levels of the American workforce and promoting "quality systems" that fully utilize the skills of that workforce.

This will include involvement in efforts to:

- Developing a national framework of industry-based skill standards and certification;
- Integrating human resource development and the introduction of new technology, focusing on supplier networks and State delivery mechanisms;
- Managing cultural diversity as a corporate strategic asset;
- Exploring the range of incentives for employers to adopt new production methods and modern forms of work organization;
- Developing a national award for quality human resource management systems; and
- Promoting labor-management cooperative efforts.

Identifying and addressing key issues such as these is a dynamic process. As such, this list may require modification in order to reflect findings during the discovery phase of the work.

Specific duties of the Advisory Commission and its members might include, but are not limited to, the following:

• Solicit input from expert researchers and practitioners regarding strategic action steps for the Department of Labor (DOL) to undertake;

• Provide objective, independent feedback to the DOL regarding the progress and direction of key initiatives, including identifying roadblocks and suggesting ways to overcome them.

These duties may be fulfilled through several possible mechanisms, including:

• Reporting periodically to the Secretary and other interested parties on emerging issues, actions, findings, and advice;

• Developing guidelines that influence policy decisions;

• Commissioning research;

• Serving as a vehicle for customer feedback;

• Providing guidance on and supporting pilot and demonstration projects;

• Convening meetings of national experts for roundtable discussions;

• Translating ideas into policy recommendations for action by DOL; and

• Functioning as catalyst among organizations with common interests.

The Advisory Commission shall consist of members who represent business, labor, education, and community-based organizations.

This notice announces renewal of the Advisory Commission for a period of two years, at which time it will be considered for further extension. The full Advisory Commission will hold approximately eight meetings, convening quarterly. Subcommittees of the Advisory Commission will likely meet more frequently. The Office of the Secretary will provide the necessary support for the Advisory Commission.

The Advisory Commission will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Interested persons are invited to submit comments regarding the renewal of the National Advisory Commission on Work-Based Learning. Such comments should be addressed to: Mr. Delbert L. Spurlock, Jr., Deputy Secretary of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., room S–2018, Washington, DC 20210.

Signed at Washington, DC, this 6th day of January, 1993.

Lynn Martin,

Secretary of Labor.

[FR Doc. 93–1828 Filed 1–25–93; 8:45 am]

BILLING CODE 4510–30–M

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers United States City Average

Pursuant to section 604(c) of the Motor Vehicle Information and Cost Savings Act, which was added to the Motor Vehicle Theft Law Enforcement Act of 1984, and the delegation of the Secretary of Transportation's responsibilities under that Act to the Administrator of the National Highway Traffic Safety Administration (49 CFR 501.2(f)), the Secretary of Labor has certified to the Administrator and published this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 35.1 percent from its 1984 base period annual average of 311.1 to its 1992 annual average of 420.3.

Signed at Washington, DC, on the 15th day of January 1993.

Lynn Martin,

Secretary of Labor.

[FR Doc. 93–1861 Filed 1–25–93; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

Revised Schedule of Remuneration for the UCX Program

On January 13, 1992, a revised Federal Schedule of Remuneration based on the January 1, 1992, military pay increase was transmitted to all State employment security agencies (SESAs) in Unemployment Insurance Program Letter (UIPL) 12–92. Recently, the Department of Defense (DOD) provided this Department with an additional pay grade (W–5) reflecting the monthly rate. This Department computed the weekly and daily rates based on the monthly rate provided by the DOD.

Therefore, the Department of Labor amended the notice published in the **Federal Register** at 57 FR 933, (January 9, 1992), by issuing UIPL 12–92, Change 1 dated December 24, 1992, which contains the additional new pay grade. Unemployment Insurance Program No. 12–92, Change 1 is published below.

Signed at Washington, DC, on January 15, 1993.

Roberts T. Jones,

Assistant Secretary of Labor.

Classification:
UI.

Correspondence Symbol; TEUMI.

Date: December 24, 1992.

Directive: Unemployment Insurance Program Letter No. 12–92, Change 1.

To: All State Employment Security Agencies.

From: Barbara Ann Farmer, Administrator for Regional Management.

Subject: Revised Federal Schedule of Remuneration for Use in Determining Benefit Eligibility Under the Unemployment Compensation for Ex-Service-members (UCX) Program.

1. *Purpose.* To provide SESAs with an additional pay grade reflecting the monthly, weekly and daily rates to include on the Federal Schedule of Remuneration that was transmitted to all SESAs on January 13, 1992, based on the January 1, 1992 military pay increase.

2. *References.* Chapter XIV, ET Handbook No. 384, 20 CFR 614.12 and 5 U.S.C. 8521(a)(2).

3. *Instruction.* SESAs should include on the attachment to UIPL 12–92 under the captioned heading *Warrant Officer* the following:

Pay grade	Monthly rate	Weekly (7/30ths)	Daily (1/30th)
W-5	$4,573	$1,067.03	$152.43

SESAs will continue to use the existing schedule for UCX "first claims" including the additional information provided in this directive. The additional information provided in this directive will be published in the **Federal Register** as an amendment to the notice published in the **Federal Register** on January 9, 1992.

4. *Action Required.* The above instructions should be provided to appropriate staff.

5. *Inquiries.* Direct inquiries to the appropriate Regional Office.

6. *Attachment.* For SESA convenience, a revised Federal Schedule incorporating this change is provided.

Expiration Date: January 31, 1994.

FEDERAL SCHEDULE OF REMUNERATION
[20 CFR 614.12]

Pay grade	Monthly rate	Weekly (7/30ths)	Daily (1/30th)
1. Commissioned Officers:			
O–10	$10,157	$2,369.97	$338.57
O–9	9,189	2,144.10	306.30
O–8	8,437	1,968.63	281.23
O–7	7,597	1,772.63	253.23
O–6	6,435	1,501.50	214.50
O–5	5,432	1,267.47	181.07
O–4	4,462	1,041.13	148.73
O–3	3,593	838.37	119.77
O–2	2,875	670.83	95.83
O–1	2,144	500.27	71.47
2. Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member Or Warrant Officer:			
O–3E ...	4,103	957.37	136.77
O–2E ...	3,432	800.80	114.40
O–1E ...	2,827	659.63	94.23

FEDERAL SCHEDULE OF REMUNERATION
Continued
[20 CFR 614.12]

Pay grade	Monthly rate	Weekly (7/30ths)	Daily (1/30th)
3. Warrant Officers:			
W–5	4,573	1,067.03	152.43
W–4	4,056	946.40	135.20
W–3	3,429	800.10	114.30
W–2	2,953	689.03	98.43
W–1	2,461	574.23	82.03
4. Enlisted Personnel:			
E–9	3,707	864.97	123.57
E–8	3,150	735.00	105.00
E–7	2,731	637.23	91.03
E–6	2,355	549.50	78.50
E–5	2,007	468.30	66.90
E–4	1,679	391.77	55.97
E–3	1,478	344.87	49.27
E–2	1,354	315.93	45.13
E–1	1,191	277.90	39.70

For convenience, the Federal Schedule has been expanded to include columns reflecting derived weekly and daily rates.

This revised Federal Schedule of Remuneration is effective for UCX "first claims" filed beginning with the first day of the first week which begins after April 4, 1992, pursuant to 20 CFR 614.12(c).

[FR Doc. 93–1859 Filed 1–25–93; 8:45 am]

BILLING CODE 4510–30–M

Revised Schedule of Remuneration for the UCX Program

Under section 8521(a)(2) of title 5 of the United States Code, the Secretary of Labor is required to issue from time to time a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-servicemembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1993.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 20 CFR 614.12, applies to "First Claims" for UCX which are effective beginning with the first day of the first week which begins after April 3, 1993.

Pay grade	Monthly rate
(1) Commissioned Officers:	
O–10	$10,493
O–9	9,530
O–8	8,752
O–7	7,878
O–6	6,702
O–5	5,615
O–4	4,629
O–3	3,727
O–2	2,976
O–1	2,227
(2) Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member Or Warrant Officer:	
O–3E	4,256
O–2E	3,556
O–1E	2,929
(3) Warrant Officers:	
W–5	4,747
W–4	4,233
W–3	3,560
W–2	3,064
W–1	2,555
(4) Enlisted Personnel:	
E–9	3,866
E–8	3,282
E–7	2,835
E–6	2,450
E–5	2,086
E–4	1,743
E–3	1,529
E–2	1,405
E–1	1,237

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, DC, on January 15, 1993.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 93–1860 Filed 1–25–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for clearance of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by February 25, 1993.

ADDRESSES: Send comments to Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Ms. Roberta Dunn, National Endowment for the Arts, Congressional Liaison Office, room 525, 1100 Pennsylvania Avenue NW., Washington, DC, 20506; (202–682–5434).

FOR FURTHER INFORMATION CONTACT: Ms. Judith O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revised collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 94 Visual Arts Program Application Guidelines for Organizations

Frequency of Collection: One-time

Respondents: Non-profit institutions, state and local governments

Use: Guideline instructions and applications elicit relevant information from non-profit arts organizations and state and local arts agencies that apply for funding under the Visual Arts Program. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the application review process.

Estimated Number of Respondents: 360

Average Burden Hours Per Response: 29.2

Total Estimated Burden: 10,500.

Marianne Klink,

Acting Director, Congressional Liaison, National Endowment for the Arts.

[FR Doc. 93–1770 Filed 1–25–93; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Prescreening #3 Section) to the National Council on the Arts will be held on February 10–11, 1993 from 9 a.m.–6:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

A portion of this meeting will be open to the public on February 10 from 9 a.m.–9:15 a.m. for opening remarks.

The remaining portions of this meeting on February 10 from 9:15 a.m.–6:30 p.m. and February 11 from 9 a.m.–6:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for

financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: January 21, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–1829 Filed 1–25–93; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Extension.
2. The title of the information collection: 10 CFR Part 75—Safeguards on Nuclear Material—Implementation of US/IAEA Agreement.
3. The form number if applicable: Not applicable.
4. How often the collection is required: Installation information is submitted upon written notification from the Commission. Changes are submitted as occurring. Nuclear material accounting and control information is submitted in accordance with specified instructions.
5. Who will be required or asked to report: All persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation specified on the U.S. eligible list as determined by the Secretary of State or his designee and filed with the Commission, as well as holders of construction permits and persons who intend to receive source material.
6. An estimate of the number of responses annually: 43
7. An estimate of the total number of hours needed to complete the requirement or request: Approximately 4.7 hours per response plus 800 hours per recordkeeper. The total annual industry burden is 5,004 hours.
8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.
9. Abstract: 10 CFR Part 75 establishes a system of nuclear material accounting and control to implement the agreement between the United States and the International Atomic Energy Agency (IAEA). Under that agreement, NRC is required to collect the information and make it available to the IAEA.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150–0055), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 12th day of January 1993.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93–1807 Filed 1–25–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–445]

Texas Utilities Electric Co., Comanche Peak Steam Electric Station, Unit 1; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition for action under 10 CFR 2.206 referred to the staff by the Nuclear Regulatory Commission (NRC) by Memorandum and Order dated January 17, 1992 (CLI–92–01). The Petition concerns allegations contained in a Motion to Reopen the Record (Motion) filed by Sandra Long Dow and Richard E. Dow (Petitioners) concerning the pipe support design process at the Comanche Peak Steam Electric Station Unit 1. Petitioners asserted as a basis for their Motion that Texas Utilities Electric Company's (TUEC or Licensee) witnesses repeatedly made false and misleading statements to the Atomic Safety and Licensing Board between 1982 and 1985.

The Director of the Office of Nuclear Reactor Regulation has determined to deny the Petition. The reasons for this denial are explained in the "Director's Decision Under 10 CFR 2.206" (DD–93–02), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room for the Comanche Peak Steam Electric Station, at the University of Texas at Arlington Library, Government Publication/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of issuance of the decision unless the Commission on its own motion institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 15th day of January 1993.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–1808 Filed 1–25–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–445 AND 50–446]

Texas Utilities Electric Company, Comanche Peak Steam Electric Station, Units 1 and 2; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition for action under 10 CFR 2.206 received from Mr. Michael D. Kohn, dated July 30, 1991, on behalf of the National Whistleblowers Center and certain confidential allegers regarding the Comanche Peak Steam Electric Station.

Petitioners requested that the U.S. Nuclear Regulatory Commission (NRC) take action regarding the TU Electric Company's (TUEC or the Licensee) Comanche Peak Steam Electric Station, Units 1 and 2. Petitioners requested that the NRC provide the following relief: (1) Hold licensing hearings to determine, in view of TUEC's having made material false statements to the NRC, whether the Licensee has the requisite character and competence to operate a nuclear power facility; (2) fine and otherwise penalize TUEC for making material false statements to the NRC; (3) investigate whether the NRC staff knew of TUEC's alleged material false statements and failed to act on such knowledge;[1] and (4) determine which high-level managers were responsible for TUEC's making false material statements, and ban such persons from all licensed nuclear facilities.

Briefly summarized, the bases set forth for the Petition were that (1) TUEC made material false statements before the Atomic Safety and Licensing Board (ASLB) during hearings on TUEC's application for an operating license[2] in order to conceal significant safety flaws in the design of CPSES pipe support systems, namely that in violation of 10 CFR part 50, appendix B, TUEC transferred pipe support packages for review and certification between pipe support design groups that used different, multiple design criteria; (2) TUEC's material false statements delayed construction of CPSES Unit 1 and thus were germane to a contention in a related proceeding[3] that TUEC had intentionally delayed construction of CPSES Unit 1; (3) TUEC, Citizens Association for Sound Energy (CASE), and the NRC staff deliberately withheld information from the ASLB about the transfer of pipe support reviews between pipe support design groups; and (4) TUEC employees responsible for making material false statements to the NRC continue to perform critical engineering and quality assurance tasks at CPSES.

The Director of the Office of Nuclear Reactor Regulation has determined to deny the Petition. The reasons for this denial are explained in the "Director's Decision Under 10 CFR 2.206," (DD–93–01) which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room for the Comanche Peak Steam Electric Station, at the University of Texas at Arlington Library, Government Publication/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019. A copy of the decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after the date of issuance of the decision unless the Commission on its own motion institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 15th day of January 1993.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93–1806 Filed 1–25–93; 8:45 am]

BILLING CODE 7590–01–M

[1] As noted in my letter of August 28, 1991, to Petitioners, a copy of Petition was forwarded to the NRC Office of Inspector General. This Director's Decision does not address allegations of NRC staff misconduct.

[2] NRC Docket Nos. 50–445 and 50–446. Texas Utilities Generating Company (Comanche Peak Steam Electric Station, Units 1 and 2).

[3] The January 20, 1986, application of TUEC to extend its construction permit was the subject of a related NRC licensing proceeding, NRC Docket No. 50–445–CPA. See Texas Utilities Electric Company, 25 NRC 912 (1987).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31743; File No. SR–AMEX–93–02]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Addition of New Strike Prices for Index Options

January 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 8, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On January 13, the Amex submitted Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, Amex Rule 903C(b) provides that "the exercise price of each series of stock index options opened for trading on the Exchange shall be an integer which is reasonably close to the numerical index value of the underlying stock index group to which such options relate at or about the time such series of options is first opened for trading on the exchange."[2] The Amex proposes to amend Exchange Rule 903C(b) by adding Commentary .03, which provides:

In connection with paragraph (b) above, the Exchange may list additional series for its European-style stock indexes which are greater than 15% or 50 points of the current index value (whichever is less) but do not exceed 30% or 100 points of the current index value (whichever is less) provided that demonstrated customer interest exists prior to the listing of such series.

The proposed rule change and Amendment No. 1 to the proposed rule change are available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below.

[1] See letter from Howard A. Baker, Senior Vice President, Derivative Securities, Amex, to Sharon Lawson, Assistant Director, Exchange and Options Regulation, Division of Market Regulation, Commission, dated January 13, 1992.

[2] See note 3, *infra*, and accompanying text for a discussion of the Commission's recent interpretation of the Amex's "reasonably close" standard.

The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, Amex Rule 903C(b) provides that "the exercise price of each series of stock index options opened for trading on the Exchange shall be an integer which is reasonably close to the numerical index value of the underlying stock index group to which such options relate at or about the time such series of options is first opened for trading on the Exchange." While there has been no formal interpretation of the range of strike prices which would fall within the "reasonably close" standard set forth in Rule 903C(b) since it was adopted in 1983, the Commission recently defined this standard in its order approving a Chicago Board Options Exchange, Inc. ("CBOE") filing[3] which, in effect, made the CBOE's index option strike price rules uniform with the Amex's rules. The CBOE Approval Order stated that for stock index options other than long-term options, a series is "reasonably related" to the current index value of the underlying index if it is within no more than the lesser of: (a) 50 points of the current index value; or (b) 15% of the current index value. For long-term stock index options (other than reduced value long-term options) an exercise price of an options series is "reasonably related" to the current index value if it is within 25% of the current index value.[4]

The Amex believes that although the standard established in the CBOE Approval Order provides some flexibility in the listing of stock index option strike prices in response to market movement, substantial interest sometimes arises on the part of large institutional investors seeking to engage in options strategies requiring strike prices which may be further in and/or out of the money than exist at the time. Accordingly, the Amex proposes to amend Exchange Rule 903C by adding Commentary .03, which will allow the Exchange to list additional options series for European-style[5] stock indexes which are greater than 15% or 50 points of the current index value (whichever is less) but do not exceed 30% or 100 points of the current index value (whichever is less) (the "expanded range"), provided that demonstrated customer interest exists prior to the listing of such series. The Amex believes that the proposed rule change will enable the Exchange to respond to the needs of an important segment of the investing public by permitting such customers to take advantage of economic opportunities through the trading of standardized index options.

The Amex notes that the proposal applies solely to European-style stock index options, and that, for purposes of the proposal, a "customer" is an off-floor person or entity (such as an institution, corporation or individual) whose trades are designated as customer trades under the rules of the Options Clearing Corporation ("OCC"). The proposal allows the Amex to introduce new strike prices in the expanded range only in response to documented customer requests, and not in response to the requests of market makers or specialists acting on their own behalf. However, after a new strike has been listed in response to a customer request, market makers and specialists may engage in transactions in the strikes.[6]

The Amex has represented that when a new strike has been listed pursuant to the proposal, the Exchange will not automatically fill in strike prices between the newly added strikes and the highest and lowest existing strikes on the index.[7]

In addition, the Amex represents that its systems have the capacity to accommodate any series that may be added under the proposal.[8] In addition, the Options Price Reporting Authority ("OPRA") has represented that the addition of options series pursuant to the proposal should have no material impact on OPRA's capacity.[9]

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Amex has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[10] Specifically, the Commission believes that the proposal will provide investors with more flexibility in the trading of European-style index options, thereby protecting investors and furthering the public interest by allowing investors to establish options positions that are better tailored to meet their investment objectives.

The Commission also believes that the Amex's proposal strikes a reasonable balance between the Exchange's need to accommodate the needs of investors and the need to avoid the excessive proliferation of options series. In this regard, the Commission notes that the proposal allows the Amex to list additional strike prices for European-style stock index options only if there is documented customer interest in the additional strikes.[11]

[3] See Securities Exchange Act Release No. 31683 (December 31, 1992), 58 FR 3307 (order approving File No. SR–CBOE–92–36) ("CBOE Approval Order").

[4] *Id.*

[5] A European-style option can be exercised only during a specified period before the option expires.

[6] See Amendment No. 1, *supra* note 1.

[7] For example, if a European-style index is at 400 with the highest and lowest outstanding strikes extending from 350 to 450, and the Amex receives a customer request to list strikes at 300 and 500, the Amex will not automatically add (or "fill in") strikes between 300 and 350 (and 450—500) after it lists the 300 (and 500) strike(s). The Exchange may, however, list additional "fill-in" strikes in response to documented customer requests or after a market movement that raises or lowers the index level and permits the introduction of additional strikes under the "reasonably related" standard. See Amendment No. 1, *supra* note 1.

[8] See Amendment No. 1, *supra* note 1.

[9] See memorandum from Joseph P. Corrigan, Executive Director, OPRA, to Charles Henry, President and Chief Operating Officer, CBOE, and Ivers Riley, Senior Executive Vice President, Amex, dated January 13, 1993 ("OPRA Memorandum").

[10] 15 U.S.C. 78f(6)(5) (1982).

[11] The Commission notes that although market makers and specialists may engage in transactions in the new series after they have been listed due to customer interest, the Commission does not expect that the additional strikes will be used primarily for transactions among market makers and specialists. Moreover, the Exchange's surveillance procedures will enable the Exchange and the Commission to determine whether the strikes being added pursuant to the proposal are being used primarily by market makers. In such a case, the Commission may determine that the use of such strikes are inconsistent with the maintenance of fair and orderly markets and Section 6(b)(5) of the Act.

Further, the Commission notes that the Exchange has represented that it will not automatically "fill in" strike prices between the strikes added under the proposal and the highest and lowest existing strikes on an index,[12] and, in addition, that the Amex has developed surveillance procedures designed to monitor the addition of new strikes pursuant to the proposal. The Commission believes that these requirements provide the Exchange with the flexibility to open additional index options series in response to genuine customer interest and, at the same time, appropriately limit the number of index options series that may be outstanding at any one time. Finally, based on representations from OPRA,[13] the Commission is satisfied that Amex and OPRA will have adequate computer processing capacity to accommodate trading and quote dissemination demands of the additional strike prices that may be listed under the proposal.

In summary, the Commission believes that the benefits to be derived from the proposal in accommodating the needs and objectives of investors outweigh the possible adverse effects on market liquidity due to the dispersion of trading interest in more options series.

The Commission has, nevertheless, requested that the Amex monitor the addition of strikes under the rule. The Amex has agreed to provide a six-month status report to the Commission which will be due on July 15, 1993. The report should include, at the least, the total number of requests for additional strikes pursuant to this proposal; what type of market participants have requested the additional strikes; whether, and how many of, the requests were granted or denied; the total percentage of transactions which were completed between customers and market makers versus market makers and other market makers; any surveillance inquiries or studies opened for potential abuses or non-compliance with the rule's requirements and the action taken by the Exchange as a result of these inquiries; any effect the additional strikes are having on the liquidy of the existing outstanding strikes; and the effect of the additional series on the capacity of the Amex's, OPRA's and vendors' automated systems.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because the proposal will help the Amex to accommodate the needs of investors and will clarify the Exchange's policy regarding the listing of additional series of index options. Accordingly, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with Section 6 of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 16, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–Amex–93–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1780 Filed 1–25–93; 8:45 am]

BILLING CODE 8010–01–M

[12] When listing additional strikes pursuant to the proposal, the Commission expects the Exchange to consider whether the listing of such strikes will be consistent with the maintenance of a fair and orderly market.

[13] See OPRA Memorandum, *supra* note 9.

[14] 15 U.S.C. 78s(b)(2) (1982).

[15] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 34–31744; File No. SR–CBOE–93–01]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Addition of New Strike Prices for Index Options

January 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 8, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, CBOE Rule 24.9, "Terms of Index Option Contracts," Interpretation .05 provides, in part, that "the exercise price of each series of stock index options opened for trading on the Exchange shall be reasonably related to the current index value of the underlying index to which such series relates at or about the time such series of options first opened for trading on the Exchange."[2] The CBOE proposes to amend Interpretation .05 to add the following provisions:

The term "reasonably related to the current index value of the underlying index" means: (a) except in the case of long-term options, if the exercise price is within no more than the lesser of (i) 50 points of the current value of the index, or (ii) 15% of the current index value; and (b) in the case of long-term options (other than reduced value long-term options), if the exercise price is within 25% of the current index value. As an exception to the foregoing, the Exchange may open for trading additional series of the same European-style index options (other than options based on the S&P 100 index) provided that demonstrated customer interest exists (such as institutional, corporate, or individual interest, expressed directly or through the customer's broker, but not interest expressed by a market maker with respect to trading for the market maker's own

[1] On January 14, 1993, the CBOE amended its proposal. See File No. SR–CBOE–93–01, Amendment No. 1.

[2] See Securities Exchange Act Release No. 31683 (December 31, 1992), 58 FR 3307 (order approving File No. SR–CBOE–92–36) ("Strike Price Approval Order"). See note 3, *infra*, and accompanying text for a discussion of the "reasonably related" standard.

account) and further provided that the new strike prices are no more than the lesser of approximately (i) 100 points away from the current index value; or (ii) 30% away from the current index value.

The proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CBOE Rule 24.9, Interpretation .05 provides, in part, that, for options other than options on the Standard & Poor's 100 Index, "the exercise price of each series of stock index options opened for trading on the Exchange shall be reasonably related to the current index value of the underlying index to which such series relates at or about the time such series of options first opened for trading on the Exchange." This language is substantially similar to the existing rules of the American Stock Exchange, Inc. ("Amex"). While there has been no formal interpretation of the range of strike prices which would fall within the "reasonably related" standard set forth in CBOE Rule 24.9, the Commission recently defined this standard in its order approving Interpretation .05 to Rule 24.9.[3] Specifically, the Strike Price Approval Order stated that for stock index options other than long-term options, a series is "reasonably related" to the current index value of the underlying index if it is within no more than the lesser of: (a) 50 points of the current index value; or (b) 50% of the current index value. For long-term stock index options (other than reduced value long-term options) an exercise price of an options series is "reasonably related" to the current index value if it is within 25% of the current index value.[4]

The CBOE believes that although the standard articulated in the Strike Price Approval Order provides some flexibility in the listing of stock index option strike prices in response to market movement, substantial interest sometimes arises on the part of large institutional investors seeking to engage in options strategies requiring strike prices which may be further in and/or out of the money than exist at the time. Accordingly, the CBOE proposes to amend Interpretation .05 to include the "reasonably related" standard approved in the Strike Price Approval Order, and to adopt an exception to that standard which will permit the listing of such additional strike prices in European-style index options, provided that demonstrated customer interests exists (such as institutional, corporate, or individual interest, expressed directly or through the customer's broker, but not interest expressed by a market maker with respect to trading for the market maker's own account) and provided, further, that the new strike prices are no more than the lesser of approximately (a) 100 points away from the current index value; or (b) 30% away from the current index value. The CBOE believes that the new standard will enable the CBOE to respond to the needs of an important segment of the investing public by permitting such customers to take advantage of economic opportunities through the trading of standardized index options.

The CBOE notes that the proposal applies solely to European-style stock index options, and that new strike prices will be added pursuant to the proposed exception to the "reasonably related" standard solely in response to demonstrated customer interest, as defined under the proposal.[5] In addition, the CBOE represents that (i) the CBOE does not intend or expect to "fill in" or automatically authorize trading in each strike price between any strike price newly added pursuant to the proposed exception and the highest or lowest existing strike price;[6] (ii) each new strike price introduced beyond the highest and lowest available strike prices contemplated by the generally applicable "reasonably related" standard approved in the Strike Price Approval Order will have to satisfy the criteria set forth in the proposed exception; and (iii) the CBOE does not expect that additional strike prices introduced pursuant to the proposed exception will be availed of primarily for transactions between or among market makers trading for their own accounts.[7]

The CBOE represents that it has the necessary systems capacity to support additional strikes that may be added pursuant to the proposal.[8] In addition, the Options Price Reporting Authority ("OPRA") has represented that the addition of options series pursuant to the proposal should have no material impact on OPRA's capacity.[9]

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and with section 6(b)(5), in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[10]

[3] See Strike Price Approval Order, *supra* note 2.

[4] *Id.*

[5] See letter from Andrew M. Klein, Schiff Hardin & Waite, to Sharon M. Lawson, Assistant Director, Exchange and Options Regulation, Division of Market Regulation, Commission, dated January 14, 1993 ("January 14 Letter").

[6] For example, if a European-style index is at 400 with the highest and lowest outstanding strikes extending from 350 to 450, and the CBOE receives a customer request to list strikes at 300 and 500, the CBOE will not automatically add (or "fill in") strikes between 300 and 350 (and 450–500) after it lists the 300 (and 500) strike(s). The Exchange may, however, list additional "fill-in" strikes in response to documented customer requests or after a market movement that raises or lowers the index level and permits the introduction of additional strikes under the "reasonably related" standard.

[7] See January 14 Letter, *supra* note 5.

[8] See letter from Charles J. Henry, President and Chief Operating Officer, CBOE, to Sharon Lawson, Assistant Director, Division of Market Regulation, Commission, dated January 13, 1993 ("CBOE Capacity Letter").

[9] See memorandum from Joseph P. Corrigan, Executive Director, OPRA, to Charles Henry, President and Chief Operating Officer, CBOE, and Ivers Riley, Senior Executive Vice President, Amex, dated January 13, 1993 ("OPRA Memorandum").

[10] 15 U.S.C. 78f(6)(5) (1982).

Specifically, the Commission believes that the proposal will provide investors with more flexibility in the trading of European-style index options, thereby protecting investors and furthering the public interest by allowing investors to establish options positions that are better tailored to meet their investment objectives.

The Commission also believes that the CBOE's proposal strikes a reasonable balance between the Exchange's need to accommodate the needs of investors and the need to avoid the excessive proliferation of options series. In this regard, the Commission notes that the proposed exception to the "reasonably related" standard allows the CBOE to list additional strike prices for European-style stock index options only if there is documented customer interest in the additional strikes.[11]

Further, the Commission notes that the Exchange has represented that it will not automatically "fill in" strike prices between the strikes added under the proposal and the highest and lowest existing strikes on an index,[12] and, in addition, that the CBOE has developed surveillance procedures designed to monitor the addition of new strikes pursuant to the proposal. The Commission believes that these requirements should provide the Exchange with flexibility to open additional index options series in response to genuine customer interest and, at the same time, appropriately limit the number of index options series that may be outstanding at any one time. Finally, based on representations from OPRA,[13] the Commission believes that OPRA will have adequate computer processing capacity to accommodate the additional strike prices that may be listed under the proposal.

In summary, the Commission believes that the benefits to be derived from the proposal in accommodating the needs and objectives of investors outweigh the possible adverse effects on market liquidity due to the dispersion of trading interest in more options series.

The Commission has, nevertheless, requested that the CBOE monitor the addition of strikes under the rule. The CBOE has agreed to provide a six month status report to the Commission which will be due on July 15, 1993. The report should include, at the least, the total number of requests for additional strikes pursuant to this proposal; what type of market participants have requested the additional strikes; whether, and how many of, the requests were granted or denied; the total percentage of transactions which were completed between customers and market makers versus market makers and other market makers; any surveillance inquiries or studies opened for potential abuses or non-compliance with the rule's requirements and the action taken by the Exchange as a result of these inquiries; any effect the additional strikes are having on the liquidity of the existing outstanding strikes; and the effect of the additional series on the capacity of the CBOE's, OPRA's and vendors' automated systems.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because the proposal will help the CBOE to accommodate the needs of investors and will clarify the Exchange's policy regarding the listing of additional series of index options. Accordingly, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with Section 6 of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 16, 1993.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–CBOE–93–01) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1781 Filed 1–25–93; 8:45 am]

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[11] The Commission notes that although market makers and specialists may engage in transactions in the new series listed pursuant to the proposed exception to the "reasonably related" standard after the series have been listed due to customer interest, the Commission does not except that the additional strikes will be used primarily for transactions among market makers and specialists. Moreover, the Exchange's surveillance procedures will enable the Exchange and the Commission to determine whether the strikes being added pursuant to the proposal are being used primarily by market makers. In such a case, the Commission may at a future time determine that the use of such strikes are inconsistent with the maintenance of fair and orderly markets and Section 6(b)(5) of the Act.

[12] When listing additional strikes pursuant to the proposal, the Commission expects the Exchange to consider whether the listing of such strikes will be consistent with the maintenance of a fair and orderly market.

[13] *See* OPRA Memorandum, *supra* note 8.

[14] 15 U.S.C. 78s(b)(2) (1982).

[15] 17 CFR 200.30–3(a)(12) (1992).

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges in Over-the-Counter Issue

January 15, 1993.

On January 12, 1993, the Philadelphia Stock Exchange, Inc. ("PHLX") submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, i.e., security not registered under section 12(b) of the Act.

File No.	Symbol	Issuer
7–10003	AQQ/ASKI	Ask Computers Systems, Common Stock, No Par Value.

The above-referenced issue is being applied for as an expansion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

Comments

Interested persons are invited to submit, on or before February 5, 1993 written comments, data, views and arguments concerning this application. Persons desiring to make written comment should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grant of UTP would be consistent with section 12(f)(1), which requires that, in considering an application for extension of UTP in OTC securities, the Commission consider, among other matters, the public trading activity in

such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a National Market System.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1782 Filed 1–25–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19220; File No. 812–8202]

Security First Life Insurance Co. et al

January 19, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or "SEC")..

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 (the "1940 Act")

APPLICANTS: Security First Life Insurance Company ("Security First Life"), Security First Life Separate Account A ("Separate Account A"), and Security First Life Separate Account B ("Separate Account B") (collectively, "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under section 17(b) of the 1940 Act for exemption from section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order of exemption to the extent necessary to permit the proposed merger of Separate Account B into Separate Account A.

FILING DATE: The application was filed on December 4, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 16, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Security First Life Insurance Company, 11365 West Olympic Boulevard, Los Angeles, California 90064.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Senior Attorney, at (202) 272–2058 or Michael Wible, Special counsel, at (202) 272–2026, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Security First Life is a stock life insurance company organized under the laws of the State of Delaware. For the purposes of the 1940 Act, Security First is the depositor of Separate Account A and Separate Account B.

2. On February 18, 1992, Security First Life entered into an agreement ("Reinsurance Agreement") with The Capitol Life Insurance Company ("Capitol Life"). Under the Reinsurance Agreement, Security First Life acquired on an assumption reinsurance basis certain variable annuity contracts of Capitol Life funded by Capitol Life Separate Account A. Security First Life assumed all the liabilities and obligations under the reinsured Capitol Life Contracts. Reinsured contract owners have the same contract rights and the same contract values as they did before the reinsurance transaction. However, reinsured contract owners now look to Security First Life instead of Capitol Life to fulfill the terms of their contracts.

3. Capitol Life Separate Account A was originally established by Capitol Life pursuant to Colorado insurance law on September 20, 1973. In fulfillment of the Reinsurance Agreement, Capitol Life Separate account A with all of its assets was transferred to Security First Life on February 18, 1992 and reestablished under Delaware insurance law as Separate Account B of Security First Life. Separate Account B is registered with the Commission as a unit investment trust under the 1940 Act. Separate Account B is divided into five series, with the assets of each series invested in the shares of one of the three series of the Security First Series Trust ("Trust") or in the shares of two open-end management investment companies advised and managed by T. Rowe Price Associates, Inc. ("T. Rowe Price funds").

4. On December 31, 1991 a registration statement was filed to register the reinsured Capitol Life contracts funded in Separate Account B. The reinsured Capitol Life contracts are identical in all material respects to the original Capitol Life contracts except for the change in depositor from Capitol Life to Security First Life. That registration statement was filed pursuant to a staff "no-action" letter (Reference No. IP–1–92), that Security First Life had requested in connection with the Reinsurance Agreement, and in connection with which Security First Life undertook not to sell any new contracts funded in Separate Account B until a registration statement, describing the new depositor, was declared effective. The registration statement was declared effective on February 18, 1992.

5. Separate Account A was established by Security First Life pursuant to Delaware insurance law on May 29, 1980. Separate Account A is registered with the Commission as a unit investment trust under the 1940 Act. Separate Account A is divided into six series, with the assets of each series invested in the shares of one of the three series of the trust or in the shares of three T. Rowe Price funds.

6. In 1989, Security First Life assumptively reinsured certain variable annuity contracts offered by Capital Life. Presently, Separate Account A funds those contracts. Also, in 1989, Security First Life began offering certain variable annuity contracts funded in Separate Account A Which were cloned from those original Capitol Life contracts (the "Cloned Capitol Contracts").

7. The Cloned Capitol Contracts and the reinsured Capitol Life Contracts are similar to one another in all material respects. They have the same contract charges and invest in the same underlying funds. Security First Life does not intend to offer any new contracts in connection with Separate Account B.

8. The management and Board of Directors of Security First Life have determined that the efficiency of the operations of Security First Life Could be improved by merging Separate Account B with and into Separate Account A. Accordingly, Security First Life's Board, acting through its Executive Committee, has approved a merger under which Separate Account B will, subject to necessary regulatory approval (including approval of the Delaware insurance commissioner), be merged with and into Separate Account A (the "Proposed Merger"). The Proposed Merger would be effected at the relative net asset values of the securities to be exchanged thereby assuring no change in the contract values of persons having an interest in either separate account.

9. A post-effective amendment under the Securities Act of 1933 for the reinsured Capitol Contracts and an amendment to the 1940 Act registration statement of Separate Account A will be filed reflecting the merger transaction. A copy of the revised prospectus, together with a letter explaining the merger transaction and its implications, and an endorsement reflecting the fact that the reinsured Capitol Contracts would thereafter be funded in Separate Account A, will be sent to each owner of a reinsured Capitol Contract upon consummation of the Proposed Merger. Consistent with the provisions of the 1940 Act and applicable state law, the Proposed Merger will not be submitted to contract owners for approval.

Applicants' Legal Analysis

1. Section 17(a) of the 1940 Act provides generally that it unlawful for any affiliated person of a registered investment company acting as principal knowingly to purchase or sell any security or other property to such registered company. Section 17(b) of the 1940 Act provides generally that the Commission may grant an order exempting a transaction otherwise prohibited by section 17(a) of the 1940 Act if the Commission finds that (1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, (2) the proposed transaction is consistent with the policy of each registered investment company concerned and (3) the proposed transaction is consistent with the general purposes of the 1940 Act.

2. Because the separate accounts are affiliated persons of each other, the transfer of assets from Separate Account B to Separate Account A, by reason of the Proposed Merger, may involve these entities, acting as principals, in buying and selling securities or other property from or to one another in contravention of section 17(a) of the 1940 Act.

3. Although exemption under Rule 17a–8 under the 1940 Act is not available in this case since Rule 17a–8 is limited to mergers of management investment companies, Applicants contend that the Proposed Merger falls within the spirit and intent of the Rule since it would be effected at the relative net asset values of the securities to be exchanged. No charges, costs, fees, or other expenses would be incurred by contract owners of either separate account as a result of, or in connection with, the Proposed Merger nor would there be any imposition of tax liability on contract owners as a result of the Proposed Merger. Thus, the proposed Merger would not result in dilution of the economic interests of contract owners of either separate account.

4. The Applicants represent that with respect to Separate Account B and its contract owners, the only practical result of the Proposed Merger would be the change in the identity of the separate account funding the reinsured Capitol Contracts.

5. Separate Account B is a smaller mirror image of Separate Account A. Both separate accounts were established and registered with the Commission as unit investment trusts to fund materially identical variable annuity contracts. Both separate accounts invest exclusively in the same underlying investment companies. The Applicants represent that the only significant difference is in the identity of the separate account funding the respective contracts.

6. The Proposed Merger would avoid the need for duplicative filings with governmental agencies and would otherwise avoid the costs associated with maintaining two separate accounts.

Applicants' Conclusion

Applicants submit that the Proposed Merger is consistent with the policies of the separate accounts and the general purposes of the 1940 Act. Applicants further submit that the terms of the Proposed Merger are reasonable and air to Separate Account A and Separate Account B contract owners and do not involve overreaching on the part of any person concerned. For these reasons, it is submitted that the statutory standards of section 17(b) of the 1940 Act have been met.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–1878 Filed 1–25–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 1–A (Revision 18)]

Delegation of Authority

Delegation of Authority No. 1–A (Revision 17) is hereby revised to read as follows:

(a) Pursuant to authority vested in me by the Small Business Act, of 1958, 72 Stat. 384, as amended is hereby delegated to the following officials in the following order:

(1) Counselor to the Administrator
(2) General Counsel
(3) Chief Financial Officer and Associate Deputy Administrator for Management and Administration
(4) Associate Deputy Administrator for Business Development
(5) Associate Deputy Administrator for Finance, Investment, and Procurement
(6) Chief of Staff

to perform, in event of the absence or incapacity of the Administrator and the Deputy Administrator any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under sections 9(d) and 11 of the Small Business Act, as amended.

(b) An individual acting in any of the positions in paragraph

(a) remains in the line of succession only if he or she has been designated acting by the Administrator or Acting Administrator due to a vacancy in the position.

(c) This delegation is not in derogation of any authority residing in the above-listed officials relating to the operations of their respective programs, nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

Effective Date: January 21, 1993.

Date: January 20, 1993.

John D. Whitmore,

Acting Administrator.

[FR Doc. 93–1880 Filed 1–25–93; 8:45 am]

BILLING CODE 8025–01–M

Small Business Innovation Research Program Policy Directive

AGENCY: Small Business Administration.

ACTION: Publication of policy directive.

SUMMARY: This document revises the Small Business Innovation Research (SBIR) Program Policy Directive, which was published on June 24, 1988 (53 FR 23829). This revised policy directive reflects new statutory requirements and comments received from members of Congress, the public, participating agencies, associations and small business concerns. It is intended to provide guidance to participating Federal agencies for the general conduct of their SBIR programs.

DATES: Public comment on this policy directive should be received prior to February 25, 1993. This policy directive is effective January 26, 1993.

ADDRESSES: Written comments should be submitted to Richard J. Shane, Assistant Administrator, Office of Innovation, Research and Technology,

suite 8500, 409 Third Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Richard J. Shane, Assistant Administrator, Office of Innovation, Research and Technology, (202) 205–6450.

SUPPLEMENTARY INFORMATION: In 1982, Pub. L. 97–219, 96 Stat. 221, amended section 9(j) of the Small Business Act, 15 U.S.C. 631, *et seq.*, to establish a five year government-wide Small Business Innovation Program. This program was later extended until September 30, 1993 by Pub. L. 99–443, 100 Stat. 1120 (enacted October 6, 1986). Pub. L. 102–564 now extends the program to October 1, 2000.

Public Law 97–219 directed the Small Business Administration (SBA) by November 19, 1982, to develop, issue and maintain a Small Business Innovation Research (SBIR) Program Policy Directive to guide the participating agencies in their conduct of the SBIR program. This publication represents the fourth major revision to the original policy directive and is intended to provide guidance to the participating agencies as of its effective date.

This amended policy directive has modified SBIR Policy Directive, published June 24, 1988, 53 FR 23829 to reflect recent statutory requirements and oral and written comments and clarifications received from members of Congress, the public, participating agencies, associations and small business concerns.

SBA is issuing this amended policy directive in final form with a 30 day comment period. SBA will consider all comments carefully in revising the Policy Directive in the future as may be necessary to improve the general conduct of the Small Business Innovation Research Program.

The SBIR Policy Directive has been revised in the following respects: The "Purpose" section has been amended to refer to Pub. L. 102–564 as well as Pub. L. 97–219 and Pub. L. 99–443.

The section "Summary of Legislative Provisions" has been amended to refer to Pub. L. 102–564 and includes changes to reflect those in Pub. L. 102–564. This section also extends the program authorization to October 1, 2000.

Under "Definitions", Section 4.b is changed to indicate that the Department of Energy shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs.

Subsection 5a changes the percentage of a participant's extramural R & D budget that must be expended with small business concerns, to reflect the schedule in Pub. L. 102–564, raising this percentage from not less that 1.5% in fiscal years 1993 and 1994; to not less that 2.0% in fiscal years 1995 and 1996; and not less that 2.5% thereafter.

Subsection 7d(2) new reflects the mandated changes to the award decision process that considers a proposals commercial potential as evidence by factors to be included in the proposal.

Section 8, "Unilateral Actions of Participating Agencies and Departments", includes several additional considerations to be undertaken by participating agencies as directed by this legislation. This section discusses considerations using topics from the National Critical Technologies panel or its successor. It also includes direction requiring the setting forth of the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow on research. This section also directs participating agencies to make payment to recipients under such agreements in full, subject to adult, on or before the last day of the 12 month period beginning on the date of completion of such requirements. Under subsection 8b there are instructions on the implementation of that part of the Act that allows discretionary technical assistance to SBIR awardees.

Section 9 of the Policy Directive concerns itself with the purchase of American made equipment and products under SBIR funding agreements.

Subsection 15c includes the legislative mandate that small business concerns receiving more that 15 second phase SBIR awards during the preceding 5 years must provide certain information on the commercialization results of those awards.

Subsection 15f(2) extends from 2 years to 4 years the period of time that participating agencies must protect the technical data generated unless the agencies receive permission to disclose such data.

Subsection 15j(2) is expanded to instruct agencies that they must notify each awardee, to the extent possible, of the expenses that will be allowable under the funding agreement.

Subsection 15k(2) includes the decision of the Comptroller General of the United States (B–254 032), supporting the SBIR Policy Directive providing for the payment of a profit or fee to grant recipients.

Section 19 of the Policy directive reflects the legislative requirement that efforts be increased to include the participation of socially and economically disadvantaged concerns. Subsection 19a, 19b and 19c are amended to include women-owned firms in this increased outreach effort.

The Policy Directive is also amended to include certain previously issued Policy Directive changes.

Other changes in this Policy Directive are minor, technical changes.

Richard J. Shane,

Assistant Administrator, SBA Office of Innovation, Research and Technology.

Small Business Innovation Research Program Policy Directive

To the Heads of Executive Departments and Establishments

Subject: Small Business Research and Development Enhancement Act of 1992 Small Business Innovation Research (SBIR) Programs

1. *Purpose.* Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) (as amended by Public Law 102–564) requires the SBA Administrator to modify the SBIR Program Policy Directive issued pursuant to Public Law 97–219 and Public Law 99–443 for the general conduct of the Small Business Innovation Research (SBIR) Program within the federal government.

2. *Authority.* This policy directive is issued pursuant to the authority contained in 15 U.S.C. 638(j)—Small Business Research and Development Enhancement Act of 1992 (Pub. L. 102–564), previously the Small Business Innovation Development Act of 1982—Pub. L. 97–219 and Pub. L. 99–443).

3. *Procurement Regulations.* It is recognized that Federal Acquisition Regulations (FAR) may need to be modified to conform to the requirements of The Small Business Innovation Research and Development Enhancement Act of 1992 and this policy directive. Agencies responsible for these procurement regulations are encouraged to initiate such changes. Regulatory provisions pertaining to areas of SBA responsibility, as established by Pub. L. 102–564, will require approval of the SBA Administrator or designee. The SBA Office of Innovation, Research and Technology is the appropriate office for coordinating such regulatory provisions.

4. *Personnel Concerned.* All federal government personnel who are involved in the administration, funding agreements and technical process of the Small Business Innovation Research (SBIR) Program and the establishment of goals for small business concerns in research of research and development (R/R&D) acquisition or grants.

5. *Distribution.* Federal government agencies and departments with Small

Business Innovation Research (SBIR) Programs and those required to establish small business research and development goals as directed by Pub. L. 102–564, previously Pub. L. 97–219 and Pub. L. 99–443.

6. *Originator.* U.S. Small Business Administration, Office of Innovation, Research and Technology.

Authorized by:

Richard J. Shane,

Assistant Administrator, SBA Office of Innovation, Research and Technology.

Paul H. Cooksey,

Deputy Administrator, U.S. Small Business Administration.

Contents

Paragraph

1. Purpose

a. Section 9(j) of the Small Business Act (as amended by Pub. L. 102–564) requires that the Small Business Administration modify the SBIR Program Policy Directive issued pursuant to Pub. L. 97–219 and Pub. L. 99–443 for the general conduct of the Small Business Innovation Research (SBIR) Program within the federal government.

b. This policy directive fulfills this statutory obligation and provides guidance to the participating federal agencies for the general conduct of the SBIR Program, including research or research and development (R/R&D) goaling requirements. Additional instructions may be issued by the Small Business Administration (SBA) as a result of public comment or experience. These instructions will be issued as additional or replacement pages for this directive.

2. Summary of Legislative Provisions

a. The Small Business Research and Development Enhancement Act of 1992, Pub. L. 102–564, that became law on October 28, 1992, amends the Small Business Act (15 U.S.C. 638).

(1) The purposes of the Act are to:

(a) Expand and improve the Small Business Innovation Research (SBIR) Program;

(b) Emphasize increased private sector commercialization of technology developed through federal SBIR research and development;

(c) Increase small business participation in federal research and development; and

(d) Improve the federal government's dissemination of information concerning the Small Business Innovation Research (SBIR) Program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

(2) The Act mandates the federal agencies establish SBIR Programs if their FY 1992, or any fiscal year thereafter, extramural budgets for research or R&D exceed stated threshold figures ($100 million). The Act also requires agencies whose R/R&D budgets exceed a lower threshold figure ($20 million), to establish a goaling program for the participation of small business in contracts, grants, or cooperative agreements for research or R&D.

(a) No goal may be less than the percentage of the agency's R/R&D budget expended with small business under grants, contracts, and cooperative agreements in the immediately preceding fiscal year.

(b) Agencies with budgets over $100 million shall have both programs.

(3) The statutory requirements are aimed at assisting small business concerns by establishing a uniform, simplified process for the operation of the SBIR Programs while allowing the participating agencies flexibility in the content and operation of their individual SBIR Programs.

(4) The Act states that each participating agency will establish an SBIR Program by reserving a statutory percentage of its extramural budget to be awarded to small business concerns for research or R&D through a uniform, three-phase process.

(a) The first two phases will help agencies meet research or R&D and commercialization objectives.

(b) The third phase, where appropriate, is (1) to pursue commercial applications from the government-funded research or R&D in order to stimulate technological innovation and provide for the national return on investment from research or R&D and/or (2) for further contracting or grant activities with federal agencies through non-SBIR funding agreements.

(5) The Act mandates that each agency required to have an SBIR Program or to establish research or research and development goals must report annually to SBA. The Act further requires SBA to acquire annual reports and monitor each agency's SBIR Program and to report its findings annually to the House and Senate Committees on Small Business.

b. On October 28, 1992, the President signed legislation which authorizes the SBIR Program to October 1, 2000.

(1) Effective March 31, 1985, section 2732(a) of Title VII of the Competition in Contracting Act of 1984, Pub. L. 98–369, must be read in conjunction with the procurement notice publication requirements of section 8(e) of the Small Business Act (15 U.S.C. 637(e)). Therefore, the notice publication requirements of the law apply to agencies participating in the SBIR Program which use contracts as their SBIR funding agreements.

(a) Any federal executive agency intending to solicit a proposal for contract for property or services valued above $25,000 is required to submit a notice of the impending solicitation for publication in the Commerce Business Daily. No agency shall issue its solicitation for at least 15 days from the date of the publication of the notice. The agency may not establish a deadline for submission of proposals in response to such solicitation that is earlier than 30 days after the date on which the solicitation was issued.

(b) The Competition in Contracting Act also requires that any executive agency awarding a contract for property or services valued at more than $25,000 submit a notice for publication to the Secretary of Commerce announcing such an award for publication if a subcontract is likely to result from such contract.

(2) The following are exemptions from the notice publication requirements:

(a) In the case of agencies intending to solicit Phase I proposals for contracts in excess of $25,000, the head of the

agency may exempt a particular solicitation from the notice publication requirements if he/she makes a written determination, with the consultation of the Administrator of the Office of Federal Procurement Policy and the Administrator of the Small Business Administration, that it is inappropriate or unreasonable to publish a notice before issuing a solicitation.

(b) The SBIR Phase II awards process is exempted.

3. Minimizing Regulatory Burden

a. Important objectives in establishing uniform SBIR Program implementation are to:

(1) Minimize the creation of new or complex regulations.

(2) Ensure that the program's requirements are met.

(3) Simplify and standardize application of existing regulations related to the program. The explicit nature of the SBIR legislation concerning certain recognized acquisition procedures provides a strong base of authority for streamlining the process for obtaining research or R&D from small highly innovative business concerns.

(a) The above includes funding allocations, centralized SBIR technology management, and routine operational implementation.

(b) Where not contrary to existing statutory requirements, each agency is authorized to establish financial procedures and financing mechanisms that it deems necessary to properly implement the SBIR Program, including, but not limited to, obligating funds solely on the basis of proposal merit without regard to the purpose for which funds were originally appropriated, and transferring assessed funds to a single account to facilitate financial management, reporting, and oversight.

(c) The participating agencies are encouraged to initiate or continue their development of simplified procedures that may be used on SBIR actions and to submit information concerning simplified procedures to the SBA for possible general program improvements.

b. No participating agency may promulgate a rule or regulation that is contrary to or inconsistent with the SBIR legislation or this policy directive.

4. Definitions

a. *Research or Research and Development (R/R&D).* Any activity that is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied.

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need.

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

b. *Extramural Budget.* The sum of the total obligations for R/R&D minus amounts obligated for R/R&D activities by employees of the agency in or through government-owned, government-operated facilities, except that for the Agency for International Development, it shall not include amounts obligated solely for general institutional support for international research centers or for grants to foreign countries. For the Department of Energy, it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs.

c *Federal Agency.* An executive agency as defined in 5 U.S.C. 105, or a military department as defined in 5 U.S.C. 102 except that it does not include any agency within the Intelligence Community as defined in Executive Order 12333, Section 3.4(f), or its successor orders.

d. *Funding Agreement.* Any contract, grant, or cooperative agreement entered into between any federal agency and any small business concern for the performance of experimental, developmental, or research work funded in whole or in part by the federal government.

e. *Subcontract.* Any agreement, other than one involving an employer-employee relationship, entered into by a federal government funding agreement awardee calling for supplies or services required solely for the performance of the original funding agreement.

f. *Socially and Economically Disadvantaged Small Business Concern.* A socially and economically disadvantaged small business concern is one that is:

(1) At least 51 percent owned by (i) an Indian tribe or a native Hawaiian organization, or (ii) one or more socially and economically disadvantaged individuals, and

(2) Whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals.

g. *Socially and Economically Disadvantaged Individual.* A member of any of the following groups:

(1) Black Americans

(2) Hispanic Americans

(3) Native Americans

(4) Asian-Pacific Americans

(5) Subcontinent Asian Americans

(6) Other groups designated from time to time by SBA to be socially disadvantaged; or

(7) Any other individual found to be socially and economically disadvantaged by SBA pursuant to section 8(a) of the Small Business Act, 15 U.S.C. 637(a).

h. *Small Business Concern.* A small business concern is one that, at the time of award of Phase I and Phase II funding agreements, meets the following criteria:

(1) Is independently owned and operated, is not dominant in the field of operation in which it is proposing, has its principal place of business located in the United States and is organized for profit;

(2) Is at least 51 percent owned, or in the case of a publicly owned business, at least 51 percent of its voting stock is owned by United States citizens or lawfully admitted permanent resident aliens;

(3) Has, including its affiliates, a number of employees not exceeding 500, and meets the other regulatory requirements found in 13 CFR part 121. Business concerns, other than investment companies licensed, or state development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661, *et seq.*, are affiliates of one another when either directly or indirectly;

(a) One concern controls or has the power to control the other; or

(b) A third party or parties controls or has the power to control both.

Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR part 121. The term "number of employees" is also defined in 13 CFR part 121. Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association or cooperative.

i. *Women-Owned Small Business Concern.* A small business concern that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

j. *Program Solicitation.* A formal solicitation of proposals whereby a federal agency notifies the small business community of its research or R&D needs and interests in selected areas and requests proposals in response to these needs from small business concerns. Announcements in the

Federal Register or the Commerce Business Daily are not to be considered substitutes for an SBIR Program solicitation.

k. *United States* means the 50 states, the territories and possessions of the U.S., the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the District of Columbia.

l. *Commercialization.* The process of developing markets and producing and delivering products for sale (whether by the originating party or by others); as used here, commercialization includes both government and commercial markets.

5. Participating Federal Agency Expenditures for the SBIR and R/R&D Goaling Programs

a. Each federal agency which has an extramural budget for research or R&D in excess of $100,000,000 for FY 1992 or any fiscal year thereafter, shall expend with small business concerns not less than 1.5% of such budget in each of fiscal year 1993 and 1994; not less than 2.0% of such budget in each of fiscal years 1995 and 1996; and not less than 2.5% of such budget thereafter, specifically in connection with SBIR Programs which meet the requirements of the Small Business Research and Development Enhancement Act of 1992, this policy directive, and regulations issued thereunder.

b. Each federal agency which has a budget for research or R&D in excess of $20 million for any fiscal year beginning with FY 1993 or subsequent year shall establish goals specifically for funding agreements for research or R&D to small business concerns, and no goal established shall be less than the percentage of the agency's research and R&D budget expended under funding agreements with small business concerns in the immediately preceding fiscal year.

c. Funding agreements with small business concerns for research or research and development which result from competitive or sole source selections other than an SBIR Program shall not be considered to meet any portion of the percentage required under 5a.

6. Limitations of Participation

a. A Federal agency shall not use any of its SBIR budget for the purpose of funding administrative costs of the program including costs associated with budgetary salaries and expenses.

b. SBIR awards may not be counted toward no-SBIR goal achievement and non-SBIR awards to small business concerns may not be counted toward meeting SBIR Program funding levels or achievement.

c. No agency, at its own discretion, may unilaterally cease participation in the SBIR Program. R/R&D agency budgets may cause fluctuations and trends which must be reviewed in light of program purposes. An agency may be considered by SBA for a phased withdrawal from participation in the SBIR Program over a period of time sufficient in duration to minimize any adverse impact on small business concerns.

However, the SBA decision concerning such a withdrawal will be made on a case-by-case basis and will depend on significant changes to extramural R/R&D three year forecasts as found in the annual Budget of the United States Government and National Science Foundation breakdowns of total R/R&D obligations which are published in the Federal Funds for Research and Development.

Therefore, any withdrawal of a federal participating agency from the SBIR Program will be accomplished in a standardized and orderly manner as stated above.

Voluntary participation in the SBIR Programs by federal agencies not otherwise qualified for such participation may be permitted under this policy directive.

Federal agencies seeking to participate in SBIR need to submit their requests to SBA. Voluntary participation requires the written approval of the SBA Assistant Administrator for Innovation, Research and Technology subsequent to review of the request.

7. Small Business Innovation Research Program

a. The SBIR Program is a phased process uniform throughout the federal government of soliciting proposals and awarding funding agreements for R/R&D to meet stated agency needs or missions.

b. Each agency shall at least annually issue an SBIR solicitation that sets forth a substantial number of R/R&D topic and subtopic areas consistent with stated agency needs or missions. Both the list of topics and the description of the topics and subtopics shall be sufficiently comprehensive to provide a wide range of opportunity for small business concerns to participate in the agency research or R&D programs. Topics and subtopics shall emphasize the need for proposals with advanced concepts to meet specific agency research or R&D needs. Each topic and subtopic shall describe the needs in sufficient detail so as to assist small firms in providing on-target responses, but shall not involve detailed specifications to prescribed solutions of the problems.

Unsolicited proposals or proposals not responding to stated topics or subtopics are not eligible for SBIR awards.

c. Because the program is intended to increase the use of small business concerns in federal R&D, for Phase I—a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing small business concern. For Phase II—a minimum of one-half of the research and/or analytical effort must be performed by the proposing small business concern. Deviations from these requirements must be approved in writing by the funding agreement officer. For both Phase I and II, the primary employment of the principal investigator must be with the small business concern at the time of award and during the conduct of the proposed effort. *Primary employment* means that more than one-half of the principal investigator's time is spent in the employ of the small business concern. Primary employment with a small business concern precludes full time employment at another organization. The federal agencies participating in the SBIR Program may further restrict their definition based on their respective needs for specific cases as long as they meet the requirements of this policy directive. Also, for both Phase I and Phase II, the research or R&D work must be performed by the small business concern in the United States, as defined in paragraph 4.k. of this policy directive.

d. To stimulate and foster scientific and technological innovation, including increasing commercialization of federal R/R&D, the program must follow a uniform competitive process of three phases:

(1) *Phase I.* Phase I involves a solicitation of proposals to conduct feasibility related experimental or theoretical research or R&D related to described agency requirements. The object of this phase is to determine the technical feasibility of the proposed effort and the quality of performance of the small business concern with a relatively small agency investment before consideration of further federal support in Phase II.

(a) Several different proposed solutions to a given problem may be funded.

(b) Proposals will be evaluated on a competitive basis. Agency criteria used to evaluate SBIR proposals shall give primary consideration to the scientific and technical merit of the proposal along with its potential for

commercialization. Secondary considerations may include program balance or critical agency requirements.

(c) Agencies may include a provision requiring submission of a Phase II proposal as a deliverable item under Phase I.

(d) Efforts shall be taken by agencies to reduce the procurement time frame for Phase II awards. Agencies are encourage to develop gap-funding methods and to address the duration of Phase II award cycles.

(2) *Phase II.* The object of Phase II is to continue the R/R&D effort from Phase I. Only awardees in Phase I are eligible to participate in Phase II. Phase I awardees are eligible for consideration of Phase II SBIR funding agreements only at the federal participating agency which awarded Phase I of the project. Funding shall be based upon the results of Phase I and the scientific and technical merit and commercial potential of the Phase II proposal. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or federal needs beyond the SBIR Program. Completion of the research and development may be through Phase III. The government is not obligated to fund any specific Phase II proposal. The SBIR Phase II award decision process requires, among other things, consideration of a proposal's commercial potential as evidenced by:

(a) The small business concern's record of commercializing SBIR or other research,

(b) The existence of second phase funding commitments from private sector or non-SBIR funding sources,

(c) The existence of third phase follow-on commitments for the subject of the research, and

(d) The presence of other indicators of commercial potential of the idea.

(3) *Phase III.* The term *third phase agreement* means to follow-on, non-SBIR funded award as described in 1, 2 and 3 below. A federal agency may enter into a third phase agreement with a small business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements. The competition for Phase I and Phase II awards satisfies any competition requirement of the Competition in Contracting Act.

(a) Where appropriate, there will be a third phase which is funded by:

1. Non-federal sources of capital for commercial applications of SBIR funded research or research and development,

2. The federal government by follow-on non-SBIR awards for SBIR derived products and processes for use by the federal government,

3. Non-SBIR federal sources for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria.

(b) Agencies which intend to pursue research, research and development or production developed under the SBIR Program will give special acquisition preference including sole source awards to the SBIR company which developed the technology. The Phase III funding agreement will be with non-SBIR funds.

8. Unilateral Actions of Participating Agencies and Departments

a. The Act requires each participating agency to:

(1) Unilaterally determine the categories of projects to be included in its SBIR Program.

(2) Release SBIR solicitations in accordance with the SBA master schedule.

(3) Subject to paragraph 13, unilaterally determine research topics within its SBIR solicitations giving special consideration to broad research topics and to topics that further one or more critical technologies, as identified by:

(a) The National Critical Technologies panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy Organization and Priorities Act of 1976, and in subsequent reports issued under that authority, or

(b) The Secretary of Defense in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority.

(4) Unilaterally receive and evaluate proposals resulting from SBIR solicitations and make awards.

(5) Administer its own SBIR funding agreements or delegate such administration to another agency; and inform each awardee under such agreement, to the extent possible, of the costs of the awardee that will be allowable under the funding agreement.

(6) Each funding agreement under the SBIR Program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.

(7) Make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements and in all cases make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements.

(8) Make an annual report on the SBIR Program to SBA.

b. The Act allows discretionary technical assistance to SBIR awardees:.

(1) Agencies may enter into funding agreements to provide technical assistance to SBIR awardees. The assistance may comprise:

(a) Assistance in technical decisions

(b) Assistance with technical problems

(c) Assistance with all facets of commercialization.

(2) Under Phase I, each agency may provide up to $4,000 of SBIR funds for such technical assistance, per Phase I award. The amount will be in addition to the award and will count as part of the agency's SBIR funding set aside.

(3) In Phase II, agencies may allow awardees to expend up to $4,000 of SBIR funds per year of the funding agreement for such services.

9. American Made Equipment and Products

a. It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR Program of a federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

b. Each federal agency that awards funding agreements under the SBIR Program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection 9.a.

10. SBA Source File

a. *SBA Small Business Innovation Research (SBIR) Program Source File.* The SBA has developed and maintains an SBIR mailing list of interested small business concerns. In maintaining this list, SBA adheres to the provisions of The Freedom of Information Act, The Privacy Act of 1974, 13 CFR 102.20 and 13 CFR 102.3(j). This list is available to the federal participating agencies for SBIR solicitation purposes. Written requests containing justification for the need of labels from this mailing list should be submitted to the Office of Innovation, Research & Technology, U.S. Small Business Administration,

409 Third Street, SW., Washington, DC 20416. A two-week period is required to fill these requests.

b. *SBA Procurement Automated Source System (PASS).* SBA's Office of Procurement Assistance has a Procurement Automated Source System (PASS) that maintains capability profiles of small businesses interested in federal government procurement opportunities. This system is used by federal agencies and major prime contractors to identify small business concerns with capabilities needed by the agencies or prime contractors. Agencies interested in accessing PASS should contact their nearest SBA Procurement Assistance Office.

c. *Federal Procurement Data System (FPDS).* Participating agencies should review FPDS data that identify small business awardees of research or R&D contracts as a potential supplement to their existing source data base.

d. *Other Sources.* Agencies may maintain their own mailing lists or use other sources.

11. SBA Coordination of National Critical Technologies

a. SBA will annually obtain information on the current critical technologies from both the National Critical Technologies panel (or its successor) and the Secretary of Defense and provide such information to both the participating federal agencies and potential SBIR participants.

b. The SBA Office of Innovation, Research and Technology will contact the panel and the Department of Defense and request this data in June of each year. The data received will then be submitted by letter to each of the participating federal agencies and will also be published in the September issue of the SBIR Pre-Solicitation Announcement for the potential SBIR participants.

12. SBA Coordination of SBIR Solicitation Schedules

a. The Act requires issuance of SBIR (Phase I) Program solicitations in accordance with a master schedule coordinated between SBA and the federal participating agency. The SBA organization responsible for coordination is: Office of Innovation, Research and Technology, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

b. For maximum participation by interested small business concerns, it is important that the planning, scheduling and coordination of agency SBIR solicitation release dates be completed as early as practicable in order to accommodate the commencement of the fiscal year on October 1. Bunching of agency SBIR solicitation release and closing dates may prohibit small business concerns from the preparation and timely submission of proposals for more than one SBIR project. SBA's coordination of agency schedules will minimize the bunching of proposed release and closing dates. Participating agencies may elect to publish multiple solicitations within a given fiscal year to facilitate in-house agency proposal review and evaluation scheduling.

c. To accomplish the Master Schedule coordination process, the following procedure will be followed:

(1) The SBA may publish four SBIR Pre-Solicitation Announcements annually, in each quarter of the fiscal year. It is intended that the dates of publication will be December 20, March 20, June 20, and September 20. The SBIR solicitation release date shall not be prior to 10 days after publication of the Pre-Solicitation Announcement (PSA) which contains notice of that specific SBIR solicitation.

(2) Each agency representative will notify SBA in writing of its proposed solicitation release and proposal due dates for the next fiscal year on or before August 1. The SBA and the agency representatives will coordinate the resolution of any conflicting agency solicitation dates by the second week of August. In all cases, final decisions will be made by SBA's Office of Innovation, Research and Technology.

13. SBA (Phase I) Program Pre-Solicitation Announcements

a. *SBA Publication.* The SBA, as required by public law, shall prepare and publish Phase I SBIR Pre-Solicitation Announcements (PSA) covering all participating federal agencies. Any agency solicitation announcement changes that occur prior to or after the release of the PSA must immediately be reported in writing to the SBA by the agency SBIR representative. If possible, announcement amendments will be released reflecting such changes. Each issue of the PSA will be based upon data received from the participating agencies. However, the agencies are advised that:

(1) The publication of the PSA is not intended to restrict or prohibit application of customary or other internal agency procedures designed to obtain publicity for its research or R&D programs.

(2) The PSA publications by SBA shall not be interpreted as a substitute or relief vehicle for existing statutory and regulatory publication requirements related to individual or specific procurement/grant actions.

b. *Pre-Solicitation Announcement (PSA) Content.* The SBIR PSA will include sufficient data to effectively apprise interested small business concerns throughout the Nation of forthcoming SBIR Program solicitations—thereby assisting the participating agencies in identifying prospective responsible sources. The agencies shall provide the required information to SBA no later than 30 days prior to the PSA release date in accordance with the master schedule. The following information is required:

(1) The list to topics upon which research or R&D proposals will be sought. Each research or R&D topic shall have up to 10 words in its title.

(2) Agency address and/or phone number from which SBIR Program solicitations can be obtained.

(3) Names, addresses, and phone numbers of agency contact points where SBIR-related inquiries may be directed.

(4) Release date(s) of program solicitation(s).

(5) Closing date(s) for receipt of proposals.

(6) Estimated number and average dollar amounts or level of effort of Phase I awards to be made under the solicitation.

c. For those agencies which use both general topic and more specific subtopic designations in their SBIR solicitations, the topic data to be submitted for purposes of PSA publication should accurately describe the research solicited. Rather than just announcing topic information characterized as "Chemistry" or "Aerodynamics," summarize the subtopic statements and, where appropriate, utilize National Critical Technologies.

d. The PSA will also include notices of SBIR conferences and seminars. Only SBIR conferences/seminars sponsored by the SBIR federal participating agencies or SBIR conferences/seminars sponsored or co-sponsored by the U.S. Small Business Administration will be considered for publication in the SBIR Pre-Solicitation Announcement (PSA).

14. Simplified, Standardized and Timely SBIR Program Solicitations

a. *Instructions for SBIR Program Solicitation Preparation.* The Small Business Act requires "* * * simplified, standardized and timely SBIR solicitations" (section 4(j)(l)). Further, the Act requires the SBIR Programs or participating agencies to use a "uniform process" and that the regulatory burden of participating in the SBIR Programs be minimized.

b. Therefore, the instructions in the Appendix to this policy directive purposely depart from normal government solicitation format and requirements. SBIR Program solicitations shall be prepared according to the attached Appendix.

c. Agencies shall provide the SBA Office of Innovation, Research and Technology 5 copies of each solicitation and any modifications thereto no later than the date of release of the solicitation or modification to the public.

d. *Non-SBIR R/R&D-Related Actions.* It is not intended that the SBIR Program solicitation replace or be used as a substitute for unsolicited proposals or R/R&D awards to small business concerns authorized by existing regulations; or, are the SBIR Program solicitation procedures intended to prohibit other agency R/R&D actions with small business concerns that are carried on in accordance with applicable statutory/regulatory authorizations.

15. Simplified and Standardized SBIR Funding Process

In its requirement for the establishment of a "simplified, standardized funding process," the SBIR legislation requires that specific attention be given to the following areas of SBIR Program administration:

a. *Timely Receipt and Review of Proposals.* (1) Participating agencies shall establish firm schedules and reviews formats for appropriate distribution of the proposals for reviewing recommendations and submission to the SBIR program manager for award determinations.

(a) All activities related to Phase I proposal reviews shall normally be completed and awards made within 6 months from the closing date of the SBIR solicitation.

(b) The SBIR Program solicitations for Phase I will establish proposal submission dates. Related to Phase II activity, an agency may establish set proposal submission dates. However, it is anticipated that each agency will negotiate mutually acceptable proposal submission dates with individual Phase I performers, accomplish proposal reviews expeditiously, and proceed with awards. While it is recognized that Phase II arrangements between the agency and proposer may require more detailed negotiation to establish terms acceptable to both parties, the agencies must not sacrifice the research or R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(c) It can be anticipated that SBIR participants will submit duplicate or similar proposals to more than one soliciting agency when the work projects appear to involve similar topics or requirements which are within the expertise and capability levels of the small business proposer. To the extent reasonably feasible, interagency funding duplications related to acquiring similar technology under the SBIR or other federal programs should not occur. For this purpose, the standardized SBIR Program solicitation will require the proposers to indicate the name and address of the agencies to which duplicate or similar proposals were made and to identify by subject the projects for which the proposal was submitted and the dates submitted. The same information will be required for any previous federal government awards. To assist in avoiding duplicate funding, each agency shall provide SBA and each participating SBIR agency with a listing of Phase I and Phase II awardees including the complete address and title of the project. This information should be distributed no later than release of contract award information to the public.

b. *Review of SBIR Proposals.* Agencies are encouraged to use their normal review process for SBIR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews, that are external to the agency, are authorized by the SBIR legislation. Participating agencies are cautioned that all review procedures shall be formulated to minimize any possible conflict of interest as it pertains to proposer proprietary data. The standardized SBIR solicitation will advise potential proposers that proposals may be subject to an established external review process, but that the proposer may include company designated proprietary information in its proposal.

c. *Documentation of Multiple Phase II Awards.* (1) A small business concern that submits a proposal for a funding agreement for Phase I of an SBIR Program and that has received more than 15 Phase II SBIR awards during the preceding 5 fiscal years must document the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

(2) Agencies shall collect and retain the information submitted under subparagraph c.(1) at least until the General Accounting Office submits the report required under section 106 of the Small Business Research and Development Enhancement Act of 1992

d. *Proprietary Information Contained in Proposals.* In preparation of the standardized SBIR Program solicitation as described in the Appendix of this policy directive, provisions will be included requiring confidential treatment of proprietary information to the extent permitted by law. Offerors will be discouraged from submitting information considered proprietary unless it is deemed essential for proper evaluation of the proposal. The solicitation will require that all proprietary information be clearly identified and marked with a prescribed legend. Agencies may elect to require proposers to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text.

e. *Selection of Awardees.* Participating agencies shall establish a proposal review cycle wherein successful and unsuccessful proposers shall be notified of final award decisions within 6 months of the agency's Phase I proposal closing date.

(1) The standardized SBIR Program solicitation shall: (a) Advise Phase I proposers that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion.

(b) Contain information advising potential offerors of basic proposal evaluation criteria for Phase I and Phase II.

(2) Phase II proposal submissions, review, and selections shall be managed by arrangements between the agency and each Phase I performer considered for Phase II award.

Within 30 days of the date of award of funding agreements—three copies of the Technical Abstract (containing all information described in the Appendix Paragraph III, C 1–6) for Phase I and Phase II awards shall be submitted to the SBA.

f. *Rights in Data Developed Under SBIR Funding Agreement.* The SBIR legislation provides for "retention of rights in data generated in the performance of the contract by the small business concern."

(1) The legislative history clarifies that the intent of the statute is to provide authority for the participating agency to protect technical data generated under the funding agreement, and to refrain from disclosing such data to competitors of the small business concern or from using the information to produce future technical procurement specifications that could harm the small business concern that discovered and

developed the innovation until the small business concern has a reasonable chance to seek patent protection, if appropriate.

(2) Therefore, except for program evaluation, participating agencies shall protect such technical data for a period of not less than 4 years from the completion of the project from which the data were generated unless the agencies obtain permission to disclose such data from the contractor or grantee. The government shall retain a royalty-free license for government use of any technical data delivered under an SBIR funding agreeent whether patented or not.

g. *Title Transfer of Agency Provided Property.* Under SBIR legislation, title to equipment purchased in relation to project performance with funds provided under SBIR funding agreements may be transferred to the awardee where such transfer would be more cost effective than recovery of the property by the government.

h. *Continued Use of Government Equipment.* SBIR legislation directs that a small business concern participating in the third phase of the SBIR Program be given continued use, as a directed bailment, of any property transferred by a federal agency to the small business concern in the second phase of an SBIR Program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program.

i. *Cost Sharing.* (1) Cost participation could serve the mutual interest of the participating agencies and certain SBIR performers by helping to assure the efficient use of available resources. Cost-sharing, however, shall not normally be encouraged except where required by other statutes.

(2) Except where required by other statutes, participating agencies shall not, as a general policy, request or require cost sharing on Phase I projects. The standardized SBIR Program solicitation (Appendix) will, however, provide information to prospective SBIR performers concerning cost-sharing. Cost participation will not be consideration factor in evaluation of Phase I proposals except where required by other statutes.

j. *Payment Schedules and Cost Principles.* (1) Consistent with section 4 of the SBIR legislation (section 9(j)(2)(H)) of the Small Business Act (as amended by Pub. L. 97–219 and Pub. L. 102–564), SBIR performers may be paid under an applicable, authorized progress payment procedure or in accordance with a negotiated/definitized price and payment schedule. Advance payments are optional and may be made under appropriate public law In all cases, agencies must make payment to recipients under SBIR agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements.

(2) All SBIR funding agreements shall use, as appropriate, current cost principles and procedures authorized for use by the participating agencies. At the time of award, agencies shall inform each SBIR awardee, to the extent possible, of the applicable regulations and procedures which refer to the costs that generally will be allowed under funding agreements.

k. *Funding Agreement Types and Fee or Profit.* The legislative requirements for uniformity and standardization require that there be consistency in application of SBIR Program provisions among participating agencies. This consistency must consider, however, the need for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to SBIR Programs in the agencies. The following guidelines are for the purpose of meeting these requirements:

(1) *Funding Agreement.* The choice of type of funding agreement (contract, grant, or cooperative agreement) rests with the awarding agency but must be consistent with the guidelines in Pub. L. 95–224 (41 U.S.C. 501), as amended by Pub. L. 97–258 (31 U.S.C. 6301–6308).

(2) *Fee or Profit.* Unless expressly excluded by statute, awarding agencies are to provide for a reasonable fee or profit on SBIR funding agreements, including grants, consistent with normal profit margins provided to profit-making firms for R/R&D work.

On March 9, 1992, the Comptroller General of the United States rendered GAO Decision B–245 032 which required an agency to follow this provision for payment of a profit or fee to SBIR awardees despite other agency policies or regulations.

l. *Periods of Performance and Extensions.* (1) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to extend periods of performance, increase the scope of work, or to increase the dollar amount should be minimized, except for options in the original Phase I or II awards.

(2) *Phase I.* Period of performance should normally not exceed 6 months except where agency needs or research plans require otherwise. Exceptions should be minimized.

(3) *Phase II.* Period of performance under Phase II is the subject of negotiations between the selected Phase I recipient and the awarding agency. However, the duration of Phase II should normally not exceed 2 years. Exceptions should be minimized.

m. *Dollar Value of Awards.* (1) The SBIR legislation establishes $100,000 as the amount of funds which an agency may award in the first phase of an SBIR Program, and $750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every five years to reflect economic adjustments and programmatic considerations.

(2) After award of any funding agreement exceeding $100,000 for Phase I or $750,000 for Phase II, the agency SBIR representative shall provide SBA with written justification of such action. This justification shall be submitted with the SBIR Annual Report data. Similar justification is required for any dollar increase of a funding agreement which would bring the cumulative dollar amount to a total in excess of the aforestated amounts.

n. *Grant Authority.* The SBIR legislation does not, in and of itself, convey grant authority. Each agency must secure grant authority in accordance with its normal procedures.

o. *Conflicts of Interest.* Participating agencies are cautioned that awards made to firms owned by or employing current or previous federal government employees could create conflicts of interest for those employees in violation of the Ethics in Government Act of 1978 (Pub. Law 95–521, as amended by Pub. L. 96–19 and Pub. L. 96–28). Each participating agency should refer to the standards of conduct review procedures currently in effect for its agency to ensure that such conflicts of interest do not arise.

16. Annual Report to SBA

The SBIR legislation requires a "simplified, standardized and timely annual report" from the participating agencies in the SBIR Program and those agencies required to establish small business R/R&D goals to the SBA. The following paragraphs cite the dates such reports are due, the kinds of information to be included, and the number of copies to be submitted to SBA.

a. *Reporting Dates to SBA.* Reporting shall be on an annual basis and will be for the period ending September 30 of each fiscal year The report is due to SBA by March 15 of each year. Example: The report for FY 1992 (October 1, 1991–September 30, 1992) should be submitted to SBA by March 15, 1993.

b. *Small Business Innovation Research (SBIR) Program.* (1) Agency total fiscal year, for FY 1983 and each year thereafter, extramural research and

research and development total obligations as reported to the National Science Foundation pursuant to the annual Budget of the United States Government.

(2) SBIR Program total fiscal year dollars derived by applying the statute per centum to the agencies extramural research and research and development total obligations.

(3) SBIR Program fiscal year dollars obligated through SBIR Program funding agreements for Phase I and Phase II.

(4) Number of SBIR individual solicitations released during the fiscal year and the number of topics and subtopics contained in each solicitation.

(5) Number of copies of each SBIR solicitation distributed by the participating agency.

(6) Number of proposals received by the agency for each topic and subtopic in each SBIR solicitation.

(7) For both Phase I and Phase II, the SBIR awardee's name and address, solicitation topic and subtopic, solicitation number, project title, and total dollar amount of funding agreement. Identify minority small business, women-owned small business and Phase II awardees with a follow-on funding commitment.

(8) A written justification for the award of any SBIR funding agreement exceeding $100,000 for Phase I or $750,000 for Phase II as stated in Section 15m(2) of this policy directive.

(9) The names and addresses of small business concerns for whom the Phase I process exceeded the 6-month period from the closing date of the SBIR solicitation to award of the funding agreement. (See 15a(1)(a) of this policy directive.)

(10) For an agency Phase III award using non-SBIR federal funds, to continue a Phase II project, the agency shall provide the name, address, project title and dollar amount obligated.

(11) Awards made under a topic or subtopic wherein only one proposal was received shall be reported and justified. Agencies to provide name, address, topic or subtopic and dollar amount of award. Information to be collected quarterly but updated in agencies' annual reports.

(12) An accounting of Phase I awards made to small business concerns that have received more than 15 Phase II awards from all agencies in the preceding five fiscal years. Agencies to report as a minimum—name of awarding agency, date of award, funding agreement number, topic or subtopic title, amount and date of Phase II funding and commercialization status for each Phase II award.

(13) Report the number of National Critical Technology topic or subtopic funding agreements, the percentage by number and dollar amount of total SBIR awards to such National Critical Technologies.

c. *Small Business Research and Research and Development Goaling Program (Non-SBIR Awards Over $10,000).*

(1) Agency previous fiscal year's total R/R&D budget authority.

(2) Agency previous fiscal year's total R/R&D obligated dollars to small business concerns, socially and economically disadvantaged small business concerns and women-owned small business concerns under funding agreements and the percentage to the agency's total R/R&D obligations.

(3) Agency current fiscal year total R/R&D budget.

(4) Agency current fiscal year total R/R&D small business goal based on the percentage of obligations to small business concerns made the previous fiscal year.

(5) Current fiscal year achievement of the singular small business R/R&D goal and the dollars obligated through prime funding agreements by categories of small business, i.e., socially and economically disadvantaged small business and women-owned small business.

d. *Agency Research and Research and Development Funding Agreements (SBIR and Goaling Program Awards Over $10,000).*

Report the total number and dollar value of R/R&D awards under subparagraph 16.b. and c. above made pursuant to the categories of contracts, cooperative agreements or grants. Identify SBIR awards of a participating agency, and compare the number and amount of such awards with awards to other then small business concerns.

e. Submit five copies of each report to the SBA Office of Innovation, Research and Technology, 409 Third Street, SW., Washington, DC 20416.

17. SBA Program to Monitor and Survey SBIR Activity

a. *Examples of SBIR Areas to be Monitored by SBA.* (1) *SBIR Funding Allocations.* Of major significance to the success of the SBIR Program is the magnitude and nature of the agencies' funding allocations identified for fiscal year SBIR applications. The SBIR legislation explicitly relates to both the definition of the SBIR effort, research or R&D (as defined in the Act and OMB Circular A–11), and the mathematical methodology for determining fiscal year participation levels for all work categorized within the statutory definitions. SBA will monitor these allocations.

(2) *SBIR Program Solicitation and Award Status.* The accomplishment of scheduled SBIR events, such as SBIR Program solicitation release and contract, grant, or cooperative agreement award, is critical to meeting statutory mandates and to operating an effective, useful program. SBA plans to monitor these and other operational features of SBIR Program implementation including the status of awards taking longer than the 6-month period set forth in 15a(1)(a) of this policy directive. Except in instances where SBA assistance is requested related to a specific SBIR project, contract, etc., SBA does not intend to monitor administration of the awards.

(3) *Follow-on Funding Commitments.* SBA may monitor whether follow-on non-federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) *Agency Rules and Regulations.* It is essential that no implementing regulation be promulgated by the participating agencies that is inconsistent with or contradicts either the letter or intent of the legislation and this directive. SBA's monitoring activity will include review of rules and regulations and procedures generated to facilitate intra-agency SBIR Program implementation.

18. SBIR Program Information System

SBA will prepare and distribute information materials (pamphlets, fact sheets and news release as appropriate) that describe the basic elements of the SBIR Program.

a. The legislative requirement for an SBA-maintained information system is not interpreted as prohibiting participating agencies from publicizing SBIR activities relating to individual agency programs to identify organizational structures actually responsible for carrying out SBIR operational functions.

(1) In view of certain joint SBA/agency activities required by the SBIR legislation, publication of information may often be most effectively accomplished in concert.

(2) The participating agencies are invited to advance suggestions to SBA concerning existing information systems that may be tailored to serve specific SBIR publication needs.

b. SBA identifies in its SBIR publications points of contact for obtaining SBIR-related information. All participating agencies will establish and maintain contact points to process

inquiries related to specific agency SBIR activities.

c. In December of 1986, the SBA Office of Innovation, Research and Technology initiated a system of sharing SBIR Program and policy information known as SBIR Program Information Notices (SPIN). This system is not intended to replace the SBIR Program Policy Directive but rather to convey significant items of mutual interest as they occur. Amendments to the policy directive will be designated as such and may be by letter. These amendments will be incorporated directly into the policy directive at a later date.

19. Socially and Economically Disadvantaged Small Business Concerns and Women-Owned Small Business Concerns

To foster and encourage participation by socially and economically disadvantaged small business concerns in scientific and technological innovation, the legislation establishes as a purpose to improve the federal government's dissemination of information concerning the Small Business Innovation Research Program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

a. To carry out this purpose of the statute, SBA and the federal participating agencies will make outreach efforts to find and place innovative women-owned small business concerns and socially and economically disadvantaged small business concerns in the SBIR Program information system.

b. The SBA will develop, participate in, and, when appropriate and feasible, sponsor seminars for innovative women-owned small business concerns and socially and economically disadvantaged small business concerns to inform them of the SBIR Program.

c. The SBA will inform women-owned small business concerns and socially and economically disadvantaged small business concerns of federal and commercial assistance and services available for SBIR Program participants.

d. While these small business concerns will be required to compete for SBIR awards on the same basis as all other small business concerns, participating agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified women-owned small business concerns and socially and economically disadvantaged small business concerns to participate in their SBIR Programs.

20. Exemption for National Security or Intelligence Functions

a. The SBIR legislation provides for exemptions related to the simplified, standardized funding process "* * * if national security or intelligence functions clearly would be jeopardized." This "exemption" should not be interpreted as a blanket exemption or prohibition of SBIR participation concerning acquisition of effort related to these subjects and functions except as specifically defined under section 9(e)(2) of the Small Business Act of the SBIR public law. Agency technology managers in directing R/R&D projects under the SBIR Program, where the project subject matter may be particularly sensitive to national security must make a determination on which, if any, of the standardized proceedings clearly place national security and intelligence functions in jeopardy, then proceed with an acceptable modified process to complete the SBIR action.

b. It is anticipated that SBA's SBIR Program monitoring activities, except where prohibited by security considerations, shall include a review of nonconforming SBIR actions justified under this public law provision.

Appendix

Instructions for SBIR Program Solicitation Preparation

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) as amended by Pub. L. 102–564 requires "* * *simplified, standardized and timely SBIR solicitations" (section 9(j)(1)). Further, the Act requires the SBIR Programs of participating agencies to utilize a "uniform process" (section 9(e)(4)) and that the regulatory burden of participating in the SBIR Programs be minimized. Therefore, the following instructions purposely depart from normal government solicitation formats and requirements. SBIR solicitations will be prepared and issued as program solicitations in accordance with the following instructions.

Limitation in Size of Solicitation

In the interest to meeting the legislative requirement for simplified and standardized solicitations, the entire SBIR solicitation with the exception of Section VIII "Research Topics," described below, shall be limited to 23 pages. There is no page limit on Section VIII, "Research Topics."

Format

SBIR Program solicitations will be prepared in a simplified, standardized, easily read, easy to understand format including a cover sheet, a table of contents and the following sections in the order listed (content of each section is discussed below):

I. Program Description
II. Definitions
III. Proposal Preparation Instructions and Requirements
IV. Method of Selection and Evaluation Criteria
V. Considerations
VI. Submission of Proposals
VII. Scientific and Technical Information Sources
VIII. Research Topics
IX. Submission Forms and Certifications

Cover Sheet

The cover sheet or title page of an SBIR Program Solicitation shall clearly identify the solicitation as a Small Business Innovation Research (SBIR) Program Solicitation, identify the agency releasing the solicitation, specify date (or dates) on which proposals are due under the solicitation, and state the solicitation number.

Instructions for Preparation of SBIR Program Solicitation—Sections I Through IX

I. Program Description

A. Summarize in narrative form the invitation to submit proposals and the objectives of the SBIR Program.

B. Describe in narrative form the agency's SBIR Program including a description of the three phases. Note in your description that the solicitation is for Phase I proposals only.

C. Describe program eligibility, as follows:

Eligibility. Each concern submitting a proposal must qualify as a small business concern for research or R&D purposes at the time of award. In addition, the primary employment of the principal investigator must be with the small business concern at the time of award and during the conduct of the proposed research. Also, for both Phase I and Phase II, the research or R&D work must be performed in the United States.

D. List name, address and telephone number of agency contacts for general information on the SBIR Program solicitation.

II. Definitions

Whenever terms are used that are unique to either the SBIR Program, a specific SBIR solicitation or a portion of a solicitation, they will be defined in a separate section entitled "Definitions." As a minimum, the definitions of "small

business concern," "socially and economically disadvantaged small business concern," "women-owned small business concern," and "subcontract" as stated in Paragraph 4 of this policy directive shall be included.

III. Proposal Preparation Instructions and Requirements

The purpose of this section is to inform the proposer on what to include in his or her proposal and to set forth limits on what may be included. It should also provide guidance to assist proposers in improving the quality and acceptance of proposals particularly to firms that may not have previous government experience.

A. *Limitations on Length of Proposal.* Include at least the following information:

1. SBIR Phase I proposals shall not exceed a total of 25 pages, including cover page, budget, and all enclosures or attachments. Pages should be of standard size (8½" X 11"; 21.6 cm X 27.9 cm) and should conform to the standard formatting instructions; in particular, 2.5 cm margins and type no smaller than 10 point font size.

2. A notice that no additional attachments, appendices or references beyond the 25-page limitation shall be considered in proposal evaluation and that proposals in excess of the 25-page limitation shall not be considered for review or award.

B. *Proposal Cover Sheet.* Every proposer will be required to include at least the following information on the first page of proposals. Items 8 and 9 are for statistical purposes only.

1. Agency and solicitation number.
2. Topic Number.
3. Subtopic Number.
4. Topic Area.
5. Project Title.
6. Name and Complete Address of Firm.
7. Small Business Certification as follows:

"The above concern certifies it is a small business concern and meets the definition as stated in this solicitation."

8. Socially and Economically Disadvantaged Small Business Concern Certification as follows:

"The above concern certifies that it _____ does _____ does not qualify as a socially and economically disadvantaged small business concern and meets the definition as stated in this solicitation."

9. Women-owned Small Business Concern Certification as follows:

"The above concern certifies that it _____ does _____ does not qualify as a women-owned business concern and meets the definition as stated in this solicitation."

10. A disclosure permission statement such as follows may be included at the discretion of the funding agency:

"Will you permit the government to disclose the title and technical abstract page of your proposed project, plus the name, address, and telephone number of the corporate official of your concern, if your proposal does not result in an award, to concerns that may be interested in contacting you for further information?" Yes____No____

11. Signature of a company official of the proposing small business concern and that individual's typed name, title, address, telephone number, and date of signature.

12. Signature of Principal Investigator or Project Manager within the proposing small business concern and that individual's typed name, title, address, telephone number, and date of signature.

13. Legend for proprietary information as described in the "Considerations" section of this program solicitation if appropriate.

C. *Abstract or Summary.* Proposers will be required to include a one-page project summary of the proposed research or R&D including at least the following:

1. Name and address of small business concern.
2. Name and title of principal investigator or project manager.
3. Agency name, solicitation number, solicitation topic and subtopic.
4. Title of project.
5. Technical abstract, limited to two hundred words.
6. Summary of the anticipated results and implications of the approach (both Phases I and II) and the potential commercial applications of the research.

D. *Technical Content.* SBIR Program solicitations shall require as a minimum the following to be included in proposals submitted thereunder:

1. *Identification and Significance of the Problem or Opportunity.* A clear statement of the specific technical problem or opportunity addressed.

2. *Phase I Technical Objectives.* State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

3. *Phase I Work Plan.* A detailed description of the Phase I R/R&D plan. The plan should indicate what will be done, where it will be done and how the R/R&D will be carried out. Phase I R/R&D should address the objectives and the questions cited in D.2. above. The methods planned to achieve each objective or task should be discussed in detail.

4. *Related Research or R&D.* Describe significant research or R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing small business concern. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers of his or her awareness of key recent research or R&D conducted by others in the specific topic area.

5. *Key Personnel and Bibliography of Directly Related Work.* Identify key personnel involved in Phase I including their directly related education, experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet proposal size limitation.

6. *Relationship with Future Research or Research and Development.*

a. State the anticipated results of the proposed approach if the project is successful (Phase I and II).

b. Discuss the significance of the Phase I effort in providing a foundation for the Phase II R/R&D effort.

7. *Facilities.* A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

8. *Consultants.* Involvement of consultants in the planning and research stages of the project is permitted.

a. If such involvement is intended, it should be described in detail.

9. *Potential Post Applications.* Briefly describe:

a. Whether and by what means the proposed project appears to have potential commercial application.

b. Whether and by what means the proposed project appears to have potential use by the federal government.

10. *Similar Proposals or Awards.* A firm may elect to submit proposals for essentially equivalent work under other federal program solicitations, or may have received other federal awards for essentially equivalent work. In these cases, a statement must be included in each such proposal indicating:

a. The name and address of the agencies to which proposals were submitted or from which awards were received.

b. Date of proposal submission or date of award.

c. Title, number, and date of solicitations under which proposals were submitted or awards received.

d. The specific applicable research topics for each proposal submitted or award received.

e. Titles of research projects.

f. Name and title of project manager or principal investigator for each proposal submitted or award received.

11. *Prior SBIR Phase II Awards.* If the small business concern has received more than 15 Phase II awards in the prior 5 fiscal years, submit name of awarding agency, date of award, funding agreement number, amount, topic or subtopic title, follow-on agreement amount, source and date of commitment and current commercialization status for each Phase II. (This required proposal information shall not be counted toward proposal pages count limitation.)

E. *Cost Breakdown/Proposed Budget.* The solicitation will require the submission of simplified cost or budget data.

IV. Method of Selection and Evaluation Criteria

A. *Standard Statement.* Essentially the following statement shall be included in all SBIR Program solicitations:

All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or non of the proposed approaches to the same topic or subtopic.

B. *Evaluation Criteria.*

1. The agency in its evaluation process shall develop a standardized method that will consider as a minimum the following factors:

a. The technical approach and the anticipated agency and commercial benefits that may be derived from the research.

b. The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic or subtopics.

c. The soundness and technical merit of the proposed approach and its incremental progress toward topic or subtopic solution.

d. Qualifications of the proposed principal/key investigators supporting staff and consultants.

e. In Phase II, evaluations of proposals require, among other things, consideration of a proposal's commercial potential as evidenced by:

(1) The small business concern's record of commercializing SBIR or other research,

(2) The existence of second phase funding commitments from private sector or non-SBIR funding sources,

(3) The existence of third phase follow-on commitments for the subject of the research, and

(4) The presence of other indicators of commercial potential of the idea.

Phase II proposals may only be submitted by Phase I award winners within the same agency.

2. The factors in subparagraph B.1. and other appropriate evaluation criteria, if any, shall be specified in the "Method of Selection" section of SBIR Program solicitations.

C. *Peer Review.* If it is contemplated that as a part of SBIR proposal evaluation external peer review will be used, the program solicitation must so indicate.

D. *Release of Proposal Review Information.* After final award decisions have been announced, the technical evaluations of the proposer's proposal may be provided to the proposer. The identity of the reviewer shall not be disclosed.

V. Considerations

This section shall include, as a minimum, the following information:

A. *Awards.* Indicate the estimated number and type of awards anticipated under the particular SBIR Program solicitation in question including:

1. Approximate number of Phase I awards expected to be made.

2. Type of funding agreement, i.e., contract, grant or cooperative agreement.

3. Whether fee or profit will be allowed.

4. Cost basis of funding agreement, e.g., grant, firm-fixed-price, cost reimbursement, or cost-plus-fixed fee.

5. Information on the approximate average dollar value of awards for Phase I and Phase II.

B. *Reports.* Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

C. *Payment Schedule.* Specify the method and frequency of progress and final payment under Phase I and II agreements.

D. *Innovations, Inventions and Patents.*

1. *Limited Rights Information and Data.*

a. *Propietary Information.* Essentially the following statement shall be included in all SBIR solicitations:

Information contained in unsuccessful proposals will remain the property of the proposer. The government may, however, retain copies of all proposals. Public release of information in any proposal submitted will be subject to existing statutory and regulatory requirements.

If proprietary information is provided by a proposer in a proposal which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data affecting the national security, it will be treated in confidence, to the extent permitted by law, provided this information is clearly marked by the proposer with the term "confidential proprietary information" and provided the following legend appears on the title page of the proposal.

"For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the government and shall not be duplicated, used, or disclosed in whole or in part, provided that if a funding agreement is awarded to this proposer as a result of or in connection with the submission of this data, the government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement. This restriction does not limit the government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction are contained on pages _____ of this proposal."

Any other legend may be unacceptable to the government and may constitute grounds for removing the proposal from further consideration and without assuming any liability for inadvertent disclosure. The government will limit dissemination of such information to within official channels.

b. *Alternative To Minimize Proprietary Information.* Agencies may elect to instruct proposers to:

(1) Limit proprietary information to only that absolutely essential to their proposal.

(2) Provide proprietary information on a separate page with a numbering system to key it to the appropriate place in the proposal.

c. *Rights in Data Developed Under SBIR Funding Agreements.* To notify the small business concern of the policy stated in Para. 15.f. of this policy directive, essentially the following statement will be included in all SBIR Program solicitations:

"These SBIR data are furnished with SBIR rights under Contract No. _____ (and subcontract _____ if appropriate). For a period of 4 years after acceptance of all items to be delivered under this contract, the government agrees to use these data for government purposes only, and they shall not be disclosed outside the government

(including disclosure for procurement purposes) during such period without permission of the contractor, except that, subject to the foregoing use and disclosure prohibitions, such data may be disclosed for use by support contractors. After the aforesaid 4-year period the government has a royalty-fee license to use, and to authorize others to use on its behalf, these data for government purposes, but is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties. This Notice shall be affixed to any reproductions of these data, in whole or in part."

d. *Copyrights.* Include an appropriate statement concerning copyrights and publications; for example:

"With prior written permission of the contracting officer, the awarded normally may copyright and publish (consistent with appropriate national security considerations, if any) material developed with (agency name) support. (Agency name) receive a royalty-free license for the federal government and requires that each publication contain an appropriate acknowledgement and disclaimer statement."

e. *Patents.* Include an appropriate statement concerning patents; for example:

"Small business concerns normally may retain the principal worldwide patent rights to any invention developed with government support. The government receives a royalty-free license for federal government use, reserves the right to require the patent holder to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the government will not make public any information disclosing a government-supported invention for a four year period to allow the awarded a reasonable time to pursue a patent."

E. *Cost-Sharing.* Unless in conflict with another statute, include a statement essentially as follows:

"Cost-sharing is permitted for proposals under this program solicitation; however, cost-sharing is not required. Cost-sharing will not be an evaluation factor in consideration of your Phase I proposal."

Where cost-sharing is required by statute, include an appropriate statement.

F. *Profit or Fee.* Include a statement on the payment of profit or fee on awards made under the SBIR Program solicitation.

G. *Joint Ventures or Limited Partnerships.* Include essentially the following language:

"Joint ventures and limited partnerships are eligible provided the entity created qualifies as a small business as defined in this program solicitation."

H. *Research and Analytical Work.* Include essentially the following statement:

1. "For Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer.

2. For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer."

I. *Contractor Commitments.* To meet the legislative requirement that SBIR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in SBIR funding agreements shall not be included in full or by reference in SBIR Program solicitations. Rather, proposers shall be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from SBIR Program solicitations. Essentially, the following statement shall be included in the "Consideration" section of SBIR Program solicitations:

"Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor would be committed. This list should not be understood to represent a complete list of clauses to be included in Phase I funding agreement, or to be specific wording of such clauses. Copies of complete terms and conditions are available upon request."

J. *Summary Statements.* The following are illustrative of the type of summary statements to be included immediately following the statement in the subparagraph I. These statements are examples only and may vary depending upon type of funding agreement.

1. *Standards of Work.* Work performed under the funding agreement must conform to high professional standards.

2. *Inspection.* Work performed under the funding agreement is subject to government inspection and evaluation at all times.

3. *Examination of Records.* The Comptroller General (or a duly authorized representative) shall have the right to examine any directly pertinent records of the awardee involving transactions related to this funding agreement.

4. *Default.* The government may terminate the funding agreement if the contractor fails to perform the work contracted.

5. *Termination for Convenience.* The funding agreement may be terminated at any time by the government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

6. *Disputes.* Any dispute concerning the funding agreement which cannot be resolved by agreement shall be decided by the contracting officer with right of appeal.

7. *Contract Work Hours.* The awardee may not require an employee to work more than eight hours a day or forty hours a week unless the employee is compensated accordingly (e.g., overtime pay).

8. *Equal Opportunity.* The awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

9. *Affirmative Action for Veterans.* The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

10. *Affirmative Action for Handicapped.* The awardee will not discriminate against any employee or applicant for employment because he or she is physically or mentally handicapped.

11. *Officials Not To Benefit.* No government official shall benefit personally from the SBIR funding agreement.

12. *Covenant Against Contingent Fees.* No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bonafide employees or commercial agencies maintained by the awardee for the purpose of securing business.

13. *Gratuities.* The funding agreement may be terminated by the government if any gratuities have been offered to any representative of the government to secure the contract.

14. *Patent Infringement.* The awardee shall report each notice or claim of patent infringement based on the performance of the funding agreement.

15. *American Made Equipment and Products.* When purchasing equipment or a product under the SBIR funding agreement, purchase only American-made items whenever possible.

K. *Additional Information.* Information pertinent to an understanding of the administration requirements of SBIR proposals and funding agreements not included elsewhere shall be included in this section. As a minimum, statements essentially as follows shall be included under "Additional Information" in SBIR Program solicitations:

1. This program solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.

2. Before award of an SBIR funding agreement, the government may request the proposer to submit certain organizational, management, personnel, and financial information to assure responsibility of the proposer.

3. The government is not responsible for any monies expended by the proposer before award of any funding agreement.

4. This program solicitation is not an offer by the government and does not obligate the government to make any specific number of awards. Also, awards under the SBIR Program are contingent upon the availability of funds.

5. The SBIR Program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals shall not be accepted under the SBIR Program in either Phase I or Phase II.

6. If an award is made pursuant to a proposal submitted under this SBIR Program solicitation, the contractor or grantee or party to a cooperative agreement will be required to certify that he or she has not previously been, nor is currently being, paid for essentially equivalent work by any agency of the federal government.

VI. Submission of Proposals

A. This section shall clearly specify the closing date on which all proposals are due to be received.

B. This section shall specify the number of copies of the proposal that are to be submitted.

C. This section shall clearly set forth the complete mailing and/or delivery address(es) where proposals are to be submitted.

D. This section may include other instructions such as the following:

1. *Bindings.* Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

2. *Packaging.* All copies of a proposal should be sent in the same package.

VII. Scientific and Technical Information Sources

Wherever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available shall be included in a separate section of the solicitation entitled "Scientific and Technical Information Sources."

VIII. Research Topics

Describe the research or R&D topics and subtopics for which proposals are being solicited sufficiently to inform the proposer of technical details of what is desired while leaving sufficient flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the SBIR Programs.

IX. Submission Forms and Certifications

Up to three copies each of proposal preparation forms necessary to the contracting and granting process may be required. This section may include Proposal Summary, Proposal Cover, Budget, Checklist, and other forms the sole purpose of which is to meet the mandate of law or regulation and simplify the submission of proposals.

This section may also include certifying forms required by legislation, regulation or standard operating procedures, to be submitted by the proposer to the contracting or granting agency. This would include certifying forms such as those for the protection of human and animal subjects.

[FR Doc. 93–1761 Filed 1–25–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended January 15, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48600
Date filed: January 13, 1993
Parties: Members of the International Air Transport Association
Subject: Telex Comp Mail Vote 610 Charge for PTA Services—Minimum Charge for Iceland
Proposed Effective Date: April 1, 1993

Docket Number: 48601
Date filed: January 13, 1993
Parties: Members of the International Air Transport Association
Subject: Telex Comp Mail Vote 611 Passenger Fares from Cuba
Proposed Effective Date: February 1, 1993

Docket Number: 48604
Date filed: January 15, 1993
Parties: Members of the International Air Transport Association
Subject: TC2 Mail Vote 612 Iceland-Jordan fares
Proposed Effective Date: February 1, 1993

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 93–1771 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Environmental Impact Statement: Allegheny County, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project affecting parts of Allegheny County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John A. Gerner, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108–1086, Telephone: (717) 782–3411. Henry Nutbrown, P.E., District Engineer, Pennsylvania Department of Transportation, Four Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–4500, James B. Wilson, P.E., Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 8531, Harrisburg, Pennsylvania 17105, Telephone (717) 939–9551.

SUPPLEMENTARY INFORMATION: A previous Notice of Intent for this project identified southern terminus for this section as Interstate 70 and the northern terminus as Interstate 376 in Pittsburgh (April 1989). The studies to date for this project have identified different needs for four sections of the proposed Mon-Fayette transportation project from I–68 in West Virginia to Interstate 376 in Pittsburgh. These studies include the proposed evaluation of a Southern Beltway (which will be advertised in a pending notice of intent) which will intersect the Mon-Fayette corridor in the vicinity of Jefferson, and a wider range of transportation options. As a result of this redefinition, the study limits have been modified. The project termini for the section described in this Notice of Intent are PA Route 51 to Interstate 376 in Pittsburgh. The FHWA, in cooperation with the Pennsylvania Turnpike Commission (PTC) and the Pennsylvania Department of Transportation (PennDOT), will prepare an environmental impact statement (EIS) for transportation improvement alternatives between the above noted

termini. The approximate length of the study area is 10 miles.

Alternatives under consideration include: (1) Taking no action; (2) transportation system management including high occupancy vehicle alternatives; (3) improvements to existing roadways; (4) mass transit options with intermodal transfer points; (5) new highway facility options. This highway may be constructed as a toll facility. Incorporated into and studied with the various build alterantives will be combination of alternatives and design variations.

The following environmental areas will be investigated for EIS preparation; traffic; air quality; noise and vibration; surface water resources; aquatic environments; floodplains, groundwater; soils and geology; wetlands; vegetation and wildlife; endangered species; agricultural lands assessment; visual; socioeconomics and land use; construction impacts; energy; municipal, industrial, and hazardous waste facilities; historic structures and archeological sites; section 4(f) evaluation; and wild and scenic rivers.

Public meetings will be held in the area. Public notices of the time and place of these meetings and any required public hearings will be given in a timely fashion. Public involvement and interagency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalogue of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 93–1702 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Allegheny and Washington Counties, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project affecting parts of Allegheny and Washington Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John A. Gerner, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108–1086, Telephone: (717) 782–3411. Henry Nutbrown, P.E., District Engineer, Pennsylvania Department of Transportation, Four Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937–4500, William L. Beaumariage, P.E., District Engineer, Pennsylvania Department of Transportation, P.O. Box 459, North Gallatin Avenue Extension, Uniontown, Pennsylvania 15401, Telephone: (412) 439–7259, James B. Wilson, P.E., Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 8531, Harrisburg, Pennsylvania 17105, Telephone (717) 939–9551.

SUPPLEMENTARY INFORMATION: A previous Notices of Intent for this project identified southern terminus for this section as Interstate 70 and the northern terminus as Interstate 376 in Pittsburgh (April 1989). The studies to date for this project have identified different needs for four sections of the proposed Mon-Fayette transportation project from I–68 in West Virginia to Interstate 376 in Pittsburgh. These studies include the proposed evaluation of a Southern Beltway (which will be advertised in a pending notice of intent) which will intersect the Mon-Fayette corridor in the vicinity of Jefferson, and a wider range of transportation options. As a result of this redefinition, the study limits have been modified. The project termini for the section described in this Notice of Intent are Interstate 70 to PA Route 51 in Washington and Allegheny Counties. The FHWA, in cooperation with the Pennsylvania Turnpike Commission (PTC) and the Pennsylvania Department of Transportation (PennDOT), will prepare an environmental impact statement (EIS) for transportation improvement alternatives between the above noted termini. The approximate length of the study area is 25 miles.

Alternatives under consideration include: (1) Taking no action; (2) transportation system management; (3) upgrading the existing SR 837 and/or other existing routes; (4) constructing a multi-lane, controlled access highway on a new location. This highway may be constructed as a toll facility. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

The following environmental areas will be investigated for EIS preparation; traffic; air quality; noise and vibration; surface water resources; aquatic environments; floodplains, groundwater; soils and geology; wetlands; vegetation and wildlife; biodiversity; terrestrial ecosystems; endangered species; agricultural lands assessment; visual; socioeconomic and land use; construction impacts; energy; municipal, industrial, and hazardous waste facilities; historic structures and archeological sites; section 4(f) evaluation; and wild and scenic rivers.

Public meetings will be held in the area. Public notices of the time and place of these meetings and any required public hearings will be given in a timely fashion. Public involvement and interagency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalogue of Federal Domestic Assistance Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 93–1936 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 67 (Rev. 21)]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authority to sign on behalf of the Commissioner, Internal Revenue Service, is given to Michael P. Dolan, Acting Commissioner, Internal Revenue Service.

EFFECTIVE DATE: January 20, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen E. Ebner, Acting Chief, Directives Management Section, PR:P:D, room 3139, 1111 Constitution Avenue, NW, Washington, DC. 20224, telephone (202) 622–6890 (not a toll-free call).

Order No. 67 (Rev. 21)

Effective date: January 20, 1993.

Signing the Commissioner's Name or on His Behalf

Effective 12:01 am., January 20, 1993, all outstanding authorizations to sign the name of, or on behalf of Shirley D. Peterson, Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, Michael P. Dolan, Acting Commissioner of Internal Revenue.

Delegation Order No. 67 (Rev. 20), effective February 3, 1992, is superseded.

Dated: January 15, 1993.

Shirley D. Peterson,

Commissioner.

[FR Doc. 93–1748 Filed 1–25–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted OMB for expedited review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; (7) an estimated number of respondents; and (8) a copy of the proposed form. It is important to note that the proposed form has not yet been approved by OMB.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: January 15, 1993.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

New Collection

1. Study of Vocational Flight Training, VA Form 22–0197
2. The purpose of this survey is to collect data required to prepare a legislatively mandated report to Congress evaluating VA's Vocational Flight Training Program
3. Individuals or households
4. 272 hours
5. 20 minutes
6. On occasion
7. 817 respondents
8. Copy of proposed VA Form 22–0197, Vocational Flight Training Survey, as of January 12, 1993.

BILLING CODE 8320–01–M

OMB Approved No. 2900-xxxx
Respondent Burden: 20 minutes

Department of Veterans Affairs

VOCATIONAL FLIGHT TRAINING SURVEY

General Instructions:
Please complete all applicable questions on this form. When selecting responses, please check the response that most closely applies to your experience. Space is provided at the end of this questionnaire for any additional comments you may have about the survey or VA's flight training programs.

1. During your military service, did you work on any assignments related to aviation? (Check one)

☐ Yes ☐ No

IF YES...

1a. What was your assignment(s)? (Check all that apply)

☐ Pilot ☐ Copilot ☐ Flight Instructor ☐ Other _____
☐ Navigator ☐ Crew Member ☐ Mechanic/maintenance

1b. What type(s) of aircraft were you trained on while in the service? (Check all that apply)

☐ Single Engine Land ☐ Multi Engine Sea ☐ Jet
☐ Single Engine Sea ☐ Helicopter ☐ Other _____
☐ Multi Engine Land ☐ Turboprop

1c. What was your FAA equivalent certification(s) when you left the service? (Check all that apply)

☐ Private Pilot ☐ Turboprop - Type ☐ Flight Instructor, Instrument
☐ Commercial Pilot ☐ Jet - Type ☐ Flight Instructor, Helicopter
☐ Airline Transport Pilot ☐ Flight Instructor ☐ Other _____
☐ Multi Engine ☐ Flight Instructor, Multi Engine

2. What was your primary objective in using your VA flight training benefits? (Check one)

☐ Obtain a job as a commercial pilot
☐ Obtain a job as a flight instructor
☐ Obtain a job as an aircraft mechanic
☐ Obtain commercial certification to assist in a job outside of the field of aviation
☐ Enhance flying skills
☐ Recreational flying
☐ Convert flying skills (e.g. from helicopter to fixed wing)
☐ Other _____

3. Which certification(s) did you obtain while receiving VA flight training benefits? (Check all that apply)

☐ Commercial Pilot ☐ Turboprop - Type ☐ Flight Instructor, Multi Engine
☐ Airline Transport Pilot ☐ Jet - Type ☐ Flight Instructor, Instrument
☐ Multi Engine ☐ Flight Instructor ☐ Flight Instructor, Helicopter
☐ Other _____

Department of Veterans Affairs

4. Have you received VA flight training benefits for any course in which you did not receive a certification? (Check one)

☐ Yes ☐ No

IF YES...

4a. Which courses? (Check all that apply)

☐ Commercial Pilot	☐ Turboprop - Type	☐ Flight Instructor, Multi Engine
☐ Airline Transport Pilot	☐ Jet - Type	☐ Flight Instructor, Instrument
☐ Multi Engine	☐ Flight Instructor	☐ Flight Instructor, Helicopter
		☐ Other _____

4b. Why did you not receive a certification? (Check all that apply)

☐ Training in progress	☐ Terminated training due to change in career plans
☐ VA benefits were exhausted	☐ Other _____
☐ Insufficient funds for copayment	

5 Approximately how much of your total flight training costs were not covered by your VA flight training benefits? (Check one)

☐ Under $1,000	☐ $2,500 - $4,999	☐ $10,000 - $15,000
☐ $1,000 - $2,499	☐ $5,000 - $9,999	☐ Over $15,000

6. Have you exhausted your VA flight training benefits to date? (Check one)

☐ Yes ☐ No

IF YES...

6a. After you exhausted your VA flight training benefits, did you receive certification in any additional flight courses? (Check one)

☐ Yes ☐ No

IF YES...

• In which courses? (Check all that apply)

☐ Commercial Pilot	☐ Turboprop - Type	☐ Flight Instructor, Multi Engine
☐ Airline Transport Pilot	☐ Jet - Type	☐ Flight Instructor, Instrument
☐ Multi Engine	☐ Flight Instructor	☐ Flight Instructor, Helicopter
		☐ Other _____

Department of Veterans Affairs

7. Are you currently employed in the field of aviation? (Check one)

☐ Yes ☐ No

IF YES...

7a. Which category best describes your employment status? (Check one)

☐ Full-time ☐ Part-time

7b. What is your current job title? (Please specify)

_____

7c. Did your flight training assist you in obtaining this job? (Check one)

☐ Yes ☐ No

7d. How long did it take you to obtain this job after completing your VA flight training? (Check one)

☐ Under 1 month ☐ 7 - 12 months ☐ Not applicable, had job prior to taking VA flight training

☐ 1 - 6 months ☐ Over 12 months

IF NO...

7e. Which category best describes your employment status? (Check one)

☐ Full-time ☐ Retired ☐ Full-time student

☐ Part-time ☐ Unemployed

7f. Which of the following reasons best describes why you are not currently working in the field of aviation? (Check one)

☐ Laid-off from aviation job ☐ Never intended to work in the field ☐ Do not have proper qualifications

☐ Actively seeking, but have not yet obtained a job ☐ Training still in progress ☐ Other _____

7g. Do you have the opportunity to use the skills acquired through your VA flight training? (Check one)

☐ Yes ☐ No

IF YES...

- In what capacity do you use these skills? (Please specify)

_____

Department of Veterans Affairs

8. In which category would your last year's income best fit? (Check one)

- ☐ Below $10,000
- ☐ $10,000 - $19,999
- ☐ $20,000 - $29,999
- ☐ $30,000 - $39,999
- ☐ $40,000 - $50,000
- ☐ Over $50,000

9. What is the highest education level you have attained? (Check one)

- ☐ Jr. High School
- ☐ High School
- ☐ Some College
- ☐ Associate Degree
- ☐ Bachelor Degree
- ☐ Graduate Studies/Degree

10. Please provide any other comments you may have about this survey or your experiences with the VA flight training programs in the space below.

PRIVACY ACT INFORMATION: The response you submit is considered confidential (38 U.S.C. 3301), and may be disclosed outside VA only if the disclosure is authorized under the Privacy Act, including the routine uses identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, and Rehabilitation Records - VA, published in the Federal Register.

RESPONDENT BURDEN: Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the VA Clearance Officer (723), 810 Vermont Ave., NW, Washington, DC 20420; and to the Office of Management and Budget, Paperwork Reduction Project (2900-xxxx), Washington, DC 20503. Do NOT send requests for benefits to these addresses.

Thank you for your time. Your assistance is greatly appreciated.

VA FORM JANUARY 1993 22-0197

[FR Doc. 93-1865 Filed 1-25-93; 8:45 am]
BILLING CODE 8320-01-C

Sunshine Act Meetings

Federal Register
Vol. 58, No. 15
Tuesday, January 26, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF JUSTICE

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 5–93

Notice of Meetings

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Wed., February 3, 1993 at 10:30 a.m.—Consideration of Proposed Decisions on claims against Iran.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208–7727.

Dated at Washington, DC, on January 22, 1993.

Judith H. Lock,

Administrative Officer.

[FR Doc. 93–1991 Filed 1–22–93; 3:24 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant to the Government in the Sunshine Act

(Public Law 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: Tuesday, January 26, 1993, 9:30 a.m., Eastern Daylight Time.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matters will be considered during the closed portion of the Commission's Business Meeting:

(1) Appeals to the Commission involving nine cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

(2) Review of internal management team report with respect to the Commission's internal organization, personnel and policy practices.

AGENCY CONTACT: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5968.

Dated: January 14, 1993.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 93–2017 Filed 1–22–93; 3:26 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant to the Government in the Sunshine Act

(Public Law 94–409) [5 U.S.C. Section 552b]

TIME AND DATE: 1:00 p.m., Tuesday, January 26, 1993.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Case Operations, Program Coordinator, and Administrative Sections.
3. Discussion of Modification of Supervised Release Conditions For Treaty Prisoners.
4. Adoption of Modified Search and Seizure Guidelines.
5. Discussion of Adverse Witnesses in Federal and State Custody.
6. Discussion of Commission Policy With Respect To Using An Offender's Own Admission to Criminal Conduct.
7. Discussion of Modification of 28 C.F.R. 2.47, Warrant Placed As A Detainer And Dispositional Review.
8. Habitual Offender Task Force Report.
9. Enhanced Supervision Task Force Report.
10. Discussion of Management Control and Quality Assurance Review.
11. Discussion of Audio And Video Tape Submissions At Hearings.
12. Discussion of Increasing Case Processing Efficiency.
13. Discussion of Processing Institutional Revocation Hearings that have been Transferred From the Originating Region.
14. Discussion of the Commission's Policy With Regard To Parolees Working in the Legal Business.
15. Presentation regarding the Bureau of Prison's Victim/Witness Program.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: January 22, 1993.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 93–2018 Filed 1–22–93; 3:26 pm]

BILLING CODE 4410–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, February 2, 1993.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

5776A—Aviation Accident Report: Scenic Air Tours Flight 22, Beech E18S, Maui, Hawaii, April 22, 1992.

NEWS MEDIA CONTACT: Telephone (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: January 22, 1993.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 93–1992 Filed 1–22–93; 3:25 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 25, February 1, 8, and 15, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO CONSIDERED:

Week of January 25

Friday, January 29

10:00 a.m.

Briefing on Implementing Guidance for the Maintenance Rule and Industry Verification and Validation Effort (Public Meeting)

(Contact: William Russell, 301–504–1274)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Briefing by Agreement States on Their Activities in Medical Use Area (Public Meeting)
(Contact: Carlton Kammerer, 301–504–2321)

Week of February 1—Tentative

Wednesday, February 3

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 8—Tentative

Monday, February 8

10:00 a.m.
Briefing by IIT on Loss of Iridium–192 Source and Therapy Misadministration at Indiana Regional Cancer Center, Indiana, PA., November 16, 1992 (Public Meeting)
(Contact: Carl Paperiello, 708–790–5517)
2:00 p.m.
Periodic Briefing on EEO Program (Public Meeting)
(Contact: Jim McDermott, 301–492–4661)

Tuesday, February 9

2:30 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
(Contact: William Bateman, 301–504–1711)
4:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 15—Tentative

Friday, February 19

10:00 a.m.
Briefing by Advisory Committee on Medical Uses of Isotopes (Public Meeting)
(Contact: John Glenn, 301–504–3415)
2:00 p.m.
Briefing on Status of Issues and Approach to GEIS Rulemaking for Part 51 (Public Meeting)
(Contact: Donald Cleary, 301–492–3936)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: January 21, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–2020 Filed 1–22–93; 3:27 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 24, 1993.

A closed meeting will be held on Monday, January 25, 1993, at 2:30. p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Beese, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Monday, January 25, 1993, at 2:30 p.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Litigation matter.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Rosenblum at (202) 272–2300.

Dated: January 21, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–2024 Filed 1–22–93; 3:59 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 58, No. 15
Tuesday, January 26, 1993

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 ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES93–17–000, et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Glen Park Associates Limited Partnership, et al.

Correction

In notice document 93–700 beginning on page 4157 in the issue of Wednesday, January 13, 1993, make the following corrections:

1. On page 4157, in the third column, under the heading **2. Consolidated Edison Company of New York, Inc.**, the Docket No. should read "ER93–305–000".

2. On page 4159, in the second column, under the heading **15. Midwest Power Systems Inc.**, the Docket No. should read "ES93–10–003".

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP93–129–000, et al.]

Texas Eastern Transmission Corp. et al.; Natural Gas Certificate Filings

Correction

In notice document 93–703 beginning on page 4160 in the issue of Wednesday, January 13, 1993, make the following correction: On page 4161, in the first column, under the heading **2. Southern Natural Gas Co.**, the Docket No. should read "CP93–134–000".

BILLING CODE 1505–01–D

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 93–01]

Electronic Filing of Military Rates

Correction

In proposed rule document 93–695 beginning on page 4137 in the issue of Wednesday, January 13, 1993, make the following correction: On page 4138, in the first column, in the fourth full paragraph, in the fifth line, "staff" should read "tariff".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 316

[Docket No. 85N–0483]

RIN 0905–AB55

Orphan Drug Regulations

Correction

In rule document 92–31192 beginning on page 62076 in the issue of Tuesday, December 29, 1992, make the following corrections:

§ 316.10 [Corrected]

1. On page 62087, in § 316.10(b)(10), in the seventh line, "lift-threatening" should read "life-threatening".

§ 316.27 [Corrected]

2. On page 62090, in § 316.27(a)(2)(ii), in the second line, "compete" should read "complete".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Correction

In notice document 93–616 appearing on page 3963 in the issue of Tuesday, January 12, 1993, in the second column, in the third full paragraph, in the sixth line, "Assistant" should read "Associate".

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–943–03–4210–04; IDI–27201]

Notice of Exchange and Order Providing for Opening of Public Lands; Idaho

Correction

In notice document 92–31358 beginning on page 61603 in the issue of Monday, December 28, 1992, make the following corrections:

1. On page 61603, in the third column, land descriptions T. 16 N., R. 5 W. and T 16 N., R. 6 W. should be moved to the second column before land description T. 17 N., R. 4 W.

2. On the same page, in the third column, under land description T. 13 N., R. 5 W., in the second line, "Sec. 3, SE¼NW¼ and W½SE¼;" should read "Sec. 3, SE¼NE¼ and E½SE¼;".

BILLING CODE 1505–01–D

federal register

Tuesday
January 26, 1993

Part II

Department of Transportation

Research and Special Programs Administration

Notice of Application for a Preemption Determination as to Hazardous Materials Marking Requirements Imposed by Michigan

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. PDA–8(R); Notice No. 93–4]

Chemical Waste Transportation Institute; Application for a Preemption Determination as to Hazardous Materials Marking Requirements Imposed by the Michigan Department of Natural Resources

AGENCY: Research and Special Programs Administration (RSPA), U.S. Department of Transportation.

ACTION: Public notice and invitation to comment.

SUMMARY: The Chemical Waste Transportation Institute (CWTI) has applied for an administrative determination as to whether the hazardous materials marking requirements imposed by the Michigan Department of Natural Resources on vehicles used to transport hazardous waste are preempted by the Hazardous Materials Transportation Act (HMTA).

DATES: Comments received on or before March 31, 1993, and rebuttal comments received on or before June 4, 1993, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, room 8421, 400 Seventh Street, SW., Washington, DC 20590–0001 (Tel. No. (202) 366–4453). Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number (PDA–8(R)). Three copies of each should be submitted. In addition, a copy of each comment and each rebuttal comment must also be sent to: (a) Mr. Stephen Hansen, Chairman, Chemical Waste Transportation Institute, 1730 Rhode Island Avenue, NW., suite 1000, Washington, DC 20036; and (b) Mr. James Sygo, Chief, Waste Management Division, Michigan Department of Natural Resources, P.O. Box 30241, Lansing, MI 48933. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. Hansen and Sygo at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: James E. Meason, Attorney, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. (202) 366–4400).

I. CWTI's Application for a Preemption Determination

With its January 4, 1993 letter, CWTI applied for a determination that Michigan's hazardous materials marking laws and regulations for vehicles used to transport hazardous waste are preempted by the HMTA. The text of CWTI's application follows (the appendices to CWTI's application are available for examination at, and copies may be obtained at no cost from, RSPA's Dockets Unit at the address and telephone number set forth in "**ADDRESSES**" above).

Application of the Chemical Waste Transportation Institute To Initiate a Proceeding To Determine That the Various Hazardous Materials Marking Requirements Imposed by the Michigan Department of Natural Resources on Vehicles Used To Transport Hazardous Waste Are Preempted by the Hazardous Materials Transportation Act

Interest of the Petitioner

The Chemical Waste Transportation Institute (CWTI) is part of the National Solid Wastes Management Association, a not-for-profit association that represents approximately 2,000 waste services companies throughout the United States and Canada. Members of the Institute are commercial firms specializing in the transportation of hazardous waste, by truck and rail, from its point of generation to its management destination. Our members are both private and for hire carriers that operate in interstate and intrastate commerce, including points to and from and through Michigan. To the extent that member companies are motor carriers and operate in Michigan, these members must mark the portion of each motor vehicle that will be used to transport hazardous waste in contravention of the Hazardous Materials, Transportation Act (HMTA) and the Hazardous Materials Regulations (HMRs).

Background

Prior to the 1975 enactment of the HMTA, legislation was enacted in Michigan—Act 136—to regulate the management of "liquid industrial waste."[1] In 1979, Michigan enacted its version of legislation—Act 64)—intended to implement the hazardous waste aspects of the 1976 amendments to the federal Solid Waste Disposal Act or the so-called Resource Conservation and Recovery Act (RCRA).[2] While neither the definition of "liquid industrial waste" from Act 136 nor the definition of "hazardous waste" pursuant to RCRA or "hazardous materials" pursuant to the HMTA, most of the materials regulated by these state statutes are regulated at the federal level in transportation under the HMTA, though not all may be RCRA-regulated hazardous wastes—for example waste combustible liquids with flash points above 140 °F.[3]

Part of the regulatory scheme set forth in both Act 136 and Act 64 are requirements to "license" vehicles used to transport either "liquid industrial waste" or "hazardous waste." Act 136 specifically requires that "there shall be painted on both sides of the vehicle in letters not less than 2 inches high the words 'licensed industrial waste hauling vehicle' * * *."[4] In setting forth the requirements applicable to vehicles licensed under Act 64, regulations of the Michigan Department of Natural Resources (DNR) require that the words "Hazardous Waste-Hauling Vehicle" be placed on the "waste-hauling portion of the vehicle in letters not less than 5 centimeters high."[5] Again, the lettering is permanent and must be placed on each side of the vehicle.[6]

Basis for the Application

The DNR marking requirements described above cannot be reconciled with the authority of the HMTA to find preempted non-federal requirements that are not "substantively the same as" federal requirements in certain covered subject areas including the "marking" of hazardous materials.[7] When the 101st Congress was contemplating amendments to the scope of the preemptive authority under the HMTA, DOT urged that there should be "federal primacy in certain critical areas of hazardous materials transportation regulation * * * (and that) non-federal entities would be prohibited from enacting their own laws or regulations with respect to specifically enumerated subjects unless their requirements are identical to the Federal requirements. Taken together (these) proposals * * * are intended to greatly reduce the potential for a multiplicity of conflicting State and local requirements, with

[1] See Michigan Public Acts of 1969.

[2] See P.L. 94–580.

[3] See Michigan Act 136, Section 1(b) for a definition of "liquid industrial waste" (copy attached); Michigan Act 64, Section 4(3) for a definition of "hazardous waste" (copy attached); P.L. 93–633, Section 103(2) for a definition of "hazardous material"; P.L. 94–580, Section 1004(5) for a definition of "hazardous waste"; and P.L. 99–499, Section 306(a), referencing Section 101(14) for DOT authority to regulate RCRA-regulated hazardous wastes as hazardous materials in transportation. Also see, 49 CFR 171.8 definition of hazardous material as amended by 57 FR 52935 (Nov. 5, 1992) and 49 CFR 171.3(a).

[4] See attached Act 136, Section 7(1).

[5] See attached Michigan Administrative Code Section R 299.9406(6)(a).

[6] Provision is made in the DNR regulations for a transporter to remove this lettering for uses other than hazardous waste "treatment." (According to the DNR the regulation incorrectly states "treatment" when "transportation" was intended.) However, this option is only available if the alternate use(s) of the vehicle have been identified in the transporter's business or vehicle license. The permanent nature of the lettering and the prior approval requirement negate any practical application of this "option."

[7] See P.L. 101–615, Section 4(a)(4)(B).

the result being an enhancement of national uniformity."[8] In draft legislation submitted to Congress by DOT, "marking" of hazardous materials was identified as one of the "critical areas of hazardous materials transportation regulation." Congress concurred with the Department's view. The 1990 amendments to the HMTA provide express authority for DOT to preempt non-federal hazardous materials marking requirements unless the non-federal requirements are "substantively the same as" the federal requirements.[9]

"Otherwise Authorized by Federal Law"

Despite the greatly enhanced preemptive authority contained in the 1990 amendments, Congress recognized that DOT's preemptive authority of state and local requirements is limited to the extent that such non-federal requirements are "otherwise authorized by Federal law."[10] Since the enactment of the 1990 amendments, the courts have acted to circumscribe the reach of the "otherwise authorized by federal law" provisions. The Tenth Circuit Court of Appeals concluded that state requirements which are not specifically authorized pursuant to other federal statutes are not "otherwise authorized" simply because such federal statutes do not preempt such requirements.[11]

In this instant case, RCRA specifies that standards be established for "labeling practices for any containers used for the * * * transport * * * of such hazardous waste" and that no hazardous waste may be transported unless "properly labeled."[12] EPA defines the word "container" to mean "any portable device in which a material is * * * transported * * *" and has interpreted the statutory labeling requirement to be, with one exception, DOT's standards for labeling, marking, and placarding as provided in 49 CFR 172.[13] The one exception provides that each container of 110 gallons or less used in the transportation of hazardous waste must be marked, in accordance with the requirements of 49 CFR 172.304, with the following:[14]

Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____

Manifest Document Number _____

Neither RCRA nor its implementing regulations specifically authorize any non-federal "marking" requirements, let alone the bulk package marking requirements enforced by the DNR. In fact, RCRA bars EPA from promulgating regulations applicable to transporters of hazardous waste that are inconsistent with the requirements of the HMTA and the HMRs.[15] When EPA delegates its authority to issue regulations to a state, the state's hazardous waste program must be equivalent to the federal program and consistent with other state authorized programs.[16]

While RCRA does not have a mechanism to prohibit states from imposing requirements on the transportation of hazardous waste which are more stringent or broader in scope than those imposed by EPA, states may not rely on RCRA to shield such requirements from review under the HMTA. The legislative history underpinning RCRA's grant of "more stringent than" authority to states shows that Congress intended to allow states to create rules "more stringent than" the federal standards only for the selection of hazardous waste disposal sites.[17] Additionally, requirements which are broader in scope than EPA's are not part of the federally-approved program.[18] EPA clarified, in a letter to CWTI concerning its grant of final authorization to California's hazardous waste program, that "State hazardous waste transportation requirements that are inconsistent with the HMTA should be dealt with through the (DOT) under the special procedures established under the HMTA for that purpose; * * * In (EPA's) view the RCRA process does not preempt DOT authority in the area of transportation."[19]

The DNR Marking Requirements Are the Type Congress Intended To Preempt

The Michigan requirements at issue here are exactly the type of divergent state hazardous materials marking requirements which Congress intended to be preempted by the HMTA and the HMRs. Hazardous materials that happen to be "liquid" and meet the "waste" definitions of Act 136 and Act 64 are not only subject to duplicative, inconsistent DNR marking requirements, but other more serious outcomes result from the DNR requirements that should factor in DOT's evaluation of this application.[20]

First and foremost, the DNR markings have nothing to do with evidence that a motor carrier has obtained state issued licenses, and everything to do with hazard identification. Act 136 and the Michigan Administrative Code (MAC) implementing Act 64 require the DNR to supply as proof of vehicle licensure indicia—"seals"—that must be affixed to the waste-hauling portion of the vehicles separate and apart from the hazardous materials markings at issue.[21] The size of the lettering and the fact that both markings must be on all licensed vehicles regardless of whether the vehicles are destined to, from or through the state clearly show that the intent of the markings is to alert the public and enforcement personnel of risk presented in transportation by certain hazardous materials. As noted above, the HMTA reserves to the federal government the entire field of hazardous identification unless the non-federal requirements are "substantively the same as" federal requirements.

Second, hazardous wastes are found in every DOT hazard class except Hazard Class 7, Radioactive. To the extent that the DNR marking requirements apply only to hazardous waste and apply differently from or in addition to the HMRs concerning marking requirements, they are inconsistent with and preempted by the HMTA.[22]

Third, vehicles transporting hazardous waste are not fixed facilities. They operate through numerous jurisdictions. To the extent that the public and local emergency responders in other jurisdictions are unfamiliar with these non-federal marking requirements confusion will result and safety will be undermined.

Fourth, because of the permanent nature of the Act 136 and MAC markings, they cannot be physically removed without great hardship to the carrier when non-waste loads are being transported. As mentioned above, the ability to remove MAC markings in order to transport non-waste materials, even if such transport is permissible under the HMTA, is further restricted pending DNR prior authorization of the transporter's business or vehicle license that such alternate transportation is approved. Thus a secondary effect of the marking requirements is de facto dedication of hazardous waste hauling equipment. For example, vehicles marked as prescribed by the DNR have been denied entry to waste management facilities that receive industrial, non-hazardous waste, although the transportation of these wastes in vehicles that have been used to transport hazardous waste is consistent with the HMRs.[23] This trend is likely to be

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[8] See DOT Section-by-Section Analysis accompanying draft legislation to amend the HMTA sent to Congress July 11, 1989.

[9] See P.L. 101–615, Section 4(a)(4)(B)(ii), as implemented by 49 CFR 107.202. (See 56 FR 8616 (February 28, 1991) and 57 FR 20424 (May 13, 1992).)

[10] See P.L. 101–615, Section 13(a).

[11] See *Colo. Pub. Utilities Comm'n* v. *Harmon*, 951 F.2d 1571 at 1581 n.10 (10th Cir. 1991).

[12] See P.L. 94–580, Sections 3002(a)(2) and 3003(a)(2).

[13] See 40 CFR 262.31, 262.32, and 262.33.

[14] See 40 CFR 262.32(b).

[15] See P.L. 94–580, Section 3003(b).

[16] See P.L. 94–580, Section 3006(b).

[17] See 125 Cong. Rec. S6824–5, Daily Ed., June 4, 1979. The courts have upheld this view. See *Ensco Inc.* v. *Dumas*, 807 F.2d 743 (8th Cir. 1986) (Section 3009 "acknowledges only the authority of state and local government entities to make good-faith adaptations of federal policy to local conditions"; provision applies only to certain limited state requirements pertaining to land disposal or treatment facilities); *Ogden Environmental Servcs.* v. *City of San Diego*, 687 F. Supp. 1436 (S.E. Cal. 1988) (Citing *Ensco*).

[18] See 40 CFR 271.1(i).

[19] See attached letter to Cynthia Hilton, CWTI, from Devereaux Barnes, EPA, dated October 29, 1992.

[20] The CWTI has been involved in discussions with the DNR in an attempt to resolve this matter without recourse to DOT. During those discussions the DNR indicated a willingness to take steps to minimize the burden of vehicle marking on motor carriers of hazardous waste. Specially, the DNR proposed to eliminate the duplicative marking between Act 136 and the Michigan Administrative Code (MAC) as well as to recognize similar vehicle marking requirements of other states in lieu of the MAC marking. Despite this willingness to minimize burdens, the DNR is insistent on retaining some non-federal, hazard identification vehicle marking requirement. Inasmuch as this issue does have ramifications for jurisdictions outside of Michigan, the DNR and the CWTI mutually agreed to submit this matter to DOT for a determination of preemption.

[21] See Act 136, Section 7(l) and MAC R 299.9406(6)(b).

[22] See 49 CFR 171.3(c)(1).

[23] CWTI members have been advised to "cover up" DNR markings as an alternative to "removing" the markings when transporting "approved" materials not subject to the markings. However, members are uncomfortable with the public

Continued

exacerbated as sanitary non-hazardous waste landfills implement EPA requirements to conduct random inspections of incoming loads to ensure that such loads do not contain regulated hazardous wastes or PCBs.[24] Sanitary landfills are not equipped with sampling laboratories. Vehicles with DNR markings are more likely to be turned away because sanitary landfills cannot verify the non-hazardous status of the transported material. The inevitable result is "additional trips with additional mileage * * * (and) the potential for more accidents (thereby) creat(ing) greater danger to the public."[25]

Fifth, the permanent nature of the Act 136 and MAC markings violates the prohibitions in the HMTA and the HMR against labelling or placarding a packaging which does not contain hazardous materials. Congress felt so strongly about hazard communication and marking requirements that it not only provided in the 1990 amendments that non-federal requirements would be preempted unless substantively the same as the federal requirements, but also provided that "no person shall, by marking or otherwise, represent that a hazardous material is present in a * * * motor vehicle * * * if the hazardous material is not present."[26] Again, the DNR requirements frustrate hazard communication by placing motor carriers in the untenable position of choosing compliance with DNR or federal standards.

Lastly, the final rule implementing the "substantively the same as" authority, DOT stated that "in the covered subject areas, national uniformity is critical * * *. Any additional requirements, in excess of the Federal requirements, would not be 'substantively the same,' and would be preempted."[27] Only "editorial and other similar de minimis changes are permitted."[28] DNR marking requirements are neither "editorial" nor otherwise similarly "de minimis."

Conclusion

The DNR marking requirements as they apply to hazardous materials, including hazardous wastes, (1) are not substantively the same as the federal standard; (2) impermissibly discriminate against a subset of hazardous materials; (3) are unreasonably burdensome; and (4) lack any technical or safety justification. As a result, the DNR marking requirements are an obstacle to the accomplishment of the HMTA and the HMRs. The CWTI requests that a binding determination of preemption be issued invalidating the DNR vehicle marking requirements to the extent that hazard-specific lettering is required to be imprinted on both sides of motor vehicles transporting hazardous materials, including hazardous wastes.

Certification

Pursuant to 49 CFR 107.205(a), I hereby certify that a copy of this application has been forwarded with an invitation to submit comments within 45 days to: James Sygo, Chief, Waste Management Division, Michigan Department of Natural Resources, P.O. Box 30241, Lansing, MI 48933.

Respectfully submitted,

Stephen Hansen,

Chairman.

Enclosures

II. Background

The HMTA was enacted in 1975 to give the Department of Transportation greater authority "* * * to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." 49 App. U.S.C. 1801. It replaced a patchwork of State and local laws.

"* * * [U]niformity was the linchpin in the design of [the HMTA]." *Colorado Public Utilities Comm.* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). Unless otherwise authorized by Federal law or unless a waiver of preemption is granted by DOT, the HMTA explicitly preempts "* * *any requirement of a State or political subdivision thereof or Indian tribe * * *" if:

(1) Compliance with both the State or political subdivision or Indian tribe requirement and any requirement of (the HMTA) or of any regulation issued under (the HMTA) is not possible;

(2) The State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of (the HMTA) or the regulations issued under (the HMTA); or

(3) It is preempted under section 105(a)(4) (49 App. U.S.C. 1804(a)(4), describing five "covered subject" areas) or section 105(b) (49 App. U.S.C. 1804(b), dealing with highway routing requirements). 49 App. U.S.C. 1811(a).

With two exceptions, section 1804(a)(4) preempts "* * * any law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or an Indian tribe * * *" which concerns a "covered subject" and "is not substantively the same" as a provision in the HMTA or regulations promulgated pursuant to the HMTA. The two exceptions are State and Indian tribe hazardous materials highway routing requirements governed by 49 App. U.S.C. 1804(b) and requirements "otherwise authorized by Federal law." The "covered subjects" defined in section 1804(a)(4) are the:

(i) Designation, description, and classification of hazardous materials;

(ii) Packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) Preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) Written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; and

(v) Design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

In a final rule published in the **Federal Register** on May 13, 1992 (57 FR 20424, 20428), RSPA defined "substantively the same" to mean "conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted." 49 CFR 107.202(d).

The HMTA provides that any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision, or Indian tribe requirement is preempted by the HMTA. Notice of the application must be published in the **Federal Register**, and the applicant is precluded from seeking judicial relief on the "same or substantially the same issue" of preemption for 180 days after the application, or until the Secretary takes final action on the application, whichever occurs first. 49 App. U.S.C. 1811(c)(1). A party to a preemption determination proceeding may seek judicial review of the determination in U.S. district court within 60 days after the determination becomes final. 49 App. U.S.C. 1811(e).

The Secretary of Transportation has delegated to RSPA the authority to make determinations of preemption, except for those concerning highway routing, which were delegated to the Federal Highway Administration. 49 CFR 1.53(b). RSPA's regulations concerning preemption determinations are set forth at 49 CFR 107.201–107.211 (including amendments of February 28, 1991 (56 FR 8616), April 17, 1991 (56 FR 15510), and May 13, 1992 (57 FR 20424)). Under these regulations, RSPA's Associate Administrator for Hazardous Materials Safety issues preemption determinations. Any person aggrieved by RSPA's decision on an application for a preemption determination may file a petition for reconsideration within 20 days of service of that decision. 49 CFR 107.211(a).

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relations message conveyed by motor carriers that resort to this remedy to the effect that they are attempting to conceal something and therefore must be engaged in illegal activities.

[24] See 40 CFR 258.20(a)(1).

[25] See 57 FR 23291 (June 2, 1992).

[26] See P.L. 101–615, Section 5(e)(2).

[27] See 57 FR 20425 (May 13, 1992).

[28] See 49 CFR 107.202(d).

The decision by RSPA's Associate Administrator for Hazardous Materials Safety becomes RSPA's final decision 20 days after service if no petition for reconsideration is filed within that time; the filing of a petition for reconsideration is not a prerequisite to seeking judicial review under 49 U.S.C. 1811(e). If a petition for reconsideration is filed, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration is RSPA's final agency action. 49 CFR 107.211(d).

In making decisions on applications for preemption determinations, RSPA is guided by the principles and policy set forth in Executive Order No. 12,612, entitled "Federalism" (52 FR 41685 (Oct. 30, 1987)). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. The HMTA contains express provisions, which RSPA has implemented through its regulations.

III. Further Comments

All comments should be limited to the issue of whether Michigan's hazardous materials marking laws and regulations for vehicles used to transport hazardous waste are preempted by the HMTA. Comments should specifically address the "substantively the same," "dual compliance," and "obstacle" tests described in Part II above. Comments should also address the issue of whether Michigan's hazardous materials regulations are "otherwise authorized by Federal law."

Persons intending to comment should review the standards and procedures governing RSPA's consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC, on January 17, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–1778 Filed 1–25–93; 8:45 am]

BILLING CODE 4910–60–M

federal register

Tuesday
January 26, 1993

Part III

Department of Transportation

Research and Special Programs Administration

Hazardous Materials: HASA, Inc.; Application for a Preemption Determination; Notice

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. PDA–7(R); Notice No. 93–3]

Application by HASA, Inc. for a Preemption Determination as to Hazardous Materials-Related Codes Applied by the County of Los Angeles, California, to the Transportation of Hazardous Materials on Private Property

AGENCIES: Research and Special Programs Administration (RSPA) and Federal Railroad Administration (FRA), U.S. Department of Transportation.

ACTION: Public notice and invitation to comment.

SUMMARY: HASA, Inc. (HASA) has applied for an administrative determination as to whether various hazardous materials-related codes of Los Angeles County imposed upon the transportation of hazardous materials on private property owned, leased, or under the control of the consignor, consignee, or transporter of hazardous materials are preempted by the Hazardous Materials Transportation Act (HMTA).

DATES: Comments received on or before March 31, 1993 and rebuttal comments received on or before June 4, 1993 will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, room 8421, 400 Seventh Street SW., Washington, DC 20590–0001 (Tel. No. [202] 366–4453). Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number (PDA–7(R)). Three copies of each should be submitted. In addition, a copy of each comment and each rebuttal comment must also be sent to: (a) Ms. Mary Flynn, Director, Government Relations and Public Affairs, HASA, Inc., 23119 Drayton St., Saugus, CA 91350; and Mr. Larry J. Monteilh, Executive Officer, Board of Supervisors for the County of Los Angeles, 500 West Temple Street, room 383, Los Angeles, CA 90012. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Ms. Flynn and Mr. Monteilh at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: James E. Meason, Attorney, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. [202] 366–4400).

I. HASA's Application for a Preemption Determination

With its December 22, 1992 letter, HASA applied for a determination that various Los Angeles County codes relating to the transportation of hazardous materials on private property owned, leased, or under the control of the consignor, consignee, or transporter of hazardous materials are preempted by the HMTA. The text of HASA's application follows (the appendices to HASA's application are available for examination at, and copies may be obtained at no cost from, RSPA's Dockets Unit at the address and telephone number set forth in **ADDRESSES** above).

Ms. Mary Flynn, Director, Government Affairs and Public Relations, HASA, Inc., 23119 Drayton Street, Santa Clarita, California 91350, 805/259–5848; FAX 805/259–1538

Before the Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration, United States Department of Transportation

HASA, Inc., Applicant; Application for an Administrative Determination Pursuant to 49 U.S.C. 1811(c) and 49 CFR 107.203 et seq. Docket No. ———————

I

This is an application by HASA, Inc., a California corporation, to the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, United States Department of Transportation for an administrative determination pursuant to 49 U.S.C. App. 1811(c)(1) and regulations thereunder promulgated in 49 CFR 107.203 et seq. at to whether sections 2.20.140 through 2.20.170 of part 2, title 2 of the Los Angeles County Code (Los Angeles County Ordinance, "LACoO," No. 90–0109), "LACoC," attached herewith and identified as "Exhibit 1;" Sections 4.108 c. 6.; 80.101, EXCEPTION 1; 80.103 (a), (c), (d), and (e); 80.104 (a), (f) and (g); 80.201; 80.202 (a); 80.202 (b); 80.203; 80.301 (b) (1) and 80.402 (c) (8) (A) of the County of Los Angeles 1990 Fire Code (Title 32 of the LACoC, LACoO No. 90–0110), "Exhibit 2" attached herewith, are pre-empted by Sections 112 (a) (1), (2), and (3) of the Federal Hazardous Materials Transportation Act, as amended by the Hazardous Materials Transportation Uniform Safety Act of 1990," "HMTA," and/or regulation promulgated pursuant thereto at 49 CFR 107.202.

II

The issue presented to the Assistant Administrator is as to whether Federal statute and regulation thereunder are applicable to transportation of hazardous materials, including loading, unloading, and storage incidental thereto, on private property owned, leased and/or under the control of the consignor, consignee, and/or transporter of the hazardous materials shipment.

The Consolidated Fire Protection District of Los Angeles County through its authorized representative, the Los Angeles County Fire Department, alleges and believes that local regulations, i.e., the LACoC, pre-empt the HMTA and regulation thereunder when transportation of hazardous materials, including loading, unloading, and storage incidental thereto, occurs on the private property owned, leased, and/or otherwise under the control of the consignor, consignee, and/or the transporter.

If the LACoC rather than the HMTA and regulation thereunder is applicable to the transportation of hazardous materials, including loading, unloading, and storage incidental thereto, on private property owned, leased, and/or otherwise under the control of the consignor, consignee, and/or transporter, dozens of local and state regulations become applicable, many of which are incompatible with or an obstacle to the accomplishment of the Federal scheme.

The applicant, HASA, Inc., alleges and believes that the HMTA and regulation thereunder is applicable to the transportation of hazardous materials, including loading, unloading, and storage incidental thereto, irrespective of the locale, i.e., public property, public right-of-way, railroad property, other private property, private siding, etc.

This application for an administrative determination of pre-emption is specific to the transportation, including loading, unloading, and storage incidental thereto, of liquefied chlorine in rail road tank cars at the Santa Clarita, California manufacturing facility of HASA, Inc.

HASA, Inc. requests that the Associate Administrator consider, when evaluating this administrative application for pre-emption, transportation, including loading, unloading, and storage incidental thereto of all hazardous materials. We allege and believe that consideration of the larger issue, i.e., transportation of all hazardous materials, is in the public interest. There are several thousand shipments of hazardous materials each and every day within the County of Los Angeles which may be subjected to the regulatory scheme contained in the LACoC. Nationwide, there are 500,000 shipments of hazardous materials each and every day in both inter- and intra-state commerce.

III

The applicant, HASA, Inc., is a California corporation with manufacturing and distribution facilities located in California and in Arizona. We distribute products

through the western United States and, additionally, both in Alaska and in Hawaii. Our California manufacturing facility is located at 23119 Drayton Street; Santa Clarita, California 91350. The city of Santa Clarita is located within the County of Los Angeles and within the Consolidated Fire Protection District of Los Angeles County.

HASA, Inc. manufactures, packages, warehouses, and transports chemical compounds for use in potable and waste water treatment, swimming pool and spa disinfection. etc. Many of these chemicals are classified as hazardous materials in the "Hazardous Materials Table," 49 CFR 172.101 and are, therefore, subject to regulation—with respect to transportation including loading, unloading, and storage incidental thereto—under the HMTA and regulations thereunder promulgated.

IV

HASA, Inc. receives railroad tank cars containing liquefied chlorine from manufacturers engaged in interstate commerce. We unload liquefied chlorine from these railroad tank cars on our private siding adjacent to our facility in Santa Clarita, California. Transportation of liquefied chlorine, including loading, unloading, and storage incidental thereto, at our facility is in accordance with the HMTA, regulations thereunder promulgated at 49 CFR part 174, in accordance with the Chlorine Manual and related pamphlets published by the Chlorine Institute, and in accordance with a specific exemption issued by the Research and Special Programs Administration, "RSPA," E–10552.

V

Santa Clarita is an incorporated city within the County of Los Angeles. Our city does not maintain a "city fire department." Fire protection is provided by the Consolidated Fire Protection District of Los Angeles County, "CFPD/LACo," under contract with the city. Santa Clarita is one of many cities which have contracted with the CFPD/LACo for fire protection services. All contract cities are located within the CFPD/LACo. The CFPD/LACo adopted title 32 of the LACoC (LACoO No. 90–0111) as the fire code for the CFPD/LACo, i.e., the fire code for the County of Los Angeles and the CFPD/LACo are identical.

Title 32 of the Los Angeles County Code was amended by Los Angeles County Ordinance 90–0110, discussed *ante*, and includes adoption by reference with additional amendments of the 1988 edition of the Uniform Fire Code, published jointly by the International Conference of Building Officials and the Western Fire Chiefs Association. Fire protection services for the CFPD/LACo are provided by the Los Angeles County Fire Department.

VI

Over the past year, HASA, Inc. has been inspected numerous times by the county fire department, and as a result of these inspections, subsequently ordered to comply with the regulation contained in the county fire code with respect to "on-site transportation" of hazardous materials. In each and every case—having been inspected and ordered to comply with the county fire code requirements—HASA, Inc. has filed an appeal in a timely manner in accordance with the requirements for filing an administrative appeal as set forth in the applicable county fire code. As of the date of this application for an administrative determination for pre-emption with the Associate Administrator, none of these administrative appeals filed in accordance with our county fire code has been scheduled for hearing, i.e., neither the Board of Appeals of the City Council of the City of Santa Clarita nor the Board of Appeals of the CFPD/LACo has set these matters for hearing.

HASA, Inc. has paid annual fees to the County of Los Angeles since 1990 for "handling" liquefied chlorine in rail road tank cars. These fees are used by the County for enforcement of Chapter 6.95 of the California H&SC, not for purposes related to the transportation of hazardous materials.

VII

HASA, Inc. requests that the Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, United States Department of Transportation, make an administrative determination in accordance with the HMTA and regulations thereunder that sections 2.20.140 through 2.20.170 of title 2 of the LACoC, sections 4.108 c. 6.; 80.101, EXCEPTION 1; 80.103 (a), (c), (d), and (e); 80.104 (a), (f), and (g); 80.201; 80.202 (a); 80.202 (b); 80.203; 80.301(b)(1) and 80.402(c)(8)(A) in title 32 of the LACoC (LACoO No. 90–0110, as adopted by LACoO 90–0111 as the Fire Code for the CFPD/LACo are pre-empted by sections 112(a) (1), (2), and/or (3) of the HMTA, and/or 49 CFR 107.202.

VIII

The text of the LACoC for which a Pre-emption Determination is sought is set our *post*.

2.20.140 Annual Fees to be Paid by Handlers of Hazardous Materials. The annual fee required to be paid to the county by every handler of hazardous materials for the administration and enforcement of the provisions of the Act shall be as follows: . . . . (Note: balance of text appears in "Exhibit 1" attached herewith.)

. . . . and . . . .

2.20.150 Additional Fees—Acutely Hazardous Substances. Every handler of an acutely hazardous material, shall in addition to the fee specified in Section 2.10.140, be required to pay an annual fee to the county for administration and enforcement of acutely hazardous materials registration, risk assessment, and risk mitigation in accordance with compliance under the Act. The fee shall be calculated as follows: . . . . (Note: balance of text appears in "Exhibit 2" attached herewith.)

. . . . and . . . .

2.20.160 Late Submission Fee. A late submission fee shall apply to the filing requirements of both the business plan and inventory and to the AHM registration requirements as follows: . . . . (Note: balance of text appears in "Exhibit 1" attached herewith.)

. . . . and . . . .

2.20.170 Fee Schedule—Annual Adjustment Procedure. Beginning with the 1991–1992 fiscal year, the schedule of fees contained in Section 2.20.140 through 2.20.160 inclusive shall be adjusted annually by the following procedure: . . . . (Note: balance of text appears in "Exhibit 1" attached herewith.)

. . . . and . . . .

Note: The following Sections reference sections in the County of Los Angeles 1990 Fire Code, which consists of the 1988 edition of the Uniform Fire Code as amended by LACoO 90.0110—Title 32 of the LACoC. The numbering system deviates from the system incorporated in the LACoC and is based on the numbering system in the *Uniform Fire Code*.

Section 4.108 c. 6. Compressed Gases. To store, transport on site, dispense, use, or handle at normal temperatures and pressures compressed gases in excess of the following amounts:

Type of gas	Amount
Flammable (except cryogenic fluids and liquefied petroleum gases).	200 cubic feet.
Oxidizing (including oxygen).	500 cubic feet.
Corrosive	Any Amount.
Highly Toxic	Any Amount.
Radioactive	Any Amount.
Reactive (Unstable)	Any Amount.
Inert	6,000 cubic feet.

See Article 74, Article 80, and Article 82.

. . . . and . . . .

Scope

Section 80.101 . . . . The classification system referenced in Division II shall apply to all hazardous materials, including those materials regulated elsewhere in this code.

EXCEPTIONS: 1. The off-site transportation of hazardous materials when in conformance with the Department of Transportation (DOT) regulations.

. . . . and . . . .

Permits

Section 80.103(a) General. No person, firm or corporation shall store, dispense, use, or handle hazardous material in excess of the quantities specified in Section 4.108 unless and until a valid permit has been issued pursuant to this article.

A permit shall be obtained when a material is classified as having more than one hazard category of the quantity limits are exceeded in any category. . . .

(c) Hazardous Materials Business Plan. Each application for a permit required by this article shall include a Hazardous Materials Business Plan (HMBP) in accordance with chapter 2.20 of part 2 of the Los Angeles County Code. Note: Chapter 2.20, Part 2, LACoC is attached herewith as "Exhibit 1."

(d) Hazardous Materials Inventory Statement. Each application for a permit required by this article shall include a Hazardous Materials Inventory Statement (HMIS) in accordance with chapter 2.20 of part 2 of title 2 of the Los Angeles County Code.

(e) Emergency Information. Hazardous Materials Business Plans, Risk Management Prevention Program and Hazardous Materials Inventory Statements shall be posted in an approved location and immediately available to emergency responders. The chief may require that the information be posted at the entrance to the occupancy or property.

. . . . and . . . .

General Requirements

Section 80.104 (a) General. The storage, use, dispensing, and handling of hazardous materials shall be in compliance with the provisions of this article. . . .

(f) Hazardous Materials Business Plan. Every business shall comply with the reporting requirements as set forth in chapter 2.202 of part 2 of title 2 of the Los Angeles County Code.

(g) Risk Management and Prevention Program. Every business shall comply with the requirements as set forth in chapter 2.20 of part 2 of title 2 of the Los Angeles County Code.

. . . . and . . . .

Scope

Section 80.201. For the purposes of this code, hazardous materials shall be divided into hazard categories. The categories include materials regulated under this article and materials regulated elsewhere in this code.

. . . . and . . . .

Hazardous Categories

Section 80.202 (a) Physical Hazards. The materials listed in this section are classified as physical hazards. A material with a primary classification as a physical hazard may also present a health hazard.

1. Explosives and blasting agents, regulated elsewhere in this code.
2. Compressed Gases, regulated in this article and elsewhere in this code.
3. Flammable and combustible liquids regulated elsewhere in this code.
4. Flammable solids.
5. Organic peroxides.
6. Oxidizers.
7. Pyrophoric materials.
8. Unstable (reactive) materials.
9. Water-reactive materials.
10. Cryogenic fluids, regulated under this article and elsewhere in this code.

(b) Health Hazards. The materials listed in this section are classified as health hazards. A material with a primary classification as a health hazard may also present a physical hazard.

1. Highly toxic or toxic materials, including highly toxic or toxic compressed gases.
2. Radioactive materials.
3. Corrosives.
4. Other Health hazards.

and . . . .

Appendix

Section 80.203. Descriptions and examples of materials included in hazard categories are contained in Appendix VI–A.

and

Section 80.301 (b) Containers and Tanks 1 Design and Construction. Containers and tanks shall be designed and constructed in accordance with nationally recognized standards. See Section 2.304 (b). Tank vehicles and railroad tank cars shall not be used as storage tanks. Unloading operations shall be in accordance with Section 79.808.

. . . . and . . . .

80.402(c) (8) Special Requirements for Highly Toxic or Toxic Compressed Gases. A. Gas Cabinets or Local Exhaust. When . . . railroad tank cars regulated by DOT are used out-of-doors, gas cabinets or a locally exhausted enclosure shall be provided. When gas cabinets are provided, the installation shall be in accordance with the provisions of Section 80.303 (a) (6) (B). The required treatment system shall be designed in accordance with the provisions of Section 80.303 (a)(6)(D).

. . . . and . . . .

Appendix VI–A, "Hazardous Materials Classifications." Note: Due to length, Appendix VI–A is incorporated by reference as though it appears in its entirety herein. A copy of the Appendix is attached herewith in the Appendix to this application.

IX

Exception 1, Section 80.101 exempts "off-site transportation of hazardous materials" from regulation in the LACoC. Section 80.103, "Permits," references section 4.108 c. 6. for permit requirements. Section 4.108 c. 6. requires that a permit be obtained for "on-site transportation" of compressed gases in excess of 200—6,000 cubic feet, depending on the gas classification. It is clear that it is the intent of the county fire code that "on-site transportation" is subject to regulation.

When "on-site transportation" is subject to regulation in the county fire code, all of the requirements contained in Article 80, "Hazardous Materials" are applicable to compressed gases. Sections 80.103 (c), (d), and (e) and sections 80.104 (f) and (g) require compliance with chapter 2.20 of title 2 of the LACoC.

Chapter 2.20 of title 2 implements Chapter 6.95 of the California H&SC. The requirements contained in titles 2 and 32 of the LACoC are in addition to and different from requirements contained in the HMTA and regulation thereunder and stand as an obstacle to the accomplishment of the Act. In H.R. Report No. 444, Pt. 1, 101st Congress, 2d Session 34 (1990):

(C)onflicting Federal, State, and local requirements pose potentially serious threats to the safe transportation of hazardous materials. Requiring State and local governments to conform their laws to the HMTA and regulations thereunder with the specific subjects listed in 105 (a) (4) (B) will enhance the safe and efficient transportation of hazardous materials, while better defining the appropriate roles of Federal, State, and local jurisdictions.

HASA, Inc. requests the Associate Administrator compare the requirements set forth in part 2 of title 2 of the LACoC and title 32 of the LACoC, the "fire code" of the CFPD/LACo, as set out *ante*, with the following Federal Statute, regulations promulgated thereunder, previously issued Inconsistency Rulings, Rulings of the Courts, and Exemptions issued by the Administration.

Sections 80.103 (c), (d), and (e) require compliance with Part 2 of title 2 of the LACoC as a condition of obtaining a permit for "on-site" transportation of hazardous materials in excess of the permit quantities listed in section 4.108 of title 32 of the LACoC. Sections 2.20.140 through 2.20.170 of the LACoC provide for establishment and collection of fees for "handlers" of hazardous materials which are paid to the County of Los Angeles for administration and enforcement of chapter 6.95 of the California H&SC. Chapter 6.95 provides *inter alia* regulations for hazardous materials business plans, hazardous materials inventories, and risk management and prevention plans. None of these activities are related to the transportation of hazardous materials.

Article 1 of chapter 6.95 provides requirements for "Business and Area Plans." It is attached herewith and identified as "Exhibit 3." Article 2 of chapter 6.95 provides requirements for "Hazardous Materials Management." It is attached herewith and identified as "Exhibit 4." Regulations and reporting forms to carry out the requirements of chapter 6.95 have been promulgated at 19 California Code of Regulations, "CCR," 2720 *et seq.* These regulations and reporting forms are attached herewith and identified as "Exhibit 5."

The term "handler" is defined at section 2.20.100 of title 2 of the LACoC as follows.

"Handler" means any business which handles a hazardous material or acutely hazardous material, except where all acutely hazardous materials present at the business are handled in accordance with a removal or remedial action taken pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of the Health and Safety Code).

HASA, Inc. alleges and believes that (1) Non-Federal regulation of the "handling" of hazardous materials during transportation, including loading, unloading, and storage incidental thereto is pre-empted by the HMTA and regulation thereunder; and that (2) irrespective of pre-emption issues, the assessment and collection of fees in connection with the transportation of hazardous materials is pre-empted unless and until such fees collected are used for purposes relating to the transportation of hazardous materials.

At 49 CFR 107.202 (a)(2) and (c), "Standards for Determining Pre-emption" we find the following.

(a)(2) * * * (A)ny law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof * * * which concerns the following subjects and which is not substantively the same as any provision of this Act or any regulation under such provision which concerns such subject, is pre-empted: The packing, repacking, *handling*, labeling, marking, and placarding of hazardous materials (Emphasis added).

(c) A State or political subdivision thereof * * * may not levy any fee in connection with the transportation of hazardous materials that is not equitable and not used for purposes related to the transportation of

hazardous materials, including enforcement and the planning, development, and maintenance of a capability for emergency response.

Requirements contained in Chapter 6.95 provide for written notification, recording, and reporting of the unintentional release of hazardous materials. These requirements are pre-empted by 49 CFR 107.202(a)(4).

(a)(4) * * * (A)ny law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof * * * which concerns the following subjects and which is not substantively the same as any provision of this Act or any regulation under such provision which concerns such subject, is pre-empted: * * *. The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials.

The requirement to comply with chapter 2.20 of title 2 of the LACoC is reiterated in title 32 of the LACoC under "General Requirements" at sections 80.104 (a), (f), and (g). It is our understanding that the intent of section 80.103 is to require that businesses produce a HMBP, HMIS, and RMPP in accordance with part 2 of title 2 of the LACoC prior to commencing operations. The intent of section 80.104 is to require existing businesses, which already are operating under a permit from the fire department, to comply with part 2 of title 2 of the LACoC.

We allege and believe that compliance with sections 4.108 c. 6., 80.103 (c), (d), and (e), and 80.104 (a), (f), and (g) with respect to "on-site" transportation of hazardous materials is also pre-empted by 49 CFR 107.202(b)(2).

(b)(2) * * * (A)ny requirement of a State or political subdivision * * * is pre-empted if (t)he State or political subdivision * * * requirement as applied or enforced creates an obstacle to the accomplishment and execution of the Act or regulations issued under the Act * * *.

Simllar permit requirements are found in section 17.68.150 of the San Jose Municipal Code. In Inconsistency Ruling IR–28, City of San Jose, California; Restrictions on Storage of Hazardous Materials (55 FR 8884, March 8, 1990), the Director opined at 8890:

The type of unfettered discretion asserted by the City in this language with respect to approval or disapproval of storage of hazardous materials incidental to the transportation thereof is inconsistent with the HMTA and the HMR * * *.

(A) State or local permitting system which prohibits or requires certain hazardous materials transportation activities depending upon whether a permit has been issued (regardless of whether the activity is in compliance with the HMR), applies to selected hazardous materials * * * and contains considerable discretion as to permit issuance is

"Cumulatively, these factors constitute unauthorized prior restraints on shipments of * * * hazardous materials that are presumptively safe based on their compliance with Federal Regulations.

In *Southern Pacific Transportation Company* v. *Public Service Commission of Nevada* C.A. 9 (Nev) 1990, 909 F 2d. 352, State of Nevada regulations requiring rail carriers to obtain an annual permit prior to loading, unloading, and transferring or storing hazardous material on railroad property within the state were found to be pre-empted by the HMTA and regulations thereunder promulgated.

As a condition for obtaining a permit for "on-site transportation" of hazardous materials, the applicant must submit a Hazardous Materials Business Plan, a Hazardous Materials Inventory Statement, Emergency Information, comply with all of the additional requirements contained in Article 80, "Hazardous Materials," title 32, LACoC, section 79.808 of title 32, LACoC, and with chapter 2.20, part 2, LACoC which mandates compliance with Chapter 6.95 of the California H&SC.

The HMBP requires *inter alia* specific information about the facility's operation, including land uses on adjacent property, a detailed schematic of the facility, specific information about each hazardous material located on the premises, submission of a HMIS, employee training and information, emergency response information. See 19 CCR 2720, "Proposed Area Plans," in "Exhibit 5." The HMIS required as part of the HMBP, requires a list of all hazardous materials located, stored, and/or handled at the facility, quantity ranges, classification of hazard, days on-site, etc. See 19 CCR 2730, "Optional Model Inventory Reporting Form," in Exhibit 5.

In IR–28 at 8891, the Administrator opined:

Information and documentation requirements as prerequisites to hazardous materials transportation have been considered on many prior occasions. Where such requirements exceeded Federal requirements, they have been found to create potential delay or diversion of hazardous materials transportation, to constitute an obstacle to execution of the HMTA and the HMR, and thus to be inconsistent * * *.

The issue was succinctly addressed in IR–19 * * *. In summary, the HMTA and HMR provide sufficient information and documentation requirements for the safe transportation of hazardous materials; state and local requirements in excess of them constitute obstacles to implementation of the HMTA and the HMR and are thus inconsistent with them.

The Administrator opined in IR–28 at 8890:

* * * the City's information requirements are inconsistent with the HMR insofar as they require emergency response information as a prerequisite to the loading, unloading and storage of hazardous materials incidental to their transportation * * *.

RSPA's emergency response information requirements (Note: Emergency Response Communication Standard, 49 CFR 172.201(d)) for hazardous materials transportation, including the loading, unloading, or storage incidental to such transportation exclusively occupy the field.

Sections 80.101, 80.201, 80.202, 80.203, and Appendix VI–A address classification of hazardous materials. The classification system is different from and in addition to the classification system promulgated by RSPA pursuant to the HMTA.

Presumptively, this classification system applies to "on-site transportation" of hazardous materials, and is not applicable to "off-site transportation" of hazardous materials. At 49 CFR 107.202(a)(1), in pertinent part:

(a)(1) (A)ny law, regulation, order ruling, provision, or other requirement of a State or political subdivision thereof * * * which concerns the following subjects and which is not substantively the same as any provision of this Act or any regulation under such provision which concerns such subject, is pre-empted: (t)he designation, description, and classification of hazardous materials.

Examples of consistency problems between the county fire code and 49 CFR 172.101, "Hazardous Materials Table," include chlorine and anhydrous ammonia. Under the DOT classification system chlorine is "2.3 Poisonous Gas." Anhydrous ammonia (domestic transportation) is "Nonflammable Gas." Under the county fire code classification system chlorine is "Oxidizer, Toxic, and Corrosive Gas." Anhydrous ammonia is "Corrosive Gas."

Section 80.301(b) *inter alia* provides as follows.

Tank vehicles and railroad tank cars shall not be used as storage tanks. Unloading operations shall be accordance with Section 79.808.

There is no provision in either the HMTA or regulations thereunder (Part 174, "Carriage by Rail," and part 177, "Carriage by Public Highway") which prohibits storage—incidental to transportation or otherwise—of hazardous materials in either tank vehicle or in tank cars. The county fire code clearly prohibits storage in cargo tanks and tank cars at places where and at times when such storage is permitted by the HMTA and regulations thereunder. Section 174.204(a)(2) specifically permits storage of specified gases on both private and carrier track. In pertinent part:

* * * such cars may be stored on a private track (see 171.8 of this subchapter) or on carrier tracks designated by the carrier for such storage.

Prohibition of storage in cargo tanks and tank trucks is an obstacle to the transportation of hazardous materials. At 49 CFR 107.202(b) in pertinent part:

(b)(2) * * * and requirement of a State or political subdivision * * * is pre-empted if— * * *. (t)he State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of the Act or a regulation issued under the Act.

The issue is further complicated by the requirement that unloading operations be in accordance with Section 79.808 of the county fire code. Section 79.808 is attached herewith and identified as "Exhibit 6." Section 79.808 addresses unloading operations for flammable and combustible liquids. Many of the requirements in section 79.808 are not only inappropriate but unsafe for unloading compressed and liquefied gases, including chlorine. Examples include the requirement to transfer only to an approved atmospheric tank or approved portable tank (Section 79.808 (b)), prohibition against remaining on a siding for more than 24 hours while

connected (Section 79.808(c)), and the attendance requirement (Section 79.808(c)).

Compressed gases cannot be unloaded into a tank "open to the atmosphere," i.e., they will no longer be "contained" or "compressed." Liquefied gases, including chlorine, are unloaded as liquefied gases at a finite rate to prevent the liquefied gas remaining in the tank car from freezing as heat is withdrawn from the liquid by expanding gas. With Respect to chlorine, the normal unloading rate is 3,600—7,200 pounds per hour. This rate translates into 25—50 hours uninterrupted, i.e., continuous unloading, or 3⅛–6¼ days for single shifts of 8 hours per day.

Section 79.808 (c) requires the physical presence of a person while cargo is discharged. The requirement is similar to but not identical with the requirement set out at 49 CFR 174.67 (i). Section (j) requires that all connections to the tank car must be disconnected if unloading is halted for any reason. Ostensible, the car will be "stored incidental to transportation" until the unloading process is continued, an activity prohibited by the county fire code. There are no time limitations for tank car unloading of compressed gases at either 49 CFR 174.67 or 49 CFR Subpart F. We request that the Associate Administrator compare these requirements in section 79.808 of the county fire coda with the regulations at 49 CFR 174.67 and with the requirements in E–10552.

E–10552 provides an exemption from certain of the requirements at 49 CFR 174.67 (i) and (j) under specified conditions. The "unloader" need not be physically present where the unloading process is monitored. Section 79.808 of the county fire code is in direct conflict with this exception, i.e., the "unloader" must be present at all times during the unloading process. The fire department opines that E–10552 is not applicable where unloading is "on-site." Section 174.204, "Tank Car Delivery of Gases, Including Cryogenic Liquids," requires that tank cars be "unloaded on a private track" where private track is available. Any recipient of a rail road tank car containing compressed gases, which has private track available "on-site," must unload on private track. Under the county fire code scheme, such unloading constitutes "on-site" transportation and is subject to regulation thereunder. HASA, Inc. has a private siding on our property where chlorine is "unloaded." Therefore, all unloading of chlorine at our facility constitutes "on-site" transportation. The fire department alleges and believes that the county fire code pre-empts the HMTA and regulation thereunder, i.e., unloading at the HASA, Inc. siding constitutes "on-site transportation" of compressed gasses.

Section 80.402(c)(8) provides that "railroad tank cars regulated by DOT are used out-of-doors, gas cabinets or a locally exhausted enclosure shall be provided." "Use" is synonymous with "loading" and "unloading," and is defined at section 80.102(b) as follows:

USE (material) is the placing in action or making available for service by opening or connecting anything utilized for confinement of material whether a solid, liquid, or gas.

Section 80.402(c)(8) also references construction requirements for gas cabinets and provides that a treatment system be provided for gas discharged from the gas cabinet.

Under section 80.402(c)(8) requirements, railroad tank cars are enclosed within a sealed chamber connected to a treatment system designed to process the entire contents of the railroad tank car to ½ the established IDLH prior to discharge to the environment. We ask the Assistant Administrator to compare these requirements with the general unloading requirements for tank cars set out at 49 CFR 174.67 and the specific unloading requirements for compressed gases in Subpart F, "Detailed Requirements for Gases."

X

HASA, Inc. alleges and believes that the fire code is pre-empted with respect to the transportation of hazardous materials, specifically liquefied chlorine, including both loading and unloading and storage incidental thereto, by the HMTA and regulations thereunder.

The county fire code differentiates between "off-site" and "on-site" transportation of compressed gases. Section 80.101, EXCEPTION 1 exempts "off-site" transportation of compressed gases from county fire code regulation. However, "on-site" transportation not only is subject to county fire code regulation, but requires that the "on-site" transportation facility obtain a permit from the fire department prior to conducting "on-site transportation" activities, including both loading and unloading and storage incidental thereto. To obtain a permit from the fire department for "on-site" transportation, the facility must comply with the applicable requirements contained in the county fire code, title 32 of the LACoC; part 2 of title 2 of the LACoC, and by reference therein, chapter 6.95 of the California H&SC.

If Federal statute and regulation thereunder apply to both "off-site" and "on-site" transportation, as HASA, Inc. alleges and believes, none of the requirements in the county fire code is applicable to unloading of and storage incidental to such unloading of liquefied chlorine from rail road tank cars at our Santa Clarita facility.

With respect to our operations in Santa Clarita, California, aside from the requirement to obtain a fire department permit for "on-site transportation," compliance includes construction of a gas-tight structure in accordance with Section 80.303(a)(6)(B) of the county fire code, completely enclosing railroad tank cars while they are unloaded, construction of a treatment system in accordance with section 80.303(a)(6)(D) with the capacity to process 90 tons of chlorine gas, and dozens of additional requirements in Articles 79 and 80 of title 32 ad chapter 2.20 of part 2 of title 2 of the LACoC.

Construction requirements for the containment structure include operation at negative pressure in relation to the surrounding area, self-closing, limited-access ports or noncombustible windows to give access to equipment and controls, connection to a treatment system, self-closing doors, and fabrication from 12 gauge steel.

The treatment system construction requirements include the requirement to provide "treatment" for the "largest * * * tank utilized," or in our case for 90 tons of chlorine gas. "Treatment" reduces the concentration of toxic gases to one-half the IDLH at the point of discharge to the atmosphere. See section 80.303(a)(6)(D)(iii) in the county fire code. The IDLH for chlorine is 30 ppm. A discharge at 15 ppm (one-half the IDLH) is impractical. Chlorine can be detected by its physiological warning properties (odor and color) at 0.6–1.5 ppm in air. A discharge at 15 ppm would cause panic in any populated area.

There are only two practical ways to treat chlorine gas: incineration or reaction with dilute sodium hydroxide solution to form household bleach. There is virtually no chance that an incinerator of this capacity could be permitted within the Southern California Air Quality Management District, which includes Los Angeles County. Chemical treatment requires 1½ pounds of caustic soda, 1 gallon of water, and approximately 10 pounds of ice (or equivalent) for each pound of chlorine processed. For each 90 ton tank car in "use" we would have to maintain on site 125 tons of sodium hydroxide, 90,000 gallons of water, and 900 tons of ice (or equivalent).

Cost estimates for construction of the structure and the treatment system range from $1MM–2.5MM, just for our site for unloading a single tank car of liquefied chlorine. The county fire code regulation is applicable to all toxic and highly toxic compressed gases at every use site in the county. Implemented county-wide, the transportation of compressed gases in railroad tank cars will come to an immediate halt.

Railroad tank cars containing liquefied chlorine range in size from 45 to 90 tons capacity. Liquefied chlorine is always unloaded for repackaging into cylinders, portable tanks, or cargo tanks or to process. Liquefied chlorine contained in railroad tank cars is never unloaded to stationary storage facilities. It follows that if "on-site transportation" is regulated under the county fire code, all unloading operations of liquefied chlorine from rail road tank cars are subject to regulation under the county fire code.

The fire code system for classification of hazardous materials is in addition to and different from the Federal system. As the situation presents itself, hazardous materials are classified in accordance with Federal requirements for "off-site transportation" and in accordance with the county fire code for "on-site transportation."

XI

HASA, Inc. requests an administrative determination (1) that regulation of the transportation of chlorine in rail road tank cars, including loading, unloading, and storage incidental thereto at our facility in Santa Clarita, California, is exclusive to the Federal government pursuant to the *HMTA* and regulation thereunder; (2) that the term "transportation" as defined in the *HMTA*

includes both "on-site" and "off-site" transportation of hazardous materials in commerce including loading, unloading, and storage incidental thereto; and (3) that Sections 2.20.140 through 2.20.170 of Part 2, Title 2; Sections 4.108 c. 6., 80.101, EXCEPTION 1; 80.103 (a), (c), (d), (e); 80.103 (a), (f), (g); 80.201, 80.202 (a) and (b); 80.303 (b) (l), 80.402 (c) (8) (A); and Appendix VI–A of Title 32 of the *LACoC* are pre-empted by the *HMTA* and regulation promulgated thereunder with respect to both "off-site" and "on-site" transportation of chlorine in rail road tank cars, including loading, unloading, and storage incidental thereto.

Executed on December 22, 1992 at Santa Clarita, California.

HASA, Inc. by Ms. Mary Flynn, Director, Government Affairs and Public Relations

II. Background

The HMTA was enacted in 1975 to give the Department of Transportation greater authority "* * * to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." 49 App. U.S.C. 1801. It replaced a patchwork of State and local laws.

"* * * [U]niformity was the linchpin in the design of [the HMTA]." *Colorado Public Utilities Comm.* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). Unless otherwise authorized by Federal law or unless a waiver of preemption is granted by DOT, the HMTA explicitly preempts "* * * any requirement of a State or political subdivision thereof or Indian tribe * * *" if:

(1) Compliance with both the State or political subdivision or Indian tribe requirement and any requirement of (the HMTA) or of any regulation issued under (the HMTA) is not possible;

(2) The State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of (the HMTA) or the regulations issued under (the HMTA); or

(3) It is preempted under section 105(a)(4) (49 App. U.S.C. 1804(a)(4), describing five "covered subject" areas) or section 105(b) (49 App. U.S.C. 1804(b), dealing with highway routing requirements). 49 App. U.S.C. 1811(a).

With two exceptions, section 1804(a)(4) preempts "* * * any law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or an Indian tribe * * *" which concerns a "covered subject" and "is not substantively the same" as a provision in the HMTA or regulations promulgated pursuant to the HMTA. The two exceptions are State and Indian tribe hazardous materials highway routing requirements governed by 49 App. U.S.C. 1804(b) and requirements "otherwise authorized by Federal law." The "covered subjects" defined in section 1804(a)(4) are the:

(i) Designation, description, and classification of hazardous materials;

(ii) Packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(iii) Preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;

(iv) Written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; and

(v) Design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

In a final rule published in the **Federal Register** on May 13, 1992 (57 FR 20424, 20428), RSPA defined "substantively the same" to mean "conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted." 49 CFR 107.202(d).

The HMTA provides that any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision, or Indian tribe requirement is preempted by the HMTA. Notice of the application must be published in the **Federal Register**, and the applicant is precluded from seeking judicial relief on the "same or substantially the same issue" of preemption for 180 days after the application, or until the Secretary takes final action on the application, whichever occurs first. 49 App. U.S.C. 1811(c)(1). A party to a preemption determination proceeding may seek judicial review of the determination in U.S. district court within 60 days after the determination becomes final. 49 App. U.S.C. 1811(e).

The Secretary of Transportation has delegated to RSPA the authority to make determinations of preemption, except for those concerning highway routing, which were delegated to the Federal Highway Administration. 49 CFR 1.53(b). RSPA's regulations concerning preemption determinations are set forth at 49 CFR 107.201–107.211 (including amendments of February 28, 1991 (56 FR 8616), April 17, 1991 (56 FR 15510), and May 13, 1992 (57 FR 20424)). Under these regulations, RSPA's Associate Administrator for Hazardous Materials Safety issues preemption determinations. Any person aggrieved by RSPA's decision on an application for a preemption determination may file a petition for reconsideration within 20 days of service of that decision. 49 CFR 107.211(a).

The decision by RSPA's Associate Administrator for Hazardous Materials Safety becomes RSPA's final decision 20 days after service if no petition for reconsideration is filed within that time; the filing of a petition for reconsideration is not a prerequisite to seeking judicial review under 49 U.S.C. 1811(e). If a petition for reconsideration is filed, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration is RSPA's final agency action. 49 CFR 107.211(d).

In making decisions on applications for preemption determinations, RSPA is guided by the principles and policy set forth in Executive Order No. 12,612, entitled "Federalism" (52 FR 41685 (Oct. 30, 1987)). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. The HMTA contains express provisions, which RSPA has implemented through its regulations.

III. Further Comments

All comments should be limited to the issue of whether the Los Angeles County codes relating to the transportation of hazardous materials on private property owned, leased, or under the control of the consignor, consignee, or transporter of hazardous materials are preempted by the HMTA. Comments should specifically address the "substantively the same," "dual compliance," and "obstacle" tests described in Part II above. Comments should also address the issue of whether Los Angeles County's hazardous materials-related ordinances and codes are "otherwise authorized by Federal law."

Persons intending to comment should review the standards and procedures governing RSPA's consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC on January 17, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–1777 Filed 1–25–93, 8:45 am]

BILLING CODE 4910–60–M

federal register

Tuesday
January 26, 1993

Part IV

Environmental Protection Agency

40 CFR Part 761
Storage of Polychlorinated Biphenyls (PCBs) for Purposes of Disposal; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPPTS–62122; FRL 4174–9]

RIn 2070–AC01

Polychlorinated Biphenyls (PCBs); Storage for Disposal of PCBs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend one of the criteria which serves as a basis for EPA granting written, final approval to engage in the commercial storage of PCB waste. Specifically, EPA is proposing this amendment to clarify that the existence of two or more related civil violations or a single environmental criminal conviction in an applicant's environmental compliance history will not automatically lead to denial of an application for a PCB commercial storage approval.

DATES: Written comments must be submitted on or before [insert date 45 days after date of publication in the **Federal Register**]. Any comment received after the close of the comment period will be marked "late" and may not receive full consideration.

ADDRESSES: Three copies of comments identified with the docket number (OPPTS–62122) must be submitted to: TSCA Public Docket Office (TS–793), Office of Pollution Prevention and Toxics, Rm. NE-G004, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A public record has been established and is available in the TSCA Public Docket Office at the above address from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551, FAX: (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION:

Electronic Availability: This document is available as an electronic file on *The Federal Bulletin Board* at 9:00 a.m. on the date of publication in the **Federal Register.** By modem dial (202) 512-1387 or call (202) 512-1530 for disks or paper copies. This file is also available in Postscript, Wordperfect and ASCII.

This proposed rule is issued pursuant to section 6(e)(1)(A) of the Toxic Substances Control Act, which authorizes the Environmental Protection Agency to promulgate rules to prescribe methods for the disposal of PCBs.

I. Background

On December 21, 1989, EPA published in the **Federal Register** a final rule amending its regulations for the disposal and storage of PCBs (Polychlorinated Biphenyls; Notification and Manifesting for PCB Waste Activities (54 FR 52716)). Among other things, the rule required commercial storers of PCB waste to obtain approval from EPA to operate a commercial storage facility. On March 5, 1990, the National Solid Wastes Management Association and Chemical Waste Management, Inc. (petitioners) filed a joint petition for review of the PCB Notification and Manifesting Rule in the United States Court of Appeals for the District of Columbia Circuit (Docket No. 90–1127). Petitioners raised a number of interpretive issues with respect to the 1989 rule, all of which have now been resolved. On , EPA and the petitioners filed a Settlement Agreement with the court whereby petitioners agreed to dismiss with prejudice their petition if EPA adopts a final rule in substantial conformity with the proposal described in this notice. EPA invites all interested parties to comment in writing on the proposal contained herein.

II. Proposed Amendment to the PCB Notification and Manifesting Rule

Section 761.65(d)(2) establishes seven criteria which an applicant must meet before EPA grants it a commercial storage approval for PCB waste. The final criteria (environmental compliance history) provides that there is sufficient basis to deny an application "whenever in the judgment of the Regional Administrator (or Director, Chemical Management Division (CMD)) two or more related civil violations or a single environmental criminal conviction evidence a pattern or practice of noncompliance that demonstrate the applicant's unwillingness or inability to achieve and maintain its operations in a compliance status."

In the context of their joint petition for review of the PCB Notification and Manifesting Rule, petitioners raised the concern that § 761.65(d)(2)(vii) might be interpreted to mean that a compliance history containing two civil violations or one criminal conviction would automatically result in a determination that an applicant for a commercial storage approval was unwilling or unable to maintain its operations in a compliance status. The petitioners believed that the language in the regulation regarding specific numbers of past civil (two) and criminal (one) violations might be understood by EPA, citizens' groups or reviewing courts as establishing absolute, numerical approval criteria applicable to any commercial storage applicant, regardless of the nature of the violations, the size of its business or the length of time it has been engaged in waste handling activities.

In promulgating the PCB Notification and Manifesting Rule, EPA did not intend that the mere existence in an applicant's compliance history of two civil violations or one criminal conviction would automatically demonstrate the existence of a pattern or practice of noncompliance sufficient to justify denial of a PCB commercial storage approval. In the Agency's view, the critical determination to be made is not merely the number of violations an applicant may have incurred, but what the violations and the circumstances surrounding them indicate about the character and fitness of the applicant to engage in commercial storage activities. The existence of multiple past violations might very well indicate that an applicant is incapable of complying with the PCB regulations. Indeed, the existence of just one or two civil or criminal violations may (depending on their nature and circumstances) also indicate an unwillingness or inability to comply with the law; however, it need not always do so.

Having considered the matter further, the Agency has decided that inclusion in § 761.65(d)(2)(vii) of references to specific numbers of past violations is not necessary to achieve its goal of ensuring that PCB storage approval applications not be granted when an applicant's compliance history indicates an unwillingness or inability to achieve and maintain compliance. EPA has also decided to change the phrase "shall be deemed to constitute" to "may be deemed to constitute." Accordingly, EPA is proposing to amend § 761.65(d)(2)(vii) to read as follows:

> The environmental compliance history of the applicant, its principals, and its key employees may be deemed to constitute a sufficient basis for denial of approval whenever in the judgment of the Regional Administrator (or Director, CMD) that history evidences a pattern or practice of noncompliance that demonstrates the applicant's unwillingness or inability to achieve and maintain its operations in compliance with the regulations.

Each approval decision will entail a case-by-case evaluation of all the circumstances of an applicant's environmental compliance history. EPA will consider a number of factors in

determining whether the existence of a certain number of prior violations evidences a pattern or practice of noncompliance sufficient to warrant denial of a commercial storage approval application. Those factors will include, but are not necessarily limited to: the size of the applicant; the extent of the applicant's services; the length of time the applicant has been in business; the nature and details of the acts attributed to the applicant; the degree of culpability of the applicant; the applicant's cooperation with State or Federal agencies involved in an investigation of the underlying incidents; and self-policing or internal education programs established by the applicant to prevent such incidents.

III. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, issued February 17, 1982, EPA must judge whether a rule is a "major rule" and therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as the term is defined in section 1(b) of the Executive Order.

EPA has concluded that the proposed rule is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be less than $100 million; it will not cause a major increase in costs or prices for any section of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of U.S. enterprises to compete with foreign enterprises in domestic or foreign markets. This proposed rule was submitted to the Office of Management and Budget (OMB) prior to publication as required by the Executive Order.

B. Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (15 U.S.C. 8091 et seq. Pub. L. 96–534. September 19, 1980), requires EPA to prepare and make available for comment a regulatory flexibility analysis in connection with rulemaking. The initial regulatory flexibility analysis must describe the impact of the proposed rule on small business entities. If, however, a regulation will not have a significant impact on a substantial number of small entities, no such regulatory impact analysis is required. This proposed rule is clarifying in nature, i.e., it neither imposes nor removes a burden on small business. Therefore, EPA has determined that the proposed amendment will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information collection requests by Federal Agencies. EPA has determined that nothing in this rule constitutes a "collection of information" as defined at 44 U.S.C. 3502(4).

IV. Public Record

In accordance with the requirements of section 19(a)(3) of TSCA, EPA is issuing the following list of documents, which constitutes the record of this proposed rulemaking. This record includes basic information considered by the Agency in developing this proposal. The official records of previous PCB rulemaking are incorporated by reference as they exist in the TSCA Public Docket. A full list of these materials is available for inspection and copying in the TSCA Public Docket Office. However, any Confidential Business Information (CBI) that is a part of the record for this rulemaking is not available for public review. A public version of the record, from which CBI has been excluded, is available for inspection.

A. Previous Rulemaking Records

1. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Disposal and Marking Rule," Docket No. OPTS– 68005, 43 FR 7150, February 17, 1978.

2. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions Rule, "44 FR 31514, May 31, 1979.

3. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Process, Distribution in Commerce, and Use Prohibitions: Use in Electrical Equipment," Docket No. OPTS–62015, 47 FR 37342, August 25, 1982.

4. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions: Exclusions, Exemptions and Use Authorizations," Docket No. OPTS–62032A, 49 FR 28172, July 10, 1984.

5. Official Rulemaking Record from "Polychlorinated Biphenyls; Notification and Manifesting for PCB Waste Activities," Docket No. OPTS–62059B, 54 FR 52176, December 21, 1989.

B. Reference Documents

1. In the United States Court of Appeals for the District of Columbia Circuit. National Solid Wastes Management Association and Chemical Waste Management, Inc., Petitioners, v. United States Environmental Protection Agency, Respondent: Joint Petition for Review-Case No. 90–1127, (March 5, 1990):3pp. Submitted by J.B. Molloy, et al of Piper Marbury, counsel.

2. In the United States Court of Appeals for the District of Columbia Circuit. National Solid Wastes Management Association and Chemical Waste Management, Inc., Petitioners, v. U. S. Environmental Protection Agency, Respondent. Settlement Agreement-Case No. 90–1127, (November 20, 1992): 4pp.

3. Chemical Waste Management, Inc. Letter from G.R. Siedor to C. Elkins, USEPA. Subject: New PCB Rules, promulgated in 54 FR 52716, (Feb. 23, 1990):4pp.

4. USEPA, OTS. Letter from J.J. Merenda to G.R. Siedor of Chemical Waste Management, Inc. Subject: Response to Feb. 23, 1990 Letter, (June 8, 1990):3pp.

Lists of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: January 17, 1993.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed to amend 40 CFR Chapter I, part 761 as follows:

PART 761—[AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614 and 2616.

2. In § 761.65, by revising paragraph (d)(2)(vii) to read as follows:

§ 761.65 Storage for Disposal.

* * * * *

(d) * * *

(2) * * *

(vii) The environmental compliance history of the applicant, its principals, and its key employees may be deemed to constitute a sufficient basis for denial of approval whenever in the judgment of the Regional Administrator (or Director, CMD) that history evidences a pattern or practice of noncompliance that demonstrates the applicant's unwillingness or inability to achieve

and maintain compliance with the regulations.

* * * * *

[FR Doc. 93–1675 Filed 1–25–93; 8:45 am]
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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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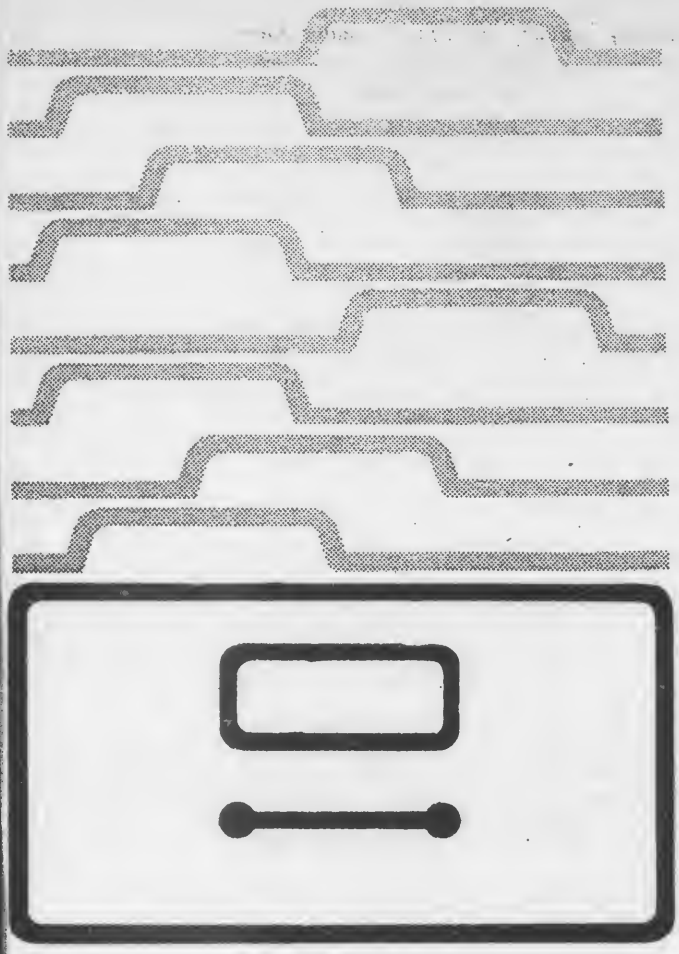

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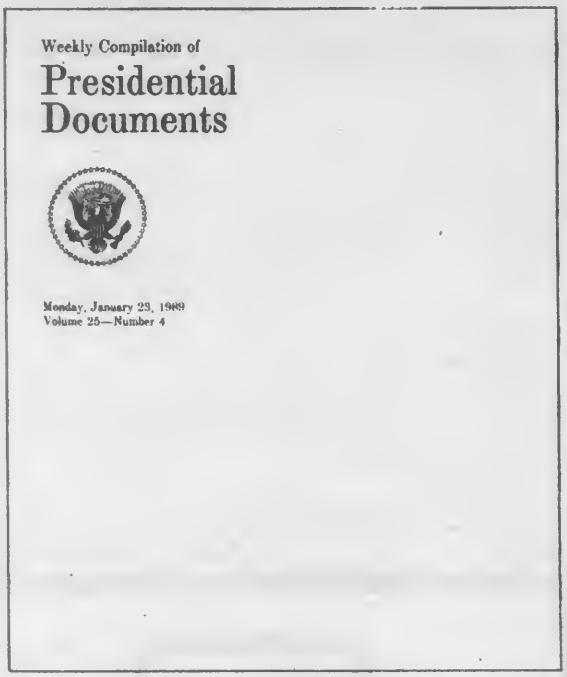

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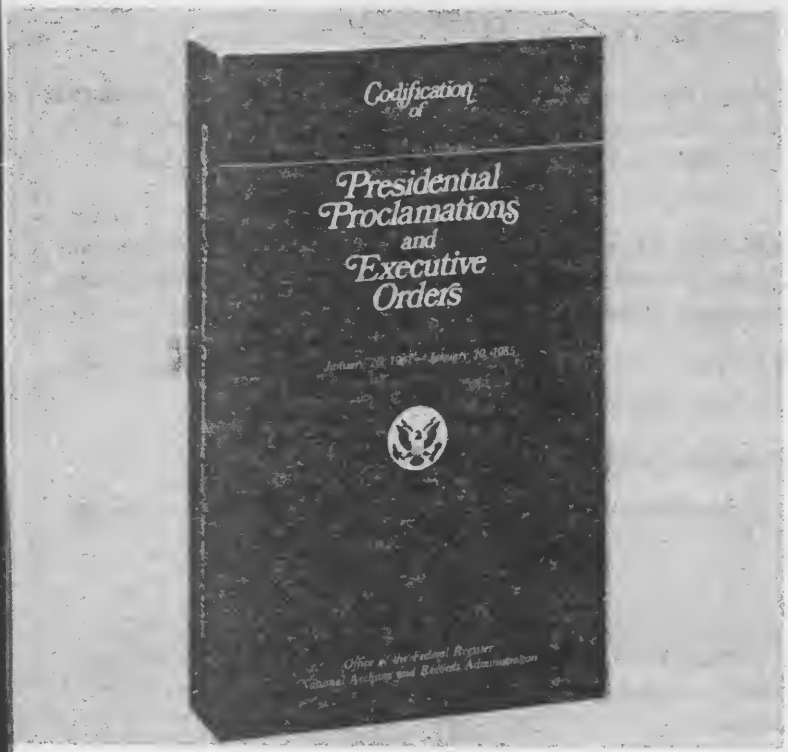

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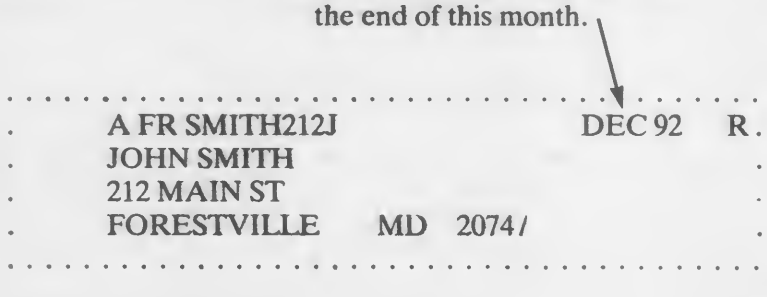

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