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Tuesday
April 12, 1994

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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.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: April 20 at 9:00 am
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

BOSTON, MA

WHEN: May 3 at 9:00 am
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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.

Federal Register
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Presidential Documents

Title 3—

The President

Memorandum of March 29, 1994

Delegation of Authority Regarding Russian Assistance to Cuba

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate the functions and authorities vested in the President pursuant to section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Titles I–V of Public Law 103–87) to the Secretary of State, who is authorized to redelegate these functions and authorities consistent with applicable law.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 29, 1994.

[FR Doc. 94–8922
Filed 4–8–94; 3:59 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 94–20 of March 30, 1994

Military Drawdown for Israel

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to section 599B of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513), as amended by Public Law 102–145, as amended, by section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102–391), and by section 543 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Public Law 103–87 (the "Act"), I hereby:

(1) direct the additional drawdown for Israel of an estimated $161.9 million in defense articles from the stocks of the Department of Defense and defense services of the Department of Defense, as appropriate;

(2) delegate to the Secretary of Defense the notification and reporting functions contained in subsections 599B(c) and (d) of the Act.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 30, 1994.

[FR Doc. 94–8919
Filed 4–8–94; 4:00 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 94–21 of March 30, 1994

Drawdown of Commodities and Services From the Inventory and Resources of the Department of Defense To Support the Establishment of the Palestinian Police Force

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 552(c)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2348a(c)(2) (the "Act"), I hereby determine that:

(1) as a result of an unforeseen emergency, the provision of assistance under Chapter 6 of Part II of the Act in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States; and

(2) such unforeseen emergency requires the immediate provision of assistance under Chapter 6 of Part II of the Act.

I therefore direct the drawdown of commodities and services from the inventory and resources of the Department of Defense of an aggregate value not to exceed $4 million to Israel for use by the Palestinian police pursuant to the Palestinian-Israeli Declaration of Principles of September 13, 1993, and its implementing agreements.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, March 30, 1994.

[FR Doc. 94–8920
Filed 4–8–94; 4:01 pm]
Billing code 4710–10–M

Presidential Documents

Memorandum of March 30, 1994

Delegation of Authority With Respect to Reports to the Congress Concerning Progress Toward Nonproliferation in South Asia

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in the President by section 620F(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2376(c)).

Any report prepared pursuant to this delegation of authority shall be coordinated with other agencies, as appropriate, and the Assistant to the President for National Security Affairs, before submission to the Congress.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, March 30, 1994.

[FR Doc. 94–8921
Filed 4–8–94; 4:02 pm]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 94–22 of April 1, 1994

Certifications for Major Narcotics Producing and Transit Countries

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 490(b)(1)(A) of the Foreign Assistance Act of 1961, as amended ("the Act"), I hereby determine and certify that the following major drug producing and/or major drug transit countries/dependent territories have cooperated fully with the United States, or taken adequate steps on their own, to achieve full compliance with the goals and objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

The Bahamas, Belize, Brazil, China, Colombia, Ecuador, Guatemala, Hong Kong, India, Jamaica, Malaysia, Mexico, Pakistan, Paraguay, Thailand, and Venezuela.

By virtue of the authority vested in me by section 490(b)(1)(B) of the Act, I hereby determine that it is in the vital national interests of the United States to certify the following countries:

Afghanistan, Bolivia, Laos, Lebanon, Panama, and Peru.

Information on these countries as required under section 490(b)(3) of the Act is attached.

I have determined that the following major producing and/or major transit countries do not meet the standards set forth in section 490(b):

Burma, Iran, Nigeria, and Syria.

In making these determinations, I have considered the factors set forth in section 490 of the Act, based on the information contained in the International Narcotics Control Strategy Report of 1994. Because the performance of these countries varies, I have attached an explanatory statement in each case.

You are hereby authorized and directed to report this determination to the Congress immediately and to publish it in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, April 1, 1994.

[FR Doc. 94–8926
Filed 4–8–94; 4:03 pm]
Billing code 4710–10–M

STATEMENT OF EXPLANATION

THE BAHAMAS

Bahamian and joint US-Bahamian drug enforcement initiatives over the past ten years have significantly reduced the volume of drugs moving through the country. Nevertheless, in 1993, The Bahamas remained a major transit country for US-bound Colombian cocaine. The Ingraham government, which came into office in August 1992, voiced its early commitment to maintain and enhance cooperation with the USG in counternarcotics. The USG seeks full cooperation with the Government of the Commonwealth of The Bahamas (GCOB) on the complete range of counternarcotics efforts.

The Bahamas is a party to the 1988 UN Convention and has instituted laws and procedures consistent with the Convention's goals and objectives, with the exception of adequate money laundering controls. As a financial services center protected by bank secrecy, The Bahamas is vulnerable to money laundering. The USG agrees that cash money laundering in The Bahamas is reduced from previous higher levels. The GCOB has adopted some money laundering controls. While respecting Bahamian concern about remaining competitive as a financial services center, the USG believes, however, that newer, sophisticated money laundering techniques will require additional controls, including mandatory reporting of suspicious transactions. The GCOB cooperated with the Financial Action Task Force, which sponsored a money laundering seminar in Nassau in October 1993 for central bank representatives and bank regulators from member countries of the Caribbean Financial Action Task Force steering committee and Bahamian bankers.

The GCOB works to accomplish the goals and objectives of the US-Bahamas bilateral narcotics control agreement. The GCOB cooperates fully with the USG in the extensive Operation Bahamas and Turks and Caicos (OPBAT) interdiction program. In the future, the USG will encourage The Bahamas to assume more responsibility for interdiction activities. GCOB cooperation with the USG via a number of agreements and arrangements to facilitate maritime counternarcotics operations has also been excellent. The USG will be looking to The Bahamas for better coordination on extradition matters.

Although as a matter of policy the GCOB does not support or facilitate narcotics-related corruption, in 1994, the USG will be reviewing the GCOB's willingness to deal forcefully with narcotics-related corruption, particularly to the extent it may occur at senior levels. In the past, the GCOB has taken measures to punish public narcotics-related corruption, though there were no such cases in 1993.

STATEMENT OF EXPLANATION

BRAZIL

Brazil is a significant transit country for cocaine enroute from Bolivia, Peru and Colombia to the United States and Europe. It both manufactures and imports large amounts of the chemicals used in cocaine production, and these chemicals are being diverted illegally to the Andean countries. Traffickers appear to be making more use of Brazilian transit routes and are establishing cocaine refineries there.

President Franco declared that 1993 would be the "year to fight narcotics." With substantial USG help, the Federal Police had a highly successful year in interdicting cocaine shipments. They seized 7.7 mt, up from just 2.8 mt in 1992, and contributed information which enabled Spanish authorities to seize another 2 mt. Their success is an indication of both their increased ability to carry out investigations and the rise in the quantity of cocaine transiting Brazil. The GOB also extradited three Americans charged with counternarcotics offenses.

In 1993, the GOB created a new anti-drug secretariat within the Ministry of Justice, an important step toward developing a comprehensive national strategy. However, the scope of its policy-making authority is still unclear.

The GOB makes ample use of its asset seizure laws. The Federal Drug Council (CONFEN) is responsible for administering the funds generated by asset seizure. In some instances, judges assign seized goods, such as vehicles, directly to the police.

In 1993, Brazil's National Defense Council approved construction of a radar system that would be able to detect trafficker aircraft in the western Amazon region of the country.

The GOB has not yet acted to increase the operating budget of the Federal Police counterdrug unit. The agency remains severely undermanned and underfunded, though the government held the first entrance exam for police agents in eight years in November. Legislation which would substantially improve counternarcotics enforcement continues to languish in congressional committee, where it has been since its introduction in 1991.

As a matter of policy and practice, the GOB does not condone illicit production or distribution of drugs, or the laundering of drug money. We know of no senior GOB officials engaged in or encouraging such activity. Low-level officials

have been effectively prosecuted for drug-related corruption. The GOB is meeting the objectives of its bilateral agreement with the USG, which calls for the GOB to improve the effectiveness of its Federal Police. The GOB is making adequate progress toward full compliance with the UN Convention in the areas of extradition, asset forfeiture and overall law enforcement. The government still needs to improve their effectiveness by passing pending legislation that would update its narcotics laws and facilitate police investigations and prosecutions. It also needs to develop and execute a comprehensive national strategy to confront its escalating drug problem and to dedicate the resources necessary to carry out that strategy.

STATEMENT OF EXPLANATION

CHINA

The leaders of the People's Republic of China (PRC) have taken a tough stance against narcotics trafficking and use. China is a major export route for Golden Triangle heroin and, with drug addiction on the rise, an increasing consumer of narcotics as well, while growing investment increases opportunities for money laundering. China has launched a major anti-corruption campaign which may aid narcotics control efforts. The PRC takes a strong stand against official corruption, and has laws dealing specifically with officials found guilty of involvement with the narcotics trade.

China has met or is seeking to meet the goals and objectives of the 1988 UN Convention, to which it is a party, by enhancing law enforcement measures and increasing public education and international cooperation. It has helped expand regional counternarcotics cooperation via a 1993 Memorandum of Understanding signed with Burma, Laos, Thailand and the UNDCP.

Although China expresses a desire for increased counternarcotics cooperation with the United States, the level of cooperation remains restricted by the still-unresolved case of smuggler Wang Zongxiao, a Chinese drug trafficker who requested political asylum in the United States in 1990 after being sent to the United States by Chinese authorities to testify in a narcotics prosecution. However, DEA has been able to continue liaison and training with PRC authorities, and some Chinese counternarcotics officials indicate that the newest US court ruling prohibiting the USG from returning Wang to China should not stand in the way of increased bilateral cooperation.

STATEMENT OF EXPLANATION

COLOMBIA

Colombia is the world's leading supplier of cocaine hydrochloride to international markets. Drug traffickers continue to rely on bulk supplies of cocaine base from Peru and Bolivia, but also use limited quantities of base from Colombia's own estimated 37,100 ha of low-yield coca. The Government of Colombia (GOC) cooperates with the United States on a broad range of counternarcotics activities. However, GOC efforts to arrest, prosecute and seize the assets of major drug kingpins have had mixed results. On December 2, 1993, Pablo Escobar was killed in a shootout with police and military forces, culminating a costly 18-month manhunt following his escape from a Medellin prison known for its lax security. The Cali cartel has now become the predominant trafficking organization following a series of successful steps against the Medellin cartel.

The GOC works closely with the USG to accomplish the goals and objectives of our bilateral assistance agreement, including eradication of drug crops, interdiction of illegal drugs and chemicals diverted for the production of illegal drugs, and the building up of the Colombian drug enforcement infrastructure. The GOC initiated action against the "corporate" infrastructure of the Cali cartel in late 1991, undertaking several takedown operations designed to seize records, assets and financial data. Colombian security forces conduct operations to disrupt air trafficking and deny sectors of the country to traffickers. However, by the end of 1993, no major Cali traffickers were in custody.

The GOC is pursuing means to strengthen its judicial framework to arrest and prosecute drug traffickers. The office of the Prosecutor General was established and personnel were being trained in newly developed legal procedures. However, some developments, including the revision of the criminal procedures code, could portend a less ambitious campaign against the Cali traffickers. These developments are being monitored carefully. In mid-1993, the Colombian Congress voted to approve the 1988 UN Convention; ratification, however, is contingent upon a favorable review (pending) by the constitutional court followed by deposit with the UN of the instrument of ratification. As Colombian actions against drug cartel infrastructure and eradication efforts indicate, the GOC is generally meeting the goals and objectives of the Convention. The Attorney General created the office of a special prosecutor to pursue reported cases of corruption, and investigations have begun on several cases. The government does not promote or condone corruption, but there are few examples of sentences which include incarceration.

The GOC record on interdiction and eradication is mixed. Cocaine hydrochloride seizures decreased 30 percent (21.8 mt) in 1993, but cocaine base seizures increased 50 percent (9.7 mt) and marijuana seizures increased 60 percent (549 mt). GOC eradication efforts are brighter. Ten thousand hectares of opium poppy were eradicated in 1993, and over 22,000 hectares have been eradicated since February 1992.

STATEMENT OF EXPLANATION

ECUADOR

In 1993, the Government of Ecuador (GOE) strengthened its counternarcotics relationship with the USG. The GOE enacted domestic legislation, including an anti-money laundering agreement, to implement the provisions of the 1988 UN Convention and OAS model regulations, thus bringing it closer to meeting fully the goals and objectives of the UN Convention. It began to use this agreement to assist the police in conducting more effective money laundering investigations. The GOE and USG made progress on negotiating an asset sharing agreement (the GOE submitted a first draft), and it accomplished the major goals of our bilateral assistance agreement, including beginning the prosecution of major figures from the Reyes Torres Organization and building institutional law enforcement capabilities. However, the GOE will further succeed when the government takes additional steps to implement fully its national counternarcotics strategy.

The GOE appointed a prosecutor for the case of incarcerated alleged drug kingpin Jorge Hugo Reyes Torres (tied to the Cali cartel) who led the largest narcotics trafficking organization in Ecuador, the Jorge Reyes Torres Organization (JRTO). The GOE has expanded this investigation to include other suspected money laundering organizations.

As a matter of government policy, the GOE does not encourage or facilitate the illicit production or distribution of drugs or the laundering of money. The GOE has taken steps to counter corruption, including foiling two attempts by Reyes Torres to escape from prison and arresting a judge for accepting bribes. Nonetheless, corruption remains a serious problem as demonstrated by the languishing JRTO prosecution.

In December 1993, the police and military conducted a law enforcement riverine operation with limited Colombian support along the Putumayo River on the Ecuadoran/Colombian border. Colombian guerrillas and traffickers attacked and killed eleven police and soldiers, suggesting that the GOE operation disrupted the movement of narcotics along the river and other narcotics-related activities in that region. Ecuador requires greater cooperation with Colombia and development of its own forces in remote areas to conduct more successful riverine operations along the border.

Ecuador dismantled several transportation and money laundering groups tied to the Cali cartel and participated with its neighbors and the USG in multi-national military efforts to curb drug trafficking. Ecuador has continued its participation in a regional air interdiction program and in joint counter-drug simulation exercises with the USG and Colombia. The GOE Air Force provided airlift support for counternarcotics activities.

Ecuador eradicated coca in the mid-1980s and found and destroyed in 1992 several hectares of opium poppy near the Colombian border (and one hectare in 1993). Ecuador seized several kilos of seeds for the cultivation of opium poppy.

STATEMENT OF EXPLANATION

GUATEMALA

During 1993, the Government of Guatemala (GOG) gave strong policy support to drug control and cooperated effectively with the United States and other countries. Guatemalan law enforcement agencies have worked closely with the DEA and the State Department Bureau of International Narcotics Matters in Operation CADENCE, an enhanced cocaine interdiction program combining the assets and intelligence of various USG agencies. The Guatemalan Treasury Police, with US support, also eradicated two-thirds of the country's planted opium poppy hectarage.

The administration of President De Leon (which took office after a constitutional crisis in June) signed a far-reaching bilateral drug-control agreement, committing the Guatemalan government to continued budgetary, policy and manpower support for joint counternarcotics activities. The GOG has strived to meet the goals of that agreement, although it has not always received budgetary support from the Guatemalan Congress. De Leon and his predecessor authorized night operations for CADENCE, which, along with a flexible basing strategy initiated in May, resulted in a greater success rate against air smuggling into Guatemala.

The De Leon Administration has taken a strong stance against public corruption and has prosecuted officials of the prior government. Corruption in the court system remains a serious problem.

DEA worked closely with the Guatemalan Treasury Police in conducting cocaine investigations, including two important operations against major Colombian drug trafficking organizations.

The US Government has had mixed results in its attempts to extradite accused drug traffickers from Guatemala. There was only one successful extradition in 1993.

Guatemala is a party to the 1988 UN Convention; its performance in law enforcement, drug awareness and crop eradication was consistent with the Convention's goals and objectives. Shortcomings in the judicial area are the subject of a reform effort which will require close watching in 1994. Guatemala also needs to take action to institute controls on potential money laundering and diversion of precursor and essential chemicals.

STATEMENT OF EXPLANATION

HONG KONG

Despite laudable enforcement efforts by local authorities, Hong Kong remains a significant center for the transshipment of heroin from Southeast Asia to the United States and elsewhere. Traffickers use the territory to arrange deals and launder the proceeds from these and other illicit transactions. Although Hong Kong is not a party to the 1988 UN Convention, the territory's counternarcotics efforts effectively comply with most of the goals and objectives of the Convention. The Hong Kong Government (HKG) is now drafting a revised drug trafficking ordinance to conform more fully with the recommendations of the Financial Action Task Force, in which it is an active participant.

Hong Kong and the United States have a bilateral narcotics agreement which facilitates asset freezing and forfeiture. Hong Kong has a comprehensive anti-corruption statute which is actively enforced. Bilateral cooperation between USG law enforcement agencies and their HKG counterparts is excellent. Asset seizures in response to US civil or criminal forfeiture requests continue to increase. The Hong Kong Government is consistently responsive to US extradition applications.

STATEMENT OF EXPLANATION

INDIA

India is a transit route for heroin and other illegal opium derivatives from nearby producing countries. Other important drug control problems are diversion of legally produced opium for pharmaceuticals to illicit channels, illegal cultivation and illicit export of essential and precursor chemicals.

The Government of India (GOI) cooperates well with the United States on individual cases of trafficking and, in 1993, significantly increased its efforts to curtail diversion from licit cultivation. Inter alia, it again raised the minimum yield farmers must tender to the government to retain opium poppy growing licenses, reduced the number of growers, began to provide financial incentives to farmers who exceed the minimum yield, computerized record-keeping, began payment to farmers by check rather than cash to discourage corruption, and upgraded vats for opium gum storage to thwart theft. Further, the area under licit poppy cultivation has been reduced by about 80 percent, from 66,000 ha in 1978 to just over 13,000 ha in 1993. Despite these steps, some farmers do not sell their entire crop to the GOI as required by law and illegally sell from a few grams to several kilograms of opium to traffickers for as much as several hundred times the GOI purchase price. While there are no reliable figures on the extent of this diversion and unsubstantiated estimates vary widely, the total may be as much as 30 percent. In addition, there is some illicit cultivation in the hills of the northeast and east. There are continuing reports of corruption among GOI officials, but the USG is unaware of any senior government official who encourages or facilitates trafficking or money laundering.

In 1993, the Ministry of Finance Revenue Secretary assumed the role of senior narcotics coordinator, thus raising counternarcotics to the highest levels of government. Though seizure and arrest statistics remained about the same over 1992, more than six times as much illicit opium poppy cultivations were eradicated. India held its first bilateral narcotics talks with Burma, resumed the narcotics dialogue with Pakistan after a hiatus of several years, signed a narcotics agreement with Zambia and became a party to the South Asian Association for Regional Cooperation Narcotics Convention. Another important development was the government's extension of regulations controlling the sale and possession of acetic anhydride, the precursor chemical needed to make heroin, to the entire country; previously these controls were exercised only along the Pakistan/India border.

India's considerable narcotics control efforts in 1993 lead the USG to believe that the GOI is making progress in meeting the goals and objectives of the 1988 UN Convention as well as the objectives contained in the 1993 bilateral narcotics control agreement under which India received modest USG drug control assistance. Though additional steps must be taken to further control diversion from licit production, the GOI has also made a strong effort to implement the majority of recommendations contained in the DEA-State Department 1993 report on licit production, has reduced licit opium acreage and maintained appropriately low levels of stockpiles, and seeks to eliminate illegal production.

STATEMENT OF EXPLANATION

JAMAICA

Jamaica is used for transshipment of cocaine from South America to the United States. It is also a major producer and exporter of marijuana.

Full Jamaican cooperation with DEA and other law enforcement agencies resulted in increased cocaine and marijuana seizures during 1993 and the arrest of 73 suspected drug traffickers, 61 percent of whom were Class I or II violators by DEA criteria. The Government of Jamaica (GOJ) appointed a new police commissioner who has moved visibly and forcefully to rid the police force of a number of corrupt officers. An Assistant Superintendent of Police, previously acquitted of a charge of accepting bribes and providing protection to a marijuana-trafficking ring, in 1993 was demoted and placed on leave. The GOJ requested and received USG assistance in providing integrity training to Jamaican customs officers. No senior GOJ official has been officially charged with engaging in the production or distribution of drugs or money laundering.

A modern extradition treaty between the United States and Jamaica entered into force in July 1991. The GOJ has become more responsive to USG extradition requests, including those related to narcotics offenses. Jamaica is now one of the USG's most active extradition partners in the region.

In 1993, the GOJ generally accomplished the goals in the US-Jamaica bilateral counternarcotics agreement -- those goals being eradication, interdiction and demand reduction -- although eradication of marijuana fell short of the projected level. The GOJ blamed the shortfall on increased difficulty in eradicating due to the remote locations of widely dispersed, small plots. The GOJ needs to intensify its eradication efforts.

As demonstrated by the actions discussed above, in many areas Jamaica has taken actions consistent with the goals and objectives of the 1988 UN Convention. The GOJ has not yet ratified either the 1988 Convention or the US-Jamaica mutual legal assistance treaty (MLAT), signed in 1989, but it took some steps during 1993 in that direction. Asset seizure and forfeiture legislation is before Parliament but was not passed in 1993, contrary to GOJ expectations. The GOJ expects it will be passed in early 1994. Money laundering legislation has been drafted and is under review by a select ministry committee. The GOJ needs to push forward more firmly on this legislation in 1994 so that it can ratify and effectively implement the UN Convention. Strong GOJ action is also needed on the legislation required for Jamaica to ratify the US/Jamaican MLAT, ratified by the United States in 1992, on which GOJ progress has also been slow.

STATEMENT OF EXPLANATION

MALAYSIA

Malaysia is an important consumer and transit point for Golden Triangle heroin, some of which is also processed in the country from imported opium or derivatives. Traffickers smuggle heroin base into Malaysia from Burma and Thailand and convert it to heroin no. 3 for local consumption; heroin no. 4 from Burma and Thailand transits Malaysia enroute to markets in the United States, Australia and Europe.

While low-level corruption facilitates persistent drug trafficking and abuse, Malaysia pursues aggressive law enforcement efforts under one of the most severe drug laws in the world. The Government of Malaysia (GOM) recognizes the seriousness of the narcotics threat domestically and internationally, and conducts a serious, well-funded and well-administered anti-narcotics program, which includes law enforcement, primary prevention, treatment and education.

Malaysia ratified the 1988 UN Convention in May 1993, and the Convention entered into force for Malaysia in September 1993. Although it has not yet completely met all the objectives of the Convention, Malaysia has been drafting appropriate implementing legislation, in most cases to augment existing laws.

Malaysia and the United States have an established history of anti-narcotics cooperation. During 1993, the USG and GOM cooperated in conducting demand reduction and drug law enforcement training programs. Having arrested a major Burmese drug trafficker at the USG's request in 1992, the GOM assisted efforts to have him expelled to a neighboring country and ultimately into US custody after an extradition case failed and was dismissed in January 1993.

STATEMENT OF EXPLANATION

MEXICO

The United States Government and the Government of Mexico (GOM) maintained close, effective counternarcotics cooperation in 1993, despite lingering tensions over the Alvarez Machain case and the issue of transborder abductions.

Mexico continued its vigorous and comprehensive campaign against production, trafficking and abuse of illegal drugs, consistent with the goals and objectives of the 1988 UN Convention. During 1993, President Salinas moved against official corruption by appointing Jorge Carpizo McGregor, respected Chairman of the National Human Rights Commission, as Attorney General. Carpizo's investigations led to the firing of eight commanders for "loss of confidence," and corruption charges against three judges in Hermosillo and a former Supreme Court Justice. (Carpizo moved to another ministerial post in January 1994.) Nevertheless, official corruption remains a persistent problem, particularly at middle and lower levels of the Mexican government.

In August, Salinas established the National Drug Control Institute to coordinate all GOM anti-drug efforts and activities, encompassing eradication, interdiction and the Center for Drug Control Planning. In December, Salinas announced a renewed commitment to drug control, calling for greater domestic and international action, and full respect for law and civil liberties.

New Mexican legislation has increased civil penalties for money laundering; money launderers convicted under Mexico's fiscal/tax code can receive a penalty of three to nine years' imprisonment. The GOM seized 46 mt of cocaine, 50 kg of heroin, and 495 mt of marijuana in 1993, and the USG estimates that Mexico effectively eradicated approximately 7,000 ha of opium poppy and 12,200 ha of marijuana.

Mexico and the United States are working together to better coordinate regional and hemispheric responses to the drug threat. On January 1, 1993, Mexico assumed fully the costs of counternarcotics programs previously supported by US international narcotics control funds. Future USG support will concentrate on specialized training and technical support, much of it paid for by the GOM. During 1993, Mexico abided fully by the terms of bilateral counter-drug cooperation agreements.

Despite these successes, illicit drug crop cultivation has spread to new and more remote areas. South American cocaine traffickers have taken evasive measures to avoid detection, and the flow of illegal drugs from Mexico to the United States remains undiminished. Mexico's revitalized economy, unregulated money exchange houses, and lack of reporting requirements for large money movements make it an attractive venue for money laundering. Also, its extensive industrial base and large domestic chemical industry make control of precursor chemicals very difficult.

STATEMENT OF EXPLANATION

PAKISTAN

Pakistan is both a producer and an important transit country for opiates destined for international drug markets. Laboratories in Pakistan's Northwest Frontier Province process opium grown there and in neighboring Afghanistan. The USG estimates that about one-fifth of the heroin consumed in the United States originates in Southwest Asia, much of it produced in illegal labs in Pakistan. According to DEA, money laundering occurs in Pakistan but few details are known since there are few effective controls on monetary transactions.

The draft Five Year Plan for 1993-1998, including its chapter on narcotics, made no progress toward passage. Comprehensive legislation to bring Pakistan into conformity with the 1988 UN Convention also did not move forward. The Government of Pakistan (GOP) initiated prosecution of only one major trafficker in 1993 and little progress was made on several other major ongoing cases.

The GOP caretaker government, which held office from July to mid-October, undertook significant anti-narcotics initiatives including the lowering by temporary ordinance of the minimum sentence which triggers asset forfeiture and the appointment of a senior Army officer to head the Anti-Narcotics Task Force. The caretaker government also prevented the election of reputed narcotics traffickers to federal legislative seats and revived the anti-narcotics dialogue with India. Opium and heroin seizures by law enforcement agencies went up nearly 50 percent in 1993 as compared to 1992, and the estimated harvestable opium poppy acreage and potential opium production declined by 25 and 20 percent, respectively.

Pakistan extradited six of 21 drug-related fugitives requested by the United States. Seven others were in custody pending completion of the appeals process. Finally, the GOP reported it had eliminated 13 heroin processing labs, though this measure did not visibly affect heroin production. Steps taken by the GOP interim government in 1993 contributed to fulfillment of the goals and objectives of the bilateral narcotics agreement and the 1988 UN Convention. There are continuing reports of drug-related corruption at various levels of the GOP, but no senior GOP official has ever been indicted for narcotics-related corruption.

The current government headed by Prime Minister Benazir Bhutto, elected in October 1993, has affirmed its commitment to counternarcotics and has declared its intention of making changes in legislation that would affect drug asset seizure and the status of the tribal areas. The USG encourages the new government to take these steps quickly, as well as other key initiatives such as the prosecution of major traffickers, destruction of heroin labs and regional counternarcotics cooperation, to significantly reduce the country's drug problem.

STATEMENT OF EXPLANATION

PARAGUAY

Paraguay is a transit route for Andean cocaine shipped to Brazil, Argentina and Europe and possibly onward to the United States. Marijuana is produced in significant quantities in the northeastern region of the country, but there is no evidence that it reaches the United States. The country's diverse and growing financial sector provides potential for money laundering.

President Juan Carlos Wasmosy, who took office on August 15, 1993, as Paraguay's first democratically-elected civilian President, committed his government to combatting narcotics trafficking. He set the curbing of corruption and drug trafficking as his administration's top priority. The President took several initial steps to fulfill that commitment, including cooperation on regional counternarcotics enforcement operations. In his first five months in office, President Wasmosy authorized the staging of surveillance aircraft, signed a financial information exchange agreement, and submitted to congress the country's first domestic money laundering legislation.

During the past year, SENAD (the anti-drug secretariat) moved to improve the Paraguayan government's narcotics enforcement posture. SENAD worked closely with the USG to revamp the organization and better the efficiency of SENAD and its enforcement arm, DINAR. SENAD also established a financial investigations unit and created a joint DINAR/Customs task force for the new container port at Villeta. SENAD ended unauthorized and unconventional "controlled deliveries" to Europe and also opened investigations into three cases involving possible high-level protection of narcotics trafficking.

The Government of Paraguay is making progress toward the goals and objectives of the 1988 UN Convention, but needs to strengthen its overall law enforcement performance and to pass money laundering and chemical control legislation in order to improve their effectiveness. The USG remains concerned about suggestions of official corruption in Paraguay and will further pursue this issue during 1994.

STATEMENT OF EXPLANATION

THAILAND

Thailand is still the primary conduit for heroin from the Golden Triangle sold in the United States, but is no longer a primary producer of opiates for the international market. In 1993, Thailand increased its resources devoted to narcotics interdiction, public education, and drug treatment. It sought regional cooperation with Laos and Burma, worked well with Malaysia, and cooperated actively with US law enforcement agencies. Some police counternarcotics functions have improved through a recent reorganization. The United States and Thailand have an extradition treaty, although extradition of Thai nationals is discretionary. The United States and Thailand exchanged instruments of ratification of a mutual legal assistance treaty in 1993.

Nonetheless, progress in major cases still depended largely on USG initiation and direction, and use of legal remedies was slow. For example, after many years of USG pressure, Thailand passed narcotics conspiracy and forfeiture laws in 1991; cases under the assets seizure law are in progress, but none has concluded. Widespread police and military corruption, expanding narcotics trade with Burma, and the involvement of influential Thai and Sino-Thai private citizens and government officials undermine the effectiveness of law enforcement counternarcotics units.

Money laundering increased as Thailand became a more significant financial center, but the government has not enacted money laundering legislation. Obstacles included the narcotics involvement of some politicians and the banking industry's concern. Elements of the Thai military and police maintain contacts with the Shan United Army (SUA) (or Mong Tai Army), which operates in Burma near the Thai border. They also tolerate arms and precursor chemical sales to the SUA and some other trafficking groups, as well as the licit trade which sustains their illicit activities. Thailand is not a party to the 1988 UN Convention.

STATEMENT OF EXPLANATION

VENEZUELA

Venezuela is a major transit country for narcotics destined for the United States and Europe and chemicals diverted to Colombia for use in cocaine processing. It is also a haven for money laundering. Corruption, aggravated by narcotics traffickers and money launderers, poses a threat to Venezuela's fragile democratic institutions. Traffickers and insurgent groups from Colombia have penetrated Venezuela's porous borders. Although it is not a source country for narcotics, some cultivation of marijuana and coca occurs near its western border with Colombia. Venezuela must vigorously confront the trafficker threat with more thorough banking and legal reform, more comprehensive policy tools, tougher interdiction actions, and tighter border controls.

Pervasive corruption and money laundering seriously hinder effective law enforcement activities against narcotics trafficking. The Government of Venezuela (GOV) took measures to stem corruption by replacing officials who were considered corrupt in its police and military organizations. The GOV enacted a law criminalizing money laundering in 1993 which made possible the arrest and indictment of several money launderers, including an alleged money laundering kingpin who is tied to the Cali cartel. The GOV also partially dismantled a money laundering organization headed by another major money launderer. Venezuelan judges and prosecutors have participated in anti-corruption seminars.

The USG has renewed a collaborative relationship with the National Guard following major personnel changes in the organization's leadership. However, drug seizures declined overall in 1993 compared to the previous year. The GOV cooperated with the USG in fulfilling the obligations of the bilateral assistance agreements, including enhancing the size and anti-drug mandate of the judicial police, cooperating with USG authorities to arrest money launderers and seize assets and initiating two projects with the Venezuelan Coast Guard (coastal interdiction) and the Marines (chemical diversion control). To increase seizures and drug prosecutions, Venezuela's new President, Rafael Caldera, should create a national strategy and a unified operations command.

Venezuela is a party to the 1988 UN Convention and has signed annual narcotics control agreements with the USG since 1987. It has implemented in law and practice the major goals of the 1988 UN Convention, including implementing money laundering legislation and controls, facilitating mutual legal assistance with the USG involving the arrest and prosecution of drug traffickers and strengthening its law enforcement efforts. The GOV implemented a maritime cooperation agreement with the USG and is developing a chemical control policy consistent with the guidelines of the UN Convention and a bilateral agreement. However, certain chemicals are still uncontrolled.

NATIONAL INTEREST JUSTIFICATION

AFGHANISTAN

Afghanistan is the world's second largest producer of opium after Burma. According to USG estimates, cultivated opium poppy acreage in Afghanistan in 1993 increased by 8.3 percent, to 21,000 ha with a potential yield of 684 mt of opium. If all of this opium were refined, it would yield about 68 mt of heroin.

About 20 percent of the heroin consumed in the United States now appears to come from Southwest Asia, particularly Afghanistan and Pakistan. Most of the heroin exported from the region goes to Europe.

Since the end of the Soviet occupation in 1989, the Government of Afghanistan (GOA) has publicly stated its opposition to drug trafficking and abuse. However, persistent failure to achieve an overall political settlement continues to deny the GAO control over much of the country and has prevented it from taking effective concrete measures against the illegal narcotics trade. For the same reason, Afghanistan has made no significant progress in implementing the provisions of the 1988 UN Convention, which it ratified in February 1992. We have no information on countercorruption efforts.

The USG has official contacts with the government in Kabul in accord with efforts to promote a political settlement and a stable government. In the absence of a bilateral counter-narcotics agreement, the USG funds modest pilot drug control projects through UNDCP which seek to lay the groundwork for drug control in Afghanistan where regional commanders are committed to this endeavor. However, lack of counternarcotics progress means that the USG cannot grant full certification for Afghanistan. Because of the history of US involvement with Afghanistan, we have a vital national interest in promoting political reconciliation and governmental stability, progress toward which would be undermined or made impossible by the restrictions required by denial of certification. Furthermore, humanitarian aid would be affected by decertification. As political stability is critical to narcotics control, the vital national interests of the United States that would be placed at risk by denial of certification exceed even the risks posed to the USG's vital national interest by Afghanistan's failure to take adequate steps to control narcotics.

NATIONAL INTEREST JUSTIFICATION

BOLIVIA

Bolivia is the world's second largest producer of coca leaf behind Peru and the second largest producer of finished cocaine behind Colombia. Most Bolivian cocaine is destined ultimately for the United States. Bolivia continues to make progress in areas of narcotics control, notably law enforcement, investigations and interdiction. In 1993, Government of Bolivia (GOB) forces dismantled four trafficking organizations and seized more than 12 mt of cocaine base and cocaine hydrochloride. Bolivian police planned and conducted more investigations and drug raids without DEA participation than in previous years. This is a positive sign of development of the Bolivian police.

In mid-1993, President Gonzalo Sanchez de Lozada took office after a democratic election process and proposed a series of initiatives which included improving the performance of government, combatting official corruption, and ending illicit coca cultivation in Bolivia through economic development. With some genuine successes, such as the initiation of impeachment proceedings against corrupt Supreme Court Justices and re-configuring the Executive Branch, President Sanchez de Lozada has demonstrated his resolve to reach his stated goals.

Coca eradication in 1993 under both the Paz Zamora and Sanchez de Lozada governments was almost exclusively limited to efforts to encourage farmers not to grow coca by providing economic incentives to shift to other crops. The GOB failed to meet eradication goals established in bilateral aid agreements with the USG, eradicating less than half the hectarage targeted for destruction in 1993. The GOB failed in 1991 and 1992 to meet eradication goals set for those years as well.

The GOB did not extradite persons for drug trafficking offenses in 1993. The Bolivian Supreme Court, with growing evidence supporting corruption charges against some of its members, failed to process extradition requests under the existing bilateral extradition treaty/1988 Convention framework. The GOB, for its part, has not signed a new extradition treaty with the United States, which was negotiated in 1990.

The GOB's failure to take adequate steps on eradication and extradition constitutes a failure to cooperate fully with the United States, or take adequate steps on its own to achieve full compliance with the 1988 UN Convention. Moreover, such shortcomings constitute a failure to meet the goals of bilateral agreements with the United States.

Since Bolivia is the second-largest cocaine producer, it is a vital national interest of the United States to maintain and increase the level of cooperation of the GOB on counternarcotics issues. Termination of bilateral and multilateral development bank assistance would have an extremely deleterious effect on the Bolivian economy; it inevitably would reduce the resources available to the GOB to combat narcotics trafficking and would foster conditions in which more Bolivians would be prone to engage in illicit coca cultivation and trafficking. As the World Bank and the Inter-American Development Bank are Bolivia's largest aid donors, USG opposition to loans to Bolivia in those fora would result in strident calls on the GOB to cease its counternarcotics cooperation with the USG. Moreover, economic instability could lead to a loss of confidence throughout the country and thereby serve to undermine Bolivia's fledgling democratic institutions. Preserving and promoting democracy in Bolivia is in the US national interest of seeking democracy throughout the Western Hemisphere. Should Bolivia's current democratic government fall, it could well be followed by an authoritarian regime in which narcotics traffickers gain a strong foothold.

While in 1993 the GOB did not meet the standard for full certification, its cooperation nonetheless was extensive. The risks posed to vital US national interests from the possible consequences of terminating US assistance, as noted above, greatly outweigh the risks posed by the lack of total GOB cooperation on counternarcotics.

NATIONAL INTEREST JUSTIFICATION

LAOS

Laos' estimated opium production declined 22 percent in 1993 from 1992, although this was principally due to adverse weather conditions. While total crop reduction since initiation of USG- and UNDCP-funded rural development/opium replacement programs in 1989 exceeds 50 percent and hectarage has declined 37 percent, that decline stopped in 1993, suggesting a need for increased Government of Laos (GOL) efforts to discourage production.

Narcotics-related arrests and seizures increased during the past year, with both highland and lowland Lao arrested on charges involving opium, heroin and marijuana. After much delay, the police counternarcotics unit established with US encouragement by the GOL Council of Ministers in August 1992 is only beginning to function. Much of its attention, however, appears to have been devoted to marijuana eradication, an easier and less politically charged matter than opium production and heroin trafficking.

Narcotics corruption among civilian and military personnel is widespread, although we do not believe the Lao government actively encourages or facilitates narcotics activity. Some senior officials are likely aware of illicit activities, but lack the resources, power or will to stop them. Senior Lao officials have repeatedly insisted that anyone involved in the narcotics trade will be arrested and prosecuted.

Laos' counternarcotics efforts take place primarily with foreign assistance or under foreign pressure. The GOL has not been responsive to law enforcement information-sharing requests, nor has it successfully sustained pressure to reduce opium production. The GOL does appear to recognize the need for increased counternarcotics efforts. Its counternarcotics program, however, can only be considered weak, reflecting in part that Laos is a very poor country with limited training and educational opportunities and a poorly developed administrative system. Laos has made limited progress in meeting the commitments of the US-Lao bilateral counternarcotics agreement. It is not a signatory of the 1988 UN Convention, and has made little progress in meeting the goals and objectives of the Convention.

The principal US interest in Laos is achieving the fullest possible accounting for Americans missing from the Vietnam War. Decertification would risk losing Lao cooperation on this issue. Ensuring some level of POW/MIA cooperation justifies a national interest certification.

Because Laos is a communist country, the United States has no development assistance programs there that would be terminated should Laos not be certified. US experience with the multilateral development banks suggests that the United States would not likely find significant support for decisions against MDB assistance to Laos.

Improved counternarcotics cooperation on law enforcement could be jeopardized by decertification, thereby putting at risk progress toward the US vital national interest to reduce the flow of heroin into the United States. The results achieved to date on opium crop reduction could also be placed at risk. Therefore, if one weighs the consequences of losing GOL cooperation on both counternarcotics and POW/MIA accounting, it is clear that national interest certification best serves US vital national interests.

NATIONAL INTEREST JUSTIFICATION

LEBANON

Lebanon remains a production center for heroin, hashish, and cocaine despite recent successes in eradicating opium poppy in the Biqa'.

The political situation in Lebanon continues to hinder the full cooperation of the Government of Lebanon with the United States on narcotics matters. The Syrian occupation of the Biqa' which began in 1976 continued in 1993, limiting the Lebanese ability to take independent counternarcotics actions.

While Lebanon has not become a party to the 1988 UN Convention and has failed to meet many of its goals and objectives, the successful eradication of a major portion of Lebanon's opium poppy crop was a significant development in 1993. The increased cooperation between the Lebanese and the Syrian forces occupying the Biqa'.is being credited for the successful eradication effort in 1993. This is in direct contrast with the international assessment of 1992 which held that an unusually harsh winter was largely responsible for the reduction in opium cultivation that year.

The Lebanese have not signed a bilateral narcotics agreement with the USG. Although there is some evidence of corruption, the Lebanese did not prosecute any significant narcotics-related corruption cases in 1993.

The United States has a vital national interest in Lebanon's continued progress towards national reconciliation; past conflict in that country has adversely impacted on Middle East peace and stability, a key foreign policy goal of the United States. Moreover, the United States is committed to preserving the territorial integrity of Lebanon in furtherance of the goal of regional stability. These vital interests would be endangered if US assistance to Lebanon were terminated. Although Lebanon must take additional steps to be found to be cooperating fully with the United States or to be taking adequate steps on its own to combat narcotics, the threat to Middle East stability posed by a fragmented and unstable Lebanon is greater than the threat posed by Lebanon's present role in the production of narcotics.

NATIONAL INTEREST JUSTIFICATION

PANAMA

The Government of Panama (GOP) has cooperated with many US drug control efforts, but has not made sufficient progress on its own to deter money laundering. At the end of 1993, GOP actions on behalf of certain key goals and objectives of the 1988 UN Convention remained incomplete, even though Panama ratified the Convention and eradicated coca fields. Panama's law enforcement performance showed improvement, but by year end was still weak and selective.

During 1993, GOP law enforcement agencies carried out an increased number of independent cocaine operations but, on September 1, DEA in Miami seized five tons of cocaine hidden in coffee packages shipped from the Colon Free Zone, evidence that large cocaine loads still transit Panamanian territory.

Despite increased private sector awareness of money laundering in 1993, and Panama's first-ever conviction of a money launderer (a Colombian national, tried in absentia), the GOP delayed until March 1994 adoption of a key potential countermeasure: cross-border currency controls. Panamanian agencies responsible for money laundering control are weak and do not adequately coordinate with one another, and their resources are inadequate. Law 23 of 1986 criminalizes a broad range of narcotics trafficking and money laundering activities but has proven ineffective in obtaining asset forfeiture. Last fall the National Assembly debated, but has not yet passed, new and tougher legislation to make anti-narcotics enforcement more effective.

The GOP investigated and/or prosecuted some well-publicized cases of corruption, including a former Attorney General. Nevertheless, the GOP was slow in removing lower-level officials when unpublicized charges were brought to its attention. Although GOP public prosecutors cooperated on some drug cases, they also did not follow through on all efforts by the US Department of Justice to prosecute and/or extradite wanted criminals in Panama.

Panama carried out active demand-reduction programs in 1993 and, with US and Colombian support, aggressively eradicated coca fields (covering 60-80 ha) and destroyed coca maceration pits in the Darien region near Colombia.

The GOP signed and ratified a Mutual Legal Assistance Treaty with the United States in 1991, but the US Senate has not yet given its advice and consent. The United States and Panama have bilateral agreements on ship boarding, maritime operations and essential chemicals; Panama observes these agreements. During 1993, the Judicial Technical Police provided surveillance support to a drug-seizure operation that led to a US Customs proposal to share a portion of funds forfeited in the United States.

The decision to certify Panama under FAA section 490(b)(1)(B) is based on the vital national interest of the United States in preserving a cooperative relationship to operate the Panama Canal, to carry out effectively the 1977 Panama Canal treaties, and to permit orderly withdrawal of US military forces. US foreign assistance to Panama supports Panamanian law enforcement agencies which help maintain a safe environment for US operation of the Canal, and assists GOP preparations for the Treaty-mandated transfer of the Canal to Panamanian control in 1999. Panama's failure to cooperate fully with the goals and objectives of the Convention or to take adequate steps on its own to combat narcotics makes it a haven for money launderers and hinders efforts to bring narcotraffickers to justice. Anti-narcotics law enforcement is hampered, but can operate under such circumstances. However, a cut-off of assistance could impair other GOP cooperation that is required more than ever as we move into the Canal Treaty's delicate transition period. For these reasons, the risk to vital US interests attendant to the termination of assistance that would accompany a denial of certification outweigh the risk posed by Panama's failure to cooperate fully with the US, or take adequate steps on its own, to combat narcotics. During the period of national interest certification, the USG will seek improved GOP drug control cooperation to meet the criteria for full certification.

NATIONAL INTEREST WAIVER

PERU

The Government of Peru (GOP) cooperated with the United States on counternarcotics matters in fulfillment of 1992 and 1993 USG-Peruvian bilateral agreements and discussions, despite continued corruption and resource problems. Virtually all municipal airports in the Huallaga, and some in other valleys remained closed to traffickers. Eight major clandestine airstrips blocked with cement barriers remained closed. Peruvian Air Force efforts to intercept trafficking aircraft succeeded in forcing traffickers to fly almost exclusively at night, adopt longer routes to evade radars, and shift operations to outlying airfields.

Criminal laws are generally consistent with the goals and objectives established by the 1988 UN Convention in relation to distribution, sale, transport, financing, money laundering, asset seizure, extradition and mutual legal assistance. GOP compliance with the goals and objectives of the UN Convention is weak in the areas of conspiracy laws and eradication of illicit coca. During 1993, chemical control regulations were strengthened and civil regulatory capabilities and cooperation with the police chemical diversion division increased. Although unlicensed coca cultivation is illegal, political decisions not to eradicate illicit mature coca lessen the extent to which the GOP meets the goals and objectives of the 1988 UN Convention.

Although the number of hectares under coca cultivation dropped 16 percent, this was largely due to a widespread fungus and a shift in cultivation patterns. While the GOP conducted forced eradication of coca seedbeds, new coca cultivations have spread into areas of the country not previously associated with narcotics trafficking. These areas represent an expanding sphere of narcotics influence that has remained largely unaffected by military and police efforts in the Huallaga Valley to disable clandestine airstrips and control precursor chemicals, air corridors, and municipal airports.

Narcotics-related corruption continues to undermine the law enforcement efforts of Peru's resource-starved anti-drug forces. For instance, when Peru took into custody one of Peru's major drug traffickers ("Dario"), intervention on the part of President Fujimori was necessary to ensure that the accused stood trial. Overall, it appears that President Fujimori has recognized the scope of the corruption problem and the GOP has begun to take steps to crack down on dishonest military and police officers. The GOP arrested and prosecuted the top figures of several major narcotics trafficking organizations in 1993, and has taken special precautions against corruption.

Promoting democracy and economic stability in Peru are in the vital national interest and outweigh the GOP's marginal, yet developing, counternarcotics performance.

STATEMENT OF EXPLANATION

BURMA

Despite frequent public statements and some law enforcement actions, the Government of Burma has not undertaken serious or sustained counternarcotics efforts since 1988. Burma remains the world's largest source of illicit opium and heroin: 1993 estimated potential opium production was a record 2,575 mt, as estimated hectarage increased over seven percent. The insurgent Kachin ethnic group continued to reduce opium cultivation and production in areas under its control. Narcotics corruption is a problem in Burma. In 1993, the GOB took actions against some military and civilian officials believed to have cooperated with narcotics traffickers. There is no bilateral narcotics agreement.

The government's political and military accommodations with several insurgent/trafficking groups continued, with no indication of the reduced opium production which the government claims is the goal of these arrangements. The government maintained its official contacts with major trafficking organizations and permitted leading drug traffickers to travel freely in the country. Burma did permit continued efforts by UNDCP to implement its four-country regional strategy (Burma, China, Laos, Thailand). However, the projects have yet to make meaningful progress, and are on such small scale that in themselves they can only hope to serve as models. Burma has again failed to fulfill a commitment to conduct a baseline aerial survey of the UNDCP project areas. Burma is a party to the 1988 UN Convention, and has much of the necessary implementing legislation in place, but has not taken meaningful steps to enforce it.

STATEMENT OF EXPLANATION

IRAN

Iran is a major transshipment point for illegal opiates from Pakistan and Afghanistan destined principally for Europe and the United States, and a major opium-producing country. The USG estimates that the 1993 opium poppy cultivation was essentially the same in 1993 as 1992, about 3,500 ha, with a potential opium yield of between 35 and 70 metric tons.

The Government of Iran (GOI) does not have diplomatic relations or a bilateral narcotics agreement with the United States, and did not cooperate in illegal drug control with the U.S. in 1993. There are reports that Iran continued counternarcotics arrangements with neighboring countries. Iran has signed and ratified the 1988 UN Convention, but the USG cannot evaluate any GOI progress in achieving the goals and objectives of the Convention. Iranian authorities state they have made certain advances in the area of counternarcotics, but the USG's information to confirm these claims, as in the past, is not such that the USG can certify Iran under US law. We do not know the extent to which Iran seeks to prevent and punish public corruption.

STATEMENT OF EXPLANATION

NIGERIA

Nigerian trafficking organizations control courier networks that move heroin from Asia to the United States and European markets and operate money laundering rings. The trafficking operations continue to expand in West Africa and throughout the world. In October 1993, the United States presented a demarche to the then-Head of State concerning Nigeria's poor counter-narcotics performance. Similar presentations have been made at high levels of the current regime. Nigeria is a party to the 1988 UN Convention, but has not achieved the Convention's goals and objectives.

Official corruption remained a major obstacle to effective counternarcotics efforts. The governments of Nigeria during 1993 did not investigate any senior officials alleged to be involved in the illicit drug trade. Nigeria did not apprehend and extradite three fugitive drug barons indicted in the United States for whom extradition requests from 1992 were still outstanding. While some legal mechanisms are in place to combat what seems to be extensive money laundering, Nigeria's governments made no significant attempt to enforce them. The Nigerian authorities did not effectively employ the limited assistance the United States provided in previous years.

On November 17, 1993, General Sani Abacha and colleagues in the Nigerian Army forced the provisional government to resign. They established a military/civilian Provisional Ruling Council and promised law and order and a constitutional conference to chart Nigeria's future. Though they abolished democratic institutions, which they call corrupt, they said they would set in motion processes that would lead to a democratically-elected civilian government. That process has not yet evolved. General Abacha wrote to President Clinton to ask that he not decertify his country.

The value to the United States of the projects affected do not come close to justifying a waiver.

STATEMENT OF EXPLANATION

SYRIA

Syria is a transit country in a regional narcotics trafficking network for heroin and hashish. Its military presence in Lebanon makes Syria at least partly accountable for the cultivation and processing of illegal narcotics in that country.

The USG believes that some senior Syrian officials, including military personnel stationed in Lebanon, offer protection to or participate in the Lebanese drug trade for personal gain, not as a matter of state policy.

In 1993, the Syrians cooperated with the Lebanese to eradicate most of the opium poppy cultivation in the Biqa' Valley. The Syrians also instituted a tough domestic anti-narcotics law in April 1993, including provisions for the seizure of assets obtained through trafficking. However, the Syrians have failed to take serious and sustained action to eliminate trafficking through Syrian and Lebanese territory and to destroy cocaine and heroin processing laboratories in the Biqa' Valley. Syrian authorities also failed to investigate, arrest, or prosecute Syrian officials believed to be engaged in narcotics trafficking. Thus, while there was some progress, there are still significant problems to be addressed.

Syria did not meet many of the goals and objectives of the 1988 UN Convention. The USG does not provide Syria with bilateral assistance and does not support loans for Syria in multilateral institutions.

At the January Geneva summit between Presidents Clinton and Asad, it was agreed to establish a mechanism to address key US bilateral concerns, such as narcotics, in a sustained, methodical and ongoing manner.

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Rules and Regulations

Federal Register
Vol. 59, No. 70
Tuesday, April 12, 1994

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[FV-93-959-2FR]

Onions Grown in South Texas—Regulation of Red Onions and Change in Regulatory Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes requirements for red variety onions grown in South Texas under Marketing Order 959. In recent years, shipments of poor quality red onions have appeared in the marketplace and have adversely affected grower prices. This rule will tend to improve grower prices by providing more desirable quality red onions for consumers. This rule also extends the termination date of the order's regulatory period from May 20 to June 15 of each year. More late season onions are being grown in a portion of the production area, increasing the need for marketing order quality requirements over a longer time period. Regulating onions from the production area through June 15 will help make more desirable onions available to markets.

EFFECTIVE DATE: April 12, 1994.

FOR FURTHER INFORMATION CONTACT: Robert Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523-S, P.O. Box 96456, Washington, DC, 20090-6456, telephone: (202) 690-0464; or Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (210) 682-2833.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR Part 959), as amended, regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement of 1937, as amended (7 U.S.C 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this action.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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

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

There are 38 handlers of South Texas onions who are subject to regulation under the marketing order and 97 producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

At its November 9, 1993, meeting, the South Texas Onion Committee (committee) recommended, under the authority of § 959.52(c) of the order, that red varieties of onions be regulated and also that the termination date of the regulatory period for all varieties of regulated onions be extended from May 20 to June 15 of each year.

Red varieties of onions have been exempt from regulation since the inception of Marketing Order No. 959. The quantities of such onions produced have usually represented a small portion of the total annual production in the marketing order's regulated area. However, red variety acreage has increased significantly in recent seasons. Moreover, the committee reports that poor quality red onions grown in the production area have appeared in the marketplace from time to time.

The impact on the industry is two-fold. Poor quality red onions diminish consumer confidence in the better quality red onions, leading to fewer sales and lower returns to growers. In addition, a less favorable consumer opinion of red variety onions often leads to lower sales for all onions grown in the production area, including yellow and white varieties which now enjoy an excellent reputation with receivers and consumers.

Red onions, like yellow onions and white onions, are varieties of *Allium cepa*, and are therefore covered by the same U.S. standards referenced in § 959.322(h). Because of this, the regulatory requirements set forth in § 959.322 applicable to yellow and white varieties of onions are appropriate for red varieties also. The committee believes that by regulating red onions in the same fashion as yellow and white onions, consumers can be assured of buying better quality red onions. Thus, increased consumer confidence should result in improved returns to growers. In

addition to grade and size requirements, the committee also recommended that red varieties be subject to the same pack, container, inspection, assessment, and safeguard requirements as yellow and white varieties. In this way, red, yellow, and white onions will be regulated to the same extent.

The second recommendation concerns the length of the regulatory period for shipments of onions from the regulated area. Previously, order regulations were in effect from March 1 through May 20 each year. District 2 (Laredo-Winter Garden) is in the northern part of the production area and has a shipping season that extends from May to well into June. This district is comprised of the Counties of Zapata, Webb, Jim Hogg, DeWitt, Wilson, Atascosa, Karnes, Val Verde, Frio, Kinney, Uvalde, Medina, Maverick, Zavala, Dimmit and LaSalle. In the 1980's, District 2 production was declining and industry members asked to be relieved from the marketing order requirements after May 20 each season, instead of the June 15 date in effect at that time. By May 20, shipments from District No. 1 in the southern part of the production area usually are finished. Thus, effective for the 1989 and subsequent seasons, the termination date for the regulatory period was advanced for the entire production area from June 15 to May 20 (54 FR 8519, March 1, 1989).

However, committee records indicate an increase in onion shipments from District 2 during the past three years. The committee members from District 2 who attended the November meeting stated that shipments during the May 20 through June 15 period should once again be regulated so that funds could be assessed to fund the committee's production research and market development efforts as well as assure the consumer a quality pack of onions from their district. Shipments from this district typically account for 10 to 12 percent of the production area total, and the committee believes that grade, size, container, and other order requirements are necessary to maintain the quality of South Texas onions that receivers and consumers have become accustomed to. Extension of the regulatory period will not affect District 1 handlers as shipments from that district normally are completed by mid-May.

Currently, handlers may not package or load onions on Sunday during the period March 1 through May 20 of each season. The committee recommended not changing this requirement. After May 20, District 2 handlers compete with unregulated shipments from other areas such as California. Permitting District 2 handlers to package and ship whenever they can find buyers will help to reduce the competitive advantage of handlers shipping from outside the regulated area.

Notice of this final rule was published in the March 9, 1994, issue of the **Federal Register** (59 FR 11008). Interested persons were invited to file written comments with respect to the proposal until March 24, 1994. Ten comments were received. One was from Mr. Greg Nelson, of the Cargil Produce Company, Uvalde, Texas, which is located in District 2. Mr. Nelson opposed the extension of the regulatory period. He stated that non-regulated areas such as California, the Vidalia area of Georgia, New Mexico, Arizona, and the Trans-Pecos area of Texas ship large quantities of new crop onions. These onions compete with regulated onions from District 2 (Laredo-Winter Garden). Mr. Nelson stated that the other shipping areas, being unregulated, have a significant competitive advantage over District 2 growers and handlers because those onions do not have to meet grade requirements and the handlers do not have to pay inspection costs.

Six other comments also opposed the proposed extension of the regulation period. These comments were received from Mr. Kenneth Spence, Mr. Robert Willoughby, and Mr. Lee Toombs, all of Batesville; and from Mr. C.W. Cargil, Mr. Steve Cargil, and Mr. Steve Rambie, from Uvalde, Texas. All stated that regulating District 2 onions after May 20 would cause a hardship on District 2 growers by giving non-regulated producing areas a competitive advantage.

At the November 9, 1993, meeting during which this change in regulatory period was recommended, 11 members were present; the full committee is composed of 17 members. The committee unanimously recommended this action, including two members from District 2. For District 1, one position was not represented by either a member or alternate; for District 2, two members out of seven were in attendance. None of the opponents were in attendance.

Although District 2 producers and handlers usually face competition from non-regulated areas during much of their shipping season, it is important that handling requirements apply to shipments from that district to protect the good quality image enjoyed by South Texas onions in the marketplace and promoted by the committee's market development program. In the absence of quality and inspection requirements, low quality onions from District 2 could be shipped. Such shipments could negatively effect the South Texas industry's market development efforts and quality image. Also, in the interest of equity and uniform regulation application, it is desirable that handlers from District 2 pay assessments in support of these activities. Assessments paid have helped to provide an on-going production research program that has benefitted the entire industry with the development of new onion varieties and new cultural techniques, as well as an effective market development program that helps increase sales. Therefore, these comments are denied.

The three remaining comments were from the South Texas Onion committee, Mr. John R. Bearden, and Mr. B. L. Lackey. These comments stated that if the rule is not adopted by April 1, the anticipated beginning of the red onion harvesting and shipping season, poor quality red onions will be dumped on the market, thereby diminishing consumer confidence and depressing the market for South Texas onions. After evaluating the comments, the Department has decided to implement the committee's recommendation as proposed, and make the final rule effective upon publication in the **Federal Register**.

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

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for onions under a domestic marketing order, imported onions must meet the same or comparable requirements, subject to concurrence by the United States Trade Representative. Because this rule establishes grade, size, quality and maturity requirements on red onions and changes the regulatory period under the South Texas onion marketing order, corresponding changes are needed in the onion import regulation. Such changes have been addressed in a separate onion import rule.

The information collection requirements contained in the referenced sections have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB number 0581–0074.

After consideration of all relevant material presented, including the proposal submitted by the committee, comments received, and other information, it is hereby found that this regulation, as hereinafter set forth, will

tend to effectuate the declared policy of the Act. It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** because (1) the shipping season for onions has already begun and for maximum effectiveness this rule should apply to as many shipments as possible; (2) the proposed rule was discussed at an open public meeting, and all interested persons had an opportunity to voice concerns; and (3) there are no special preparations required of the handler that cannot be completed by the effective date.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is hereby amended as follows:

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 959—ONIONS GROWN IN SOUTH TEXAS

2. In § 959.322, the introductory paragraph is revised to read as follows:

§ 959.322 Handling regulation.

During the period beginning March 1 and ending June 15, no handler shall handle any onions unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. In addition, no handler may package or load onions on Sunday during the period March 1 through May 20.

* * * * *

Dated: April 8, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–8890 Filed 4–11–94; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Part 102

[Notice 1994–5]

Special Fundraising Projects and Other Use of Candidate Names by Unauthorized Committees

AGENCY: Federal Election Commission.

ACTION: Final rule; transmittal of regulations to Congress.

SUMMARY: The Commission is amending its regulations regarding an unauthorized committee's use of a candidate's name in the title of a special fundraising project or other communication on behalf of the unauthorized committee. The amendment permits such use, if the title clearly indicates opposition to the named candidate.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On July 10, 1992, the Commission sent to Congress new rules on special fundraising projects and other uses of candidate names by unauthorized committees. The rules prohibit the use of a candidate's name in the title of any fundraising project or other communication by any committee that has not been authorized by the named candidate. 11 CFR 102.14(a). The rules became effective on November 4, 1992. 57 FR 47258 (Oct. 15, 1992).

The rules construe 2 U.S.C. 432(e)(4), a provision of the Federal Election Campaign Act ["FECA" or "the Act"] that prohibits the use of a candidate's name in the name of an unauthorized political committee. Prior to the 1992 revision, the Commission had construed this prohibition as applying only to the name under which a committee registers with the Commission [the "registered name"].

The Notice of Proposed Rulemaking ["NPRM"] was published in the **Federal Register** on April 15, 1992, 57 FR 13056. The Commission received 14 comments in response to this Notice. The final rules were published on July 15, 1992. 57 FR 31424.

On February 5, 1993, the Commission received a Petition for Rulemaking from Citizens Against David Duke ["CADD"], a proposed project of the American Ideas Foundation. The petition requested that the Commission reconsider and repeal the new rules, with particular emphasis on those titles that indicate opposition to, rather than support for, a named candidate.

The Commission published a Notice of Availability in the **Federal Register** on March 3, 1993. 58 FR 12189. Three comments were received in response to this Notice.

In response to these comments, the Commission published an NPRM proposing that the rule be amended so as to permit the use of candidate names in titles that clearly indicate opposition to the named candidate. 58 FR 65559 (Dec. 15, 1993). The Commission received four comments in response to this Notice, three of which reflected in whole or in part comments submitted earlier in the course of the rulemaking.

Section 438(d) of Title 2, United States Code, requires that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on April 6, 1994.

Explanation and Justification

In *Common Cause* v. *FEC*, 842 F.2d 436 (D.C. Cir. 1988), the United States Court of Appeals for the District of Columbia Circuit upheld the Commission's authority to interpret the prohibition at 2 U.S.C. 432(e)(4) on the use of a candidate's name in the name of an unauthorized committee as applying only to the name under which the committee registered with the Commission, since "[an] agency's construction, if reasonable, must ordinarily be honored." *Id.* at 439–40. However, the court recognized that an interpretation imposing a more extensive ban on the use of candidate names by unauthorized committees, such as prohibiting their use in the titles of any fundraising projects sponsored by an unauthorized committee, "could also be accommodated within the provision's literal language." *Id.* at 440.

Some commenters on both the 1992 and the current NPRM noted that this rulemaking implicates protected first amendment rights, and that any infringement on these rights is subject to strict scrutiny by reviewing courts. However, it is well established that first amendment rights are not absolute when balanced against the government's interest in protecting the integrity of the electoral process. "Even a 'significant interference' with protected rights [ ] may be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment" of those rights. *Buckley* v. *Valeo*, 424 U.S. 1, 25 (1975) (citations omitted). The *Common Cause* court deferred to the Commission's judgment that literal adherence to the language of section 432(e)(4), coupled with the disclaimer requirements of 2 U.S.C. 441d(a), struck the proper balance at that time. 842 F.2d at 440. Section 441d(a)(3) requires that communications by unauthorized committees include a

disclaimer that clearly identifies who paid for the communication, and states whether it was authorized by any candidate or candidate's committee.

The *Common Cause* decision grew out of the 1980 presidential election. Since that time, the Commission has become increasingly concerned over the possibility for confusion or abuse under the interpretation upheld in that case, that is, limiting the FECA's "name" prohibition to a committee's registered name. Aware of these constitutional concerns, the 1992 NPRM sought comments on two modifications to the rules then in effect that fell short of an overall ban.

Under the first proposal, the political committee sponsoring the project would have been required to include in the required disclaimer the name of the committee paying for the project, as well as a statement whether the project had been authorized by the candidate whose name appeared in the title, or by any other candidate. As part of this proposal, the Commission also sought comments on whether disclaimer size and/or location requirements should be imposed in this situation. Second, a committee would not have been allowed to accept checks received in response to a special project solicitation, unless the checks were made payable to the registered name of the committee.

However, the Commission also sought comments on a proposed total bar on the use of a candidate's name in the project title of an unauthorized committee's special fundraising project; and several commenters endorsed this approach. After considering all comments received in response to that Notice, the Commission decided that the total ban was justified.

The rulemaking record contains substantial evidence that potential contributors often confuse an unauthorized committee's registered name with the names of its fundraising projects, and wrongly believe that their contributions will be used in support of the candidate(s) named in the project titles. Although one commenter on the present rulemaking stated that the Commission had overstated the potential for fraud and abuse in this area, no comment provided information to refute this earlier determination.

This rule is narrowly designed to further the legitimate governmental interest in minimizing the possibility of fraud and abuse in this situation. Committees are not barred from establishing specially designated projects: They are free to choose whatever project title they desire, as long as it does not include the name of a federal candidate. Also, committees may freely discuss any number of candidates, by name, in the body of a communication. The newly-revised rule further enhances unauthorized committees' constitutional rights by exempting from the ban those titles that clearly indicate opposition to the named candidate.

It is clear from the rulemaking record that the situation today differs significantly from that of the early 1980's, when the *Common Cause* case was litigated. Prior to the adoption of the 1992 rules, the use of candidate names in the titles of projects or other unauthorized communications had increasingly become a device for unauthorized committees to raise funds or disseminate information. Under the former interpretation, a candidate who objected to the use of his or her name in this manner, who shared in none of the funds received in response to the solicitation, and/or who disagreed with the views expressed in the communication, was largely powerless to stop it. For example, in 1984 a United States Senator requested, and received, permission to obtain from Commission records the names and addresses of those who had responded to unauthorized solicitations made in his name, to inform these contributors that he had not authorized the solicitation. However, he could not suggest that contributors send donations instead to his campaign committee. See Advisory Opinion 1984–2.

An examination of the record in the 1992 rulemaking, which contains information that was not available when that NPRM was put out for comment, further supports the Commission's conclusion that this balance has now shifted so as to justify a broader interpretation. For example, a comment from an authorized committee of a major party presidential candidate stated that an unauthorized project using that candidate's name raised over $10,000,000 during the 1988 presidential election cycle, despite the candidate's disavowal of and efforts to stop these activities. The same unauthorized committee was raising money by means of a comparable project, using that same candidate's name, in the 1992 election cycle. This comment added that two other unauthorized projects by that same committee raised over $4,000,000 and nearly $400,000 in the name of two other presidential candidates in the 1988 election cycle. None of the named candidates received any of the money that was collected in their names. One of these candidates, a United States Senator, also submitted comments asking that the pertinent rules be strengthened.

In addition, a television documentary, a videotape of which was placed in the rulemaking record, detailed how an unauthorized Political Action Committee had, over several election cycles, established numerous projects whose titles included the names of federal candidates. The named candidates had no connection with the projects, had not authorized the use of their names in this manner, and received no money from the $9 million raised in response to these appeals. Program investigators found that elderly people are particularly vulnerable to being misled in this manner, since they may not notice or fail to fully comprehend the disclaimers included with the solicitations.

Such cases point up the potential for confusion or abuse when an unauthorized committee uses a candidate's name in the title of a special fundraising project, or other designation under which the committee operates. A person who receives such a communication may confuse the project name with the committee's registered name, and thus may not understand that the communication is made on behalf of the unauthorized committee rather than the candidate whose name appears in the project's title. Potential donors may think they are giving money to the candidate named in the project's title, when this is not the case.

Some comments that opposed any modifications to the former standard argued that current disclaimer requirements at section 441d(a)(3) were sufficient to minimize the potential for confusion in this area. Others suggested stronger, or larger, disclaimers, in place of the overall ban. One suggested that the disclaimer be in as large and as bold a typeface as the largest, boldest use of the candidate's name anywhere in the communication. The Commission believes that such an approach could be more burdensome than the current ban, while still not solving the potential for fraud and abuse in this area. The requirement that checks be made only to the sponsoring committee's registered name would similarly not ensure that the contributor did not erroneously believe the money would be used to support the candidate(s) named in the project's title. It also would be difficult, if not practically impossible, to monitor and enforce, since nothing on the public record reflects who the payee is on a contributor's check.

It is important to note that the ban applies only to project titles, and not to the body of the accompanying communication. Unauthorized

committees remain free to discuss candidates throughout the communication; and to use candidates' names as frequently, and highlight them as prominently (in terms of size, typeface, location, and so forth) as they choose. In other words, while a committee could not establish a fundraising project called "Citizens for Doe," if Doe is a federal candidate, it could use a subheading such as "Help Us Elect Doe to Federal Office," and urge Doe's election, by name, in large, highlighted type, throughout the communication.

Also, by amending the regulation to exclude from the ban names that indicate opposition to the named candidate, the Commission has acceded to the petitioner's main concern, amending the rules to permit the American Ideas Foundation to use the names of federal candidates in titles that clearly indicate opposition to such candidates. As stated in its summary of the petition (petition, p. 1), "There is no danger of confusion or abuse inherent in the use of a candidate's name by a committee or project which opposes the candidate." The Commission recognizes that the potential for fraud and abuse is significantly reduced in the case of such titles, and has accordingly revised its rules to permit them.

The petition also asked that the rule exclude from the ban the use of candidate names in titles by those committees "that are authorized to use the candidate's name, which are engaged in activities which will not actively mislead the public or injure the candidate, or which otherwise clearly indicate that they are unauthorized." However, if a candidate authorizes the use of his or her name in a fundraising project, the committee becomes an authorized committee, and this rule would not apply. The phrase "engaged in activities which will not actively mislead the public or injure the candidate" is vague and would result in the need to determine on a case-by-case basis whether covered communications met this test. The Commission has already determined that a stronger disclaimer requirement would not be sufficient in and of itself to meet this concern. Given the wide range of options that committees continue to have regarding use of candidate names, imposing further requirements could well prove more burdensome than the present approach.

The NPRM proposed that exempted titles would have to "clearly and unambiguously [show] opposition to the named candidate by using words such as 'defeat' or 'oppose.'" The requirement that such specific "triggering words" be included in the title has been deleted from the final rule, since the Commission recognizes that certain titles, such as "Citizens Fed Up with Doe," may clearly and unambiguously indicate opposition to a candidate even though no individual word in the title has that import.

One commenter argued that legislative action is necessary to effectuate this change, noting that the Commission has in the past included this issue in the legislative recommendations it submits to Congress each year. However, it is well established that courts will not rely on an agency's legislative recommendation to undermine the agency's construction of a statute as authorizing it to act. The Supreme Court has stated that holding an agency's legislative recommendation against it is disfavored, because "[p]ublic policy requires that agencies feel free to ask [Congress for] legislation," and this freedom to act would be chilled if such requests could later be held against them. *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 47 (1950); *see also*, *Warner-Lambert Co.* v. *FTC*, 562 F.2d 749, 758 n. 39 and cases cited therein (D.C. Cir. 1977), *cert. denied*, 435 U.S. 950 (1978).

The Commission notes that David Duke is not currently a candidate for federal office, so the use of his name in a project title is not prohibited by these rules. Should he again become a federal candidate, such use of his name would be governed by these revised rules.

Certification of No Effect Pursuant to 5 U.S.C. 605(B) [Regulatory Flexibility Act]

This final rule will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the Act's requirements in this area. Also, the rule broadens the Commission's interpretation of these requirements.

List of Subjects in 11 CFR Part 102

Campaign funds, Political candidates, Political committees and parties, Reporting requirements.

For the reasons set out in the preamble, subchapter A, chapter I of title 11 of the Code of Federal Regulations is amended to read as follows:

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

1. The authority citation for part 102 continues to read as follows:

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

2. Section 102.14 is amended by adding paragraph (b)(3) to read as follows:

§ 102.14 Names of political committees (2 U.S.C. 432(e)(4) and (5)).

* * * * *

(b) * * *

(3) An unauthorized political committee may include the name of a § candidate in the title of a special project name or other communication if the title clearly and unambiguously shows opposition to the named candidate.

* * * * *

Dated: April 6, 1994.

Trevor Potter,

Chairman.

[FR Doc. 94-8690 Filed 4-11-94; 8:45 am]

BILLING CODE 6715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL-4862-1]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Final rule.

SUMMARY: The EPA is finalizing the updates of the Outer Continental Shelf ("OCS") Air Regulations proposed in the Federal Register on January 7, 1994 and February 8, 1994. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"), as amended by the Clean Air Act Amendments of 1990. The portion of the OCS Air Regulations that is being updated pertains to the requirements for OCS sources for which the San Luis Obispo County Air Pollution Control District (San Luis Obispo County APCD), the Santa Barbara County Air Pollution Control District (Santa Barbara APCD), the South Coast Air Quality

Management District (South Coast AQMD), and the Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the requirements contained in "San Luis Obispo County Air Pollution Control District Requirements Applicable to OCS Sources" (March 11, 1994), "Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources" (March 11, 1994), "South Coast Air Quality Management District Requirements Applicable to OCS Sources" (March 11, 1994), and "Ventura County Air Pollution Control District Requirements Applicable to OCS Sources" (March 11, 1994) is to regulate emissions from OCS sources in accordance with the requirements onshore.

EFFECTIVE DATE: This final rule is effective May 12, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket, 6102, 401 "M" Street, SW.,Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 1994 at 59 FR 994 and February 8, 1994 at 59 FR 5745, EPA proposed to approve the following requirements into the Outer Continental Shelf Air Regulations: "San Luis Obispo County Air Pollution Control District Requirements applicable to OCS Sources", "Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources", "South Coast Air Quality Management District Requirements Applicable to OCS Sources", and "Ventura County Air Pollution Control District Requirements Applicable to OCS Sources". These requirements represent the third update of part 55 and are being promulgated in response to the submittal of rules from local air pollution control agencies. EPA has evaluated the above requirements to ensure that they are rationally related to the attainment or maintenance of Federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

A 30-day public comment period was provided at 59 FR 994 and 59 FR 5745 and no comments were received.

EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. One minor change was made to the proposal set forth in the January 7, 1994 and February 8, 1994 notices of proposed rulemaking. This change includes the addition of a document date for the requirements to be incorporated into part 55. EPA is approving the submittal as modified under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore.

Administrative Requirements

A. Executive Order 12291 (Regulatory Impact Analysis)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. This exemption continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each Federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." Small entities include small businesses, organizations, and governmental jurisdictions.

As was stated in the final OCS regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this final rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final OCS rulemaking dated September 4, 1992 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0249. This consistency update does not add any further requirements.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer continental shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 23, 1994.

Felicia Marcus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraphs (e) (3) (ii) (E), (F), (G), and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e)* * *

(3)* * *

(ii)* * *

(E) *San Luis Obispo County Air Pollution Control District Requirements Applicable to OCS Sources*, March 11, 1994.

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources*, March 11, 1994.

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources*, March 11, 1994.

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources*, March 11, 1994.

* * * * *

3. Appendix A to part 55 is amended by revising paragraphs (b)(5), (6), (7), and (8) under the heading "California" to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

(b)* * *

(5) The following requirements are contained in *San Luis Obispo County Air Pollution Control District Requirements Applicable to OCS Sources*, March 11, 1994:

Rule 103 Conflicts Between District, State and Federal Rules (Adopted 8/6/76)
Rule 104 Action in Areas of High Concentration (Adopted 7/5/77)
Rule 105 Definitions (Adopted 10/6/93)
Rule 106 Standard Conditions (Adopted 8/6/76)
Rule 108 Severability (Adopted 11/13/84)
Rule 113 Continuous Emissions Monitoring, except F. (Adopted 7/5/77)
Rule 201 Equipment not Requiring a Permit, except A.1.b. (Adopted 11/5/91)
Rule 202 Permits, except A.4. and A.8. (Adopted 11/5/91)
Rule 203 Applications, except B. (Adopted 11/5/91)
Rule 204 Requirements, except B.3. and C. (Adopted 8/10/93)
Rule 209 Provision for Sampling and Testing Facilities (Adopted 11/5/91)
Rule 210 Periodic Inspection, Testing and Renewal of Permits to Operate (Adopted 11/5/91)
Rule 213 Calculations, except E.4. and F. (Adopted 8/10/93)
Rule 302 Schedule of Fees (Adopted 9/15/92)
Rule 305 Fees for Major Non-Vehicular Sources (title change–Adopted 9/15/92)
Rule 401 Visible Emissions (Adopted 8/6/76)
Rule 403 Particulate Matter Emissions (Adopted 8/6/76)
Rule 404 Sulfur Compounds Emission Standards, Limitations and Prohibitions (Adopted 12/6/76)
Rule 405 Nitrogen Oxides Emission Standards, Limitations and Prohibitions (Adopted 11/13/84)
Rule 406 Carbon Monoxide Emission Standards, Limitations and Prohibitions (Adopted 11/14/84)
Rule 407 Organic Material Emission Standards, Limitations and Prohibitions (Adopted 1/10/89)
Rule 411 Surface Coating of Metal Parts and Products (Adopted 1/10/89)
Rule 416 Degreasing Operations (Adopted 6/18/79)
Rule 417 Control of Fugitive Emissions of Volatile Organic Compounds (Adopted 2/9/93)
Rule 422 Refinery Process Turnarounds (Adopted 6/18/79)
Rule 501 General Burning Provisions (Adopted 1/10/89)
Rule 503 Incinerator Burning, except B.1.a. (Adopted 2/7/89)
Rule 601 New Source Performance Standards (Adopted 9/4/90)

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources*, March 11, 1994:

Rule 102 Definitions (Adopted 7/30/91)
Rule 103 Severability (Adopted 10/23/78)
Rule 201 Permits Required (Adopted 7/2/79)
Rule 202 Exemptions to Rule 201 (Adopted 3/10/92)
Rule 203 Transfer (Adopted 10/23/78)
Rule 204 Applications (Adopted 10/23/78)
Rule 205 Standards for Granting Applications (Adopted 7/30/91)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 5/7/91)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter-Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration-Southern Zone (Adopted 10/23/78)
Rule 306 Dust and fumes-Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate-Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/2/90)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems-Southern Zone (Adopted 10/23/78)
Rule 321 Control of Degreasing Operations (Adopted 7/10/90)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 2/20/90)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Storage of Petroleum and Petroleum Products (Adopted 12/10/91)
Rule 326 Effluent Oil Water Separators (Adopted 10/23/78)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 11/13/90)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems. Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (12/10/91)
Rule 342 Control of Oxides of Nitrogen (NO_x from Boilers, Steam Generators and Process Heaters) (03/10/92)
Rule 505 Breakdown Conditions Sections A.,B.1., and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 6/15/81)

(7) The following requirements are contained in *South Coast Air Quality Management District Requirements Applicable to OCS Sources*, March 11, 1994:

Rule 102 Definition of Terms (Adopted 11/4/88)
Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 3/6/92)
Rule 201 Permit to Construct (Adopted 1/5/90)
Rule 201.1 Permit Conditions in federally Issued Permits to Construct (Adopted 1/5/90)
Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
Rule 203 Permit to Operate (Adopted 1/5/90)
Rule 204 Permit Conditions (Adopted 3/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
Rule 208 Permit for Open Burning (Adopted 1/5/90)
Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
Rule 210 Applications (Adopted 1/5/90)
Rule 212 Standards for Approving Permits (9/6/91) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 1/5/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
Rule 218 Stack Monitoring (Adopted 8/7/81)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 9/11/92)
Rule 220 Exemption–Net Increase in Emissions (Adopted 8/7/81)
Rule 221 Plans (Adopted 1/4/85)
Rule 301 Permit Fees (Adopted 6/11/93) except (a)(1) "(see subdivision (n))"; (a)(4) "or share of Regional Clean Air Incentives Market (RECLAIM) Trading Credits (RTCs) [see subdivision (n)]"; (a)(8); (a)(9); (b)(11); (b)(12); (b)(17) last three lines; (n); "(SUMMARY)–FACILITY PERMIT FEES"; "TABLE VI–RELCAIM RTC ALLOCATIONS AND BREAKDOWN EMISSION FEES"; "TABLE VI-A–RECLAIM RTCS REPRESENTED BY ONE FEE SHARE"
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 6/11/93)
Rule 304.1 Analyses Fees (Adopted 6/6/92)
Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
Rule 306 Plan Fees (Adopted 7/6/90)

Rule 401 Visible Emissions (Adopted 4/7/89)
Rule 403 Fugitive Dust (Adopted 7/9/93)
Rule 404 Particulate Matter–Concentration (Adopted 2/7/86)
Rule 405 Solid Particulate Matter–Weight (Adopted 2/7/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
Rule 408 Circumvention (Adopted 5/7/76)
Rule 409 Combustion Contaminants (Adopted 8/7/81)
Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (e) only. (Adopted 5/5/78)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 10/2/92)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 5/4/90)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
Rule 441 Research Operations (Adopted 5/7/76)
Rule 442 Usage of Solvents (Adopted 3/5/82)
Rule 444 Open Fires (Adopted 10/2/87)
Rule 463 Storage of Organic Liquids (Adopted 12/7/90)
Rule 465 Vacuum Producing Devices or Systems (Adopted 11/1/91)
Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/4/81)
Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
Rule 476 Steam Generating Equipment (Adopted 10/8/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77)
Addendum to Regulation IV (Effective 1977)
Rule 701 General (Adopted 7/9/82)
Rule 702 Definitions (Adopted 7/11/80)
Rule 704 Episode Declaration (Adopted 7/9/82)
Rule 707 Radio–Communication System (Adopted 7/11/80)
Rule 708 Plans (Adopted 7/9/82)
Rule 708.1 Stationary Sources Required to File Plans (Adopted 4/4/80)
Rule 708.2 Content of Stationary Source Curtailment Plans (Adopted 4/4/80)
Rule 708.4 Procedural Requirements for Plans (Adopted 7/11/80)
Rule 709 First Stage Episode Actions (Adopted 7/11/80)
Rule 710 Second Stage Episode Actions (Adopted 7/11/80)
Rule 711 Third Stage Episode Actions (Adopted 7/11/80)
Rule 712 Sulfate Episode Actions (Adopted 7/11/80)
Rule 715 Burning of Fossil Fuel on Episode Days (Adopted 8/24/77)
Regulation IX–New Source Performance Standards (Adopted 4/9/93)
Rule 1106 Marine Coatings Operations (Adopted 8/2/91)
Rule 1107 Coating of Metal Parts and Products (Adopted 8/2/91)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/6/81)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
Rule 1110.2 Emissions from Gaseous and Liquid-Fueled Internal Combustion Engines (Adopted 9/7/90)
Rule 1113 Architectural Coatings (Adopted 9/6/91)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/1/78)
Rule 1122 Solvent Cleaners (Degreasers) (Adopted 4/5/91)
Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
Rule 1129 Aerosol Coatings (Adopted 11/2/90)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/4/89)
Rule 1140 Abrasive Blasting (Adopted 8/2/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 1/6/89)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 7/10/92)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
Rule 1149 Storage Tank Degassing (Adopted 4/1/88)
Rule 1168 Control of Volatile Organic Compound Emissions from Adhesive Application (Adopted 12/4/92)
Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 12/7/90)
Rule 1176 Sumps and Wastewater Separators (Adopted 1/5/90)
Rule 1301 General (Adopted 6/28/90)
Rule 1302 Definitions (Adopted 5/3/91)
Rule 1303 Requirements (Adopted 5/3/91)
Rule 1304 Exemptions (Adopted 9/11/92)
Rule 1306 Emission Calculations (Adopted 5/3/91)
Rule 1313 Permits to Operate (Adopted 6/28/90)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 10/6/89)
Rule 1701 General (Adopted 1/6/89)
Rule 1702 Definitions (Adopted 1/6/89)
Rule 1703 PSD Analysis (Adopted 10/7/88)
Rule 1704 Exemptions (Adopted 1/6/89)
Rule 1706 Emission Calculations (Adopted 1/6/89)
Rule 1713 Source Obligation (Adopted 10/7/88)
Regulation XVII Appendix (effective 1977)

(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources*, March 11, 1994:

Rule 2 Definitions (Adopted 12/15/92)
Rule 5 Effective Date (Adopted 5/23/72)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 7/5/83)
Rule 11 Application Contents (Adopted 8/15/78)
Rule 12 Statement by Application Preparer (Adopted 6/16/87)
Rule 13 Statement by Applicant (Adopted 11/21/78)
Rule 14 Trial Test Runs (Adopted 5/23/72)
Rule 15 Permit Issuances (Adopted 7/5/83)
Rule 16 Permit Contents (Adopted 12/2/80)
Rule 18 Permit to Operate Application (Adopted 8/17/76)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 21 Expiration of Applications and Permits (Adopted 6/23/81)
Rule 23 Exemptions from Permits (Adopted 6/8/93)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 09/15/92)
Rule 26 New Source Review (Adopted 10/22/91)
Rule 26.1 New Source Review–Definitions (Adopted 10/22/91)
Rule 26.2 New Source Review–Requirements (Adopted 10/22/91)
Rule 26.3 New Source Review–Exemptions (Adopted 10/22/91)
Rule 26.6 New Source Review–Calculations (Adopted 10/22/91)
Rule 26.8 New Source Review–Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review–PSD (Adopted 10/22/91)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 10/22/91)
Rule 30 Permit Renewal (Adopted 5/30/89)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
Appendix II-A Information Required for Applications to the Air Pollution Control District (Adopted 12/86)
Appendix II-B Best Available Control Technology (BACT) Tables (Adopted 12/86)
Rule 42 Permit Fees (Adopted 12/22/92)
Rule 44 Exemption Evaluation Fee (Adopted 1/8/91)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 50 Opacity (Adopted 2/20/79)
Rule 52 Particulate Matter-Concentration (Adopted 5/23/72)
Rule 53 Particulate Matter-Process Weight (Adopted 7/18/72)
Rule 54 Sulfur Compounds (Adopted 7/5/83)
Rule 56 Open Fires (Adopted 5/24/88)
Rule 57 Combustion Contaminants-Specific (Adopted 6/14/77)
Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
Rule 62.7 Asbestos–Demolition and Renovation (Adopted 6/16/92)

Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 7/5/83)
Rule 66 Organic Solvents (Adopted 11/24/87)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 6/14/77)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 6/8/93)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 72 New Source Performance Standards (NSPS) (Adopted 7/13/93)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 08/11/92)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 5/8/90)
Rule 74.6.1 Cold Cleaning Operations (Adopted 9/12/89)
Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 9/12/89)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 1/10/89)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/3/91)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 6/16/92)
Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NO_x (Adopted 4/9/85)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 11/17/92)
Rule 74.15 Boilers, Steam Generators and Process Heaters (5MM BTUs and greater) (Adopted 12/3/91)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (1–5MM BTUs) (Adopted 5/11/93)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 6/8/93)
Rule 75 Circumvention (Adopted 11/27/78)
Appendix IV-A Soap Bubble Tests (Adopted 12/86)
Rule 100 Analytical Methods (Adopted 7/18/72)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 102 Source Tests (Adopted 11/21/78)
Rule 103 Stack Monitoring (Adopted 6/4/91)
Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)

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[FR Doc. 94–8737 Filed 4–11–94; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 271

[FRL–4856–2]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), and the Environmental Protection Agency (EPA) has reviewed Texas' application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Texas' hazardous waste program revision, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Texas' application for the program revision is available for public review and comment.

DATES: This final authorization for Texas shall be effective June 27, 1994, unless EPA publishes a prior **Federal Register** (*FR*) action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business May 27, 1994.

ADDRESSES: Copies of the Texas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Texas Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin, TX 78711–3087, and U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 65202, phone (214) 655–6444. Written comments, referring to Docket Number TX–94–4, should be sent to Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Region 6 Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655–8528.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (RCRA or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR 260–266, 268, 124, and 270.

B. Texas

Texas received final authorization to implement its hazardous waste management program on December 12, 1984, effective December 26, 1984 (see 49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (see 50 FR 11858). Texas received final authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (see 51 FR 3952), on December 18, 1986, effective February 17, 1987 (see 51 FR 45320), on March 1, 1990, effective March 15, 1990 (see 55 FR 7318), on May 24, 1990, effective July 23, 1990 (see 55 FR 21383), on August 22, 1991, effective October 21, 1991 (see 56 FR 41626), and on October 5, 1992, effective December 4, 1992 (see 57 FR 45719). On December 8, 1992, the Texas

Water Commission (TWC) submitted a final complete program revision application for additional program approvals. (In 1991, Texas Senate Bill 2 created the Texas Natural Resources Conservation Commission (TNRCC) which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993. Under Chapter 361 of the Texas Health and Safety Code, the TNRCC has sole responsibility for the administration of laws and regulations concerning hazardous waste). Today, Texas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA reviewed Texas' application, and made an immediate final decision that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until May 27, 1994. Copies of Texas' application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Texas' program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Texas' program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 124, 260–262, 264, 265, and 270 that were published in the FR through June 30, 1991. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements. (As a result of the Texas reorganization presented above, TNRCC rules, once codified at Title 31 Texas Administrative Code, are now codified at Title 30 Texas Administrative Code).

Federal citation	State analog
1. Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), November 2, 1990 [55 FR 46354], as amended on December 17, 1990 [55 FR 51707]. (Checklists 81 and 81.1).	Texas Solid Waste Disposal Act (TSWDA), Chapter 361, §361.003(15), §361.017 and §361.024; Texas Health and Safety Code (THSC) Ann. (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 Texas Administrative Code (TAC) Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended.
2. Wood Preserving Listings, December 6, 1990 [55 FR 50450]. (Checklist 82).	TSWDA, Chapter 361, §361.003(15), §361.017 and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 30 TAC, Chapter 305, §305.50(4)(a), effective November 23, 1993; Title 31 TAC Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended; Title 31 TAC Chapter 335, §335.1 and §335.29, both effective September 30, 1992, as amended; and Title 31 TAC Chapter 335, §335.1, §335.69(a)(1)(iii), §335.112(a)(9), §335.112(a)(20), §335.152(a)(8), and §335.152(a)(14), all effective November 23, 1993.
3. Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, January 31, 1991 [56 FR 3864]. (Checklist 83).	TSWDA, Chapter 361, §361.003(15), §361.017 and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended; Title 31 TAC Chapter 335, §335.1, effective January 31, 1992 as amended; Title 31 TAC Chapter 335, §335.29, effective August 31, 1992, as amended; Title 31 TAC Chapter 335, §335.504(2) and §335.69(f)(4), both effective November 23, 1993; Title 31 TAC Chapter 335, §335.152(a)(9)–(a)(12), §335.111(c), §335.112(a)(1), and §335.112 (a)(10)–(a)(13), all effective March 31, 1992, as amended; Title 31 TAC Chapter 335, §335.431, and §335.431(c), both effective November 23, 1993.
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces, February 21, 1991 [56 FR 7134]. (Checklist 85).	TSWDA Chapter 361, §361.003(15), §361.017, and §361.024; THSC Ann. (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended; Title 31 TAC, Chapter 335, §335.221(a)(23), effective July 14 1992, as amended; Title 31 TAC, Chapter 335, §335.1, effective August 22, 1991, as amended; Title 31 TAC, Chapter 305, §305.50(4), §305.50(13), §305.69(h), §305.571, §305.572, §305.573, §305.51(a)(5), §305.51(c)(7), and §335.2(c), all effective July 29, 1992, as amended; Title 31 TAC §335.1, effective January 31, 1992, as amended; Title 31 TAC §335.2(j), effective November 23, 1993; Title 31 TAC §335.6 and §335.6 (i)(1)–(i)(3), §335.24(c), §335.152(a)(5), §335.152(a)(13), §335.112(a)(6), §335.112(a)(14), §335.221 (a)(1)–(a)(23), §335.221(b), §335.222 (a)–(c), §335.223 (a)(1)–(a)(8), §335.223(b), §335.224 (1)–(2), §335.224 (3)(A)–(3)(E), §335.224(4), §335.224 (5)(A)–(5)(J), §335.224 (6)–(8), §335.224 (11)–(14), and §335.225(a), all effective July 29, 1992, as amended.
5. Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, February 25, 1991 [55 FR 7567]. (Checklist 86).	TSWDA, Chapter 361, §361.003(15), §361.017 and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended.
6. Organic Air Emission Standards for process Vents and Equipment Leaks; Technical Amendment, April 26, 1991 [56 FR 19290]. (Checklist 87).	TSWDA, Chapter 361, §361.003(15); THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.152(a)(1), §335.152(a)(4), §335.152(a)(16), and §335.152(a)(17), all effective August 31, 1992, as amended; Title 31 TAC Chapter 335, §335.112(a)(1), §335.112(a)(4), §335.112(a)(19), and §335.112(a)(20), all effective August 31,1992, as amended; Title 31 TAC Chapter 305, §305.50(4)(A), effective March 31, 1992, as amended.
7. Mining Waste Exclusion III June 13, 1991 [56 FR 27300]. (Checklist 90).	TSWDA, Chapter 361, §361.003(15), §361.017, and §361.024; THSC Ann., (Vernon Pamphlet 1992), effective September 1, 1991, as amended; Title 31 TAC, Chapter 335, §335.1 and §335.29, both effective March 31, 1992, as amended.

Texas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that Texas' application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised.

Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR 272 for codification of the decision to authorize Texas' program and for incorporation by reference of those provisions of Texas' statutes and regulations that EPA will enforce under Section 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR 272, Subpart E, until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(A), 6926, 6974(b).

Dated: March 21, 1994.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 94–8735 Filed 4–11–94; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 190, 192, 193, and 195

RIN 2137–AB71

[Docket No. PS–126; Amdts. 190–5, 192–72, 193–9, 195–50]

Passage of Instrumented Internal Inspection Devices

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the gas, hazardous liquid and carbon dioxide pipeline safety regulations to require that certain new and replacement pipelines be designed and constructed to accommodate the passage of instrumented internal inspection devices (smart pigs). This action was taken in response to a mandate in the Pipeline Safety Reauthorization Act of 1988. The intended effect of these amended regulations is to improve the safety of gas, hazardous liquid and carbon dioxide pipelines by permitting their inspection by "smart pigs" using the latest technology for detecting and recording abnormalities in the pipe wall.

EFFECTIVE DATE: The effective date of this final rule is May 12, 1994.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366–2036 regarding the subject matter of this amendment or the Docket Unit, (202) 366–5046 regarding copies of this amendment or other material in the docket.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

RSPA published a Notice of Proposed Rulemaking (NPRM) on November 20, 1992 (57 FR 54745) proposing that new and replacement gas transmission lines and new and replacement hazardous liquid pipelines and carbon dioxide pipelines be designed and constructed to accommodate the passage of instrumented internal inspection devices. However, the rules would not apply to specific installations for which such design and construction would be impracticable. In addition, the NPRM proposed a procedure for operators seeking an administrative ruling on any rule in parts 192, 193 and 195 in which the administrator is authorized to make a finding or approval.

The NPRM was issued in response to Congressional mandates in sections 108(b) and 207(b) of the Pipeline Safety Reauthorization Act of 1988 (hereinafter "Reauthorization Act") (Pub. L. 100–561; Oct. 31, 1988). Section 108(b) of the Reauthorization Act amended section 3 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) by adding subsection (g), "Instrumented Internal Inspection Devices" (49 app. U.S.C. 1672). This new subsection requires the Secretary of Transportation to establish regulations requiring that:

> (1) The design and construction of new [gas] transmission facilities, and (2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities, be carried out, to the extent practicable, in a manner so as to accommodate the passage through such transmission facilities of instrumented internal inspection devices (commonly referred to as "smart pigs").

Section 207(b) of the Reauthorization Act amended section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 app. U.S.C. 2002) to require that DOT establish similar regulations with respect to pipeline facilities subject to the HLPSA.

Future Rulemaking Involving Smart Pigs

The Pipeline Safety Act of 1992 (hereinafter "PLSA of 1992") (Pub. L. 102–508; Oct. 24, 1992) in sections 103 and 203 amended the NGPSA and the HLPSA, respectively, by requiring the Secretary of Transportation to issue regulations that require the periodic inspection of gas transmission facilities and hazardous liquid pipelines in high-density population areas, and hazardous liquid pipelines in environmentally sensitive areas or crossing navigable waterways. In response to these mandates, RSPA will issue an NPRM proposing to prescribe the circumstances, if any, under which such inspections would be conducted with smart pigs. In those circumstances under which an inspection by a smart pig would not be required, RSPA is mandated to require the use of an inspection method that is at least as effective as the use of smart pigs in providing for the safety of the pipeline

Regulations

In the NPRM, RSPA proposed to require all future new and replacement gas transmission lines subject to 49 CFR part 192 and hazardous liquid and carbon dioxide pipelines subject to 49 CFR part 195 to be designed and constructed to accommodate the passage of smart pigs, except where impracticable. For the purposes of this rulemaking, RSPA proposed that it would be impracticable to require the accommodation of smart pigs under the following categories of piping: Manifolds, station piping (such as compressor stations, pump stations, metering stations or regulator stations), cross-overs, and fittings providing branch line junctures (such as tees and other lateral connections). Additionally, the NPRM proposed to allow pipeline operators to petition (minimum 90 days in advance) the Administrator, in a particular case, for a finding that design or construction to accommodate a smart pig would be impracticable.

Advisory Committees

The Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) have been established by statute to evaluate pipeline safety regulations. The TPSSC and the THLPSSC met in joint session in Washington, DC on August 3, 1993, and considered the NPRM. Both committees accepted the NPRM as feasible, reasonable, and practicable with the incorporation of several changes. RSPA's disposition of the advisory committees' recommendations are discussed below.

Discussion of Comments

RSPA received public comments on the proposed rule change from 48 pipeline operators, seven pipeline-related associations, three state/Federal agencies, and one consulting engineer. The following discussion explains how RSPA considered the advisory committees' positions and the public comments on the proposed regulations in developing the final rule.

Low Stress Pipelines

Twenty-three commenters indicated that the rule should except pipelines in which the internal operating pressure results in low stress in the pipe wall. Many commenters argued that since gas transmission lines are not subject to certain pipeline safety regulations (§§ 192.609, 192.711 & 192.713) if they operate at or below 40 percent of the specified minimum yield strength (SMYS), that this rule should similarly not apply to these same transmission lines. The TPSSC also recommended that piping operating at a stress level of 40 percent of SMYS or less be excepted.

While RSPA understands this position, it does not agree that it justifies exception of gas transmission lines based solely on their low hoop stress at maximum operating pressure. Pipelines operating at lower stress levels are as susceptible to corrosion and other types of damage, identifiable by smart pigs, as pipelines operating at higher stress. In addition, the Reauthorization Act mandate to require certain new and replacement pipelines to be designed and constructed to accommodate the passage of smart pigs limits RSPA's discretion only to situations that make such design and construction impracticable. RSPA finds that an exception from the requirements adopted in this rule for pipelines operating at or below 40% SMYS is not appropriate, because the pipe wall stress does not, within the terms of the Reauthorization Act, affect the practicability of designing and constructing a line to accommodate passage of smart pigs.

Short Lengths

Eighteen commenters recommended that the rule except new or replacement pipelines based on their short lengths. Some commenters recommended excepting replacement pipelines depending on whether the adjoining portions of the pipeline are piggable. One of these commenters reasoned that unless the adjoining portion of pipeline can accommodate the passage of instrumented internal inspection devices, there can be no added benefit from making a replacement section piggable because the pipeline overall will still contain restrictions prohibiting inspection by smart pigs.

Nine commenters recommended exception of minimum lengths that ranged from 2000 feet to 5 miles. A gas transmission line operator recommended that the minimum excepted length should be the distance between compressor stations (40 to 60 miles), to exclude the necessity to replace non-full opening valves on short replacement sections. Four commenters suggested that the minimum excepted length should be determined by RSPA.

The disparity of the commenters' recommendations illustrates that there is no generally accepted rationale for determining the minimum length, if any, of pipe that should be excepted. Moreover, RSPA does not agree that the rule should except replacement pipelines based on either the length of the replaced section of pipeline or on whether the adjoining portion of pipeline can accommodate passage of instrumented internal inspection devices.

The plain objective of the statutory mandate is to make both short and long pipelines that are not now piggable from end to end, piggable in time through replacements. Therefore, the final rule does not include these exceptions. However, operators wishing to except short length pipelines may want to petition the Administrator under the procedures set out in the new § 190.9.

Non-Steel Pipelines

Five commenters recommended that the rule apply only to steel pipelines. One commenter argued that current internal inspection devices cannot monitor non-ferrous pipelines for stress corrosion. The commenter contends that no benefit derives from the running of smart pigs on these lines, and therefore it would be unreasonable to require operators to make them piggable.

Another commenter contended that, although some polyethylene gas pipelines are by DOT definition transmission lines, there are no smart pigs (except camera pigs) that are designed for use in plastic pipe.

RSPA does not agree that the rule should except non-steel pipelines. It is true that smart pigs cannot presently monitor non-steel pipelines for as many defects or anomalies as are detectable in steel pipelines. However, smart pigs can currently detect some physical defects in non-steel pipelines; i.e. dents, change in internal diameter, ovality, misalignment of joints, and change in position of the pipe. Moreover, by making new and replacement plastic pipelines piggable, they will be able to accommodate new smart pig technology as it is developed. Nonetheless, all the exceptions in this rule applicable to steel pipelines are also applicable to non-steel pipelines.

Small Diameter Pipelines

Twenty-four commenters recommended that the rule except the smaller diameter pipelines. Some reasoned that commercially available smart pig technology is limited to the larger pipe sizes. Consequently, for those sizes of pipe for which there are no commercially available smart pigs, designing and constructing pipelines to pass smart pigs would be impracticable.

RSPA does not agree that the rule should include a blanket exception for all small diameter pipelines. In recent years we have seen the increasing miniaturization of electro-mechanical components in equipment used in smart pigs and we expect the trend to continue.

RSPA understands that where no commercially available technology exists to inspect a particular pipe size by smart pigs, the pipeline operator would lack sufficient technical information to establish the design and construction criteria, e.g. minimum internal pipe diameter and minimum pipe bend radius, essential for passage of smart pigs. Therefore, the final rule has been written to apply only to pipeline diameters for which there is a commercially available smart pig at the time the new or replacement pipeline is designed. At the time of preparation of this document, RSPA finds that 4 inches is the minimum nominal pipe size for which smart pigs are commercially available.

Gas Transmission Lines Operated in Conjunction With Distribution Systems

Twelve commenters recommended that the rule except lines classified as transmission lines because their hoop stress is 20 percent or more of SMYS, that operate in conjunction with gas distribution systems. They reasoned that, typically, these lines have components and configurations that impede passage of instrumented internal inspection devices.

Some commenters reasoned that many of these transmission lines are the sole gas supply to large gas distribution systems. So, inspection of these lines by instrumented internal inspection devices could, if problems develop while running the inspection device, disrupt customer service.

RSPA does not agree that the rule should provide an exception for gas transmission lines that are operated in conjunction with distribution systems (except as discussed under the heading "Gas transmission lines in crowded underground locations"). First, although such lines may have configurations or components that impede inspection by smart pigs, the commenters did not provide information to substantiate the contention that these conditions are impracticable to avoid on new or replacement lines. RSPA believes it is practicable to design and construct new and replacement transmission lines operated in conjunction with distribution systems to accommodate passage of smart pigs. Second, potential service disruption (from stuck smart pigs) on single feed transmission lines will not be a factor on lines that are properly designed, constructed and maintained to accommodate smart pigs. Also, to further reduce the possibility of the smart pig becoming stuck, prior runs can be scheduled, with cleaning and caliper pigs, during periods of minimal load requirements. Third, the use of smart pigs to monitor the integrity of single feed transmission lines can detect problems before they can affect the reliability of the gas supply to the customers.

Gas Transmission Lines in Crowded Underground Locations

Twelve commenters recommended that RSPA except gas transmission lines located in certain urban areas. Most of them pointed out that utility locations underneath city streets in downtown urban areas are typically overcrowded. Physical constraints from other utilities and the structural boundary of available space make the design and construction of replacement pipelines to accommodate smart pigs impracticable. For example, many underground utility locations lack sufficient clearance between existing utilities to allow the replacement of existing short radius elbows with longer radius elbows (which consume more space) to permit passage of smart pigs. Nonetheless, a commenter from a state with few large cities suggested that internal inspection devices should only be required for pipelines located in Class 3 or 4 locations and in environmentally sensitive areas.

While gas transmission lines operated in conjunction with distribution systems are generally covered under this rule, RSPA agrees that the rule should provide an exception whenever gas transmission lines operated in conjunction with distribution systems are located in certain congested urban areas. RSPA believes it is impracticable to design and construct these particular transmission lines, considering the arguments presented above, to accommodate passage of smart pigs when there exist physical constraints, not associated with the pipe itself, which are beyond an operator's control. Furthermore, RSPA understands that underground utility areas in Class 4 locations are typically overcrowded and unable to accommodate the pipeline configurations needed for the accommodation of smart pigs. So, in the final rule, § 192.150(b)(6) excepts gas transmission lines that are: Operated in conjunction with a gas distribution system and installed in Class 4 locations. However, gas transmission lines, not operated in conjunction with a gas distribution system are not excepted because these lines generally pose greater risks, typically transporting gas at higher pressures.

Gas, Oil and Carbon Dioxide Storage Facilities

Twelve commenters recommended that the rule except gas transmission lines which are part of injection/withdrawal systems at gas storage facilities. Commenters said these gas storage facilities have small diameter piping configured in a grid-like pattern that would not permit the passage of smart pigs. The TPSSC likewise recommended that storage facilities be excepted. Similarly, one commenter urged an exception of delivery/withdrawal piping associated with hazardous liquid storage in breakout tanks, due to the short lengths, short radius bends and other tank farm piping configurations which are unable to accommodate the passage of smart pigs. The THLPSSC also recommended that tank farm piping be excepted from compliance with this rule.

RSPA agrees that because of piping configuration constraints associated with the storage facilities for gas, hazardous liquids and carbon dioxide it is generally impracticable for design and construction to accommodate passage of smart pigs. Therefore, § 192.150(b)(3) of the rule excepts piping associated with gas storage facilities, other than a continuous run of transmission line between a compression station and storage facilities, and § 195.120(b)(2) excepts piping associated with liquid storage facilities. Nonetheless, RSPA will be studying underground storage issues and, based on that work, may initiate rulemaking to address new safety measures that may be necessary.

Emergencies and Unforeseen Construction Problems

The NPRM proposed to exclude from the rule piping that the Administrator finds, upon petition by an operator, to be impracticable to design and construct to accommodate the passage of smart pigs. Eighteen commenters stated that many construction situations are under tight contractual or other time constraints that do not allow sufficient time to obtain a finding by the Administrator. For example, an operator may have to make immediate adjustments in the field because of the discovery of obstructions or other unforeseen problems. Thus, some commenters reasoned that while the Administrator would have at least 90 days to decide whether to grant a petition, most pipeline construction projects would not allow delays of a few days. A few commenters suggested that the operators should be permitted to accept the "burden of proof" when encountering an impracticability during construction and so inform RSPA.

Similarly, the TPSSC recommended that the test for impracticability be left up to the operator instead of petitioning the Administrator for a finding. The

Committee suggested the wording "and any other piping that the operator determines and documents would be impracticable to design and construct to accommodate the passage of an instrumented internal inspection device" be substituted for "the Administrator finds" in the exception of § 192.150(b) from the NPRM. Also, the TPSSC recommended that "emergency repairs" be added to the list of exceptions contained in § 192.150(b).

RSPA acknowledges that emergencies, construction time constraints, and unforeseen pipeline construction problems would not allow operators the time to petition for a finding of impracticability and wait for RSPA's response. Therefore, RSPA has added §§ 192.150(c) and 195.120(c) which permit an operator discovering an emergency, construction time constraint or other unforeseeable construction problem to make a provisional determination of impracticability. In such instances the operator must document the circumstances resulting in its impracticability determination. Within 30 days after discovering an emergency or a construction problem, the operator must petition under the new § 190.9, "Petitions for finding or approval" for a finding by the Administrator that design and construction to accommodate passage of internal inspection devices would be impracticable. If the petition is denied, the operator must modify the line section to allow passage of instrumented internal inspection devices, within 1 year after the date of the notice of denial.

Petitions for Finding or Approval

The NPRM proposed that § 190.9, "Petitions for finding or approval" be added to part 190 of this Chapter. Except as discussed above, commenters did not oppose the establishment of a procedure to allow an operator to petition the Administrator for an administrative ruling on any rule under parts 192, 193, and 195 in which the Administrator is authorized to make a finding or approval. Heretofore, a similar procedure in part 193 (§ 193.2015) applied only to petitions relating to LNG facilities.

In this rule, the § 190.9 has been revised to require operators of intrastate pipelines located in states, participating under section 5 of the NGPSA or section 205 of the HLPSA to direct their petitions to the state pipeline safety agency. The participating state agency will then make a recommendation to the Administrator as to the disposition of the petition.

Restraining Elements

Nine commenters objected to the proposed requirement to add restraining devices to all fittings providing branch line connections. Restraining elements are added when the outlet to the branch line could impede the passage of the smart pig. Many commenters argued that the addition of restraining elements to these fittings may inhibit cleaning of the branch lines by spheres or cleaning pigs. Other commenters pointed out that the use of restraining elements in the main line is unnecessary whenever the branch line has a significantly smaller diameter than the main line.

RSPA agrees that the rule should not require restraining elements where they are unnecessary or make impracticable other functions that are an essential and routine part of pipeline operations and maintenance. So, the rule does not include a requirement for installing restraining elements, but leaves their installation to the discretion of the operator.

Offshore Pipelines

Eleven commenters recommended that the rule except offshore pipelines. Several commenters based their recommendations on the fact that offshore pipeline networks are tied-in by "hot-tapped" or tee connections and these tie-ins are without restraining elements. This type of construction permits cleaning pigs or spheres, required for removal of materials (such as liquids from gas lines and wax from oil lines) that impede normal flow, to pass into laterals of ever increasing diameters.

The system design is contingent on the passage of these cleaning devices through the various laterals for final tie-in to the liquid trunk (main) lines and to the gas transmission lines. Then, these larger diameter lines transport the cleaning pigs to onshore facilities, for eventual retrieval.

An operator of offshore gas systems said that because of the many subsea tie-ins to pipelines of larger diameter, smart pigs will require some type of elaborate receiving device or physically disconnecting/lifting the pipeline; either of which would be very expensive. Other commenters advised that smart pigs cannot be launched or received subsea. An offshore operator said that new offshore platforms typically connect new platforms to an existing subsea network. Connections to an existing subsea pipeline are "hot-tapped" or are extensions to existing laterals. This operator summed up his recommendations by saying that it is impractical to design for the passage of smart pigs through these connections and it is certainly impractical to install subsea traps.

Commenters also stated that because of space limitations on the offshore platforms, the pipelines (risers) which have been routed up onto the platforms have been designed and constructed with short radius bends and other fittings that are only adequate for the launching of cleaning pigs or spheres. These commenters argue that the construction of the risers with long-sweeping bends on the sea floor and on the platform, and the installation of the longer launchers and receivers required to accommodate smart pigs, would be impracticable. For many of the same reasons, both the TPSSC and the THLPSSC recommended that offshore pipelines be excepted from the rule.

RSPA acknowledges that many subsea pipelines have been designed and constructed without restraining bars on branch line connections, because they would prohibit the passage of cleaning pigs and spheres. This design allows cleaning pigs and spheres to pass through the network of subsea laterals and ultimately into larger transmission or trunk (main) lines that transport gas or liquids to shore facilities.

It is also apparent to RSPA, that designers of offshore platforms seldom anticipated the space required to accommodate facilities necessary for the operation of smart pigs. Moreover, RSPA accepts that smart pigs cannot be launched or received subsea. However, RSPA does not agree with the commenters or the two advisory committees that all gas and liquid offshore pipelines should be fully excepted from this rule.

For pipelines subject to part 195, the current § 195.120 requires that each component of a main line system, other than manifolds, that change direction within the pipeline system must have a radius of turn that readily allows the passage of pipeline scrapers, spheres, and internal inspection equipment. This requirement for main line components to readily allow the passage of smart pigs through changes of direction has been in effect since 1970, when offshore liquid lines became subject to part 195.

Part 192 has applied to offshore gas lines since 1971. In accordance with the requirements of section 108(b) of the Reauthorization Act, RSPA sees the need for certain new and replacement offshore gas transmission lines and risers from these lines to be designed and constructed to allow passage of smart pigs.

Accordingly, in §§ 192.150(b)(7) and 195.120(b)(6), while the rule has not excepted all offshore lines and related

facilities, it has excepted offshore lines which are not gas transmission lines or liquid main lines 10 inches or greater in nominal diameter that transport these commodities to onshore facilities. RSPA limited the accommodation of smart pigs to these larger gas transmission and liquid main lines because we find, for the reasons expressed by the commenters, that the unique design and construction of the excepted offshore pipeline systems makes them generally impracticable for the passage of smart pigs.

When the rulemaking mandated by the PLSA of 1992 discussed under the heading—Future Rulemaking Involving Smart Pigs—is issued, RSPA may prescribe the circumstances for inspection with smart pigs. Such circumstances, if included in any final rule, may require the need for offshore platforms that contain risers, to also accommodate launchers and (where appropriate) receivers for the passage of smart pigs.

Above Ground Pipelines

Three commenters recommended that RSPA except above ground pipelines because operators can inspect these pipelines visually.

RSPA finds that regardless of whether an operator can visually inspect a line above ground is irrelevant to the practicability of design and construction of pipelines to accommodate passage of smart pigs. Furthermore, smart pigs are capable of detecting internal defects that cannot be discovered by a visual inspection of the outside surface of a pipeline. Moreover, above ground pipelines are required to be externally coated and coating materials usually preclude visual inspection of the outside surface. So, this recommendation was not adopted.

Clarification of the Term "Replacement"

Thirteen commenters recommended that the terms "replacement transmission line" and "replacement pipeline" be clarified to indicate the portion of an existing line that must be modified to accommodate smart pigs when replacements are made for other reasons.

A gas pipeline operator recommended that the meaning of the term "replacement transmission line" be limited to the pipe and components such as valves, bends, and fittings which are added to or replaced in an existing transmission line. Another gas pipeline operator expressed support for regulations stating that replacement pipeline facilities could not be constructed which would further restrict the passage of a smart pig. RSPA cannot accept the first commenter's recommendations because if "replacement" is limited to a replaced valve, a joint of pipe, or other component, then pipelines with restrictive components, such as elbows and tight radius field bends (which when properly maintained never need replacement) would never be piggable. Also RSPA cannot accept the second commenter's position because it appears to mean that the operator need only to make the replacement no more restrictive than it was prior to it being replaced. The clear intent of the congressional mandate is to improve an existing pipeline's piggability.

A pipeline operator and a pipeline related association, recommended that the word "pipeline" be replaced with "line section" defined in § 195.2. A gas pipeline association urged that "replacement transmission line" be changed to "replacement transmission section" to clearly indicate that only the portion of line replaced must accommodate the passage of smart pigs. Another pipeline related association interpreted "replacement" to mean either: (1) Replacement of the entire line, or (2) replacement of the line segment between two logical points (e.g. compressor stations). A gas pipeline operator also believed the term "segment" is appropriate because it is frequently used in part 192 and it recognizes that pipelines are segmented for different regulatory purposes. A gas transmission operator felt that the definition of "replacement line" should exempt the replacement of partial segments of existing gas pipelines within a valve section that are replaced because of class change or regular maintenance work because of construction restraints. A gas distribution operator stated that if the proposal was intended to apply to the replaced or relocated section only, then that limitation should be in the final rule.

The Congressional mandate requires the gradual elimination of restrictions in existing gas transmission lines and existing hazardous liquid and carbon dioxide lines in a manner that will eventually make the lines piggable. Operators are only required to remove the restrictions when replacements are made on the pipeline. On those occasions, the economic burden of the upgrading is reduced because crews and equipment will be on the site and that portion of the pipeline will need to be out of service. Six of the commenters appear to have considered the favorable economics when they recommended that the upgrading for piggability cover the "line segment" or "line section". While "line segment" is frequently used in the gas regulations it is not defined, although it's used similarly to "line section" (one commenter suggested it was the distance between two logical points e.g. compressor stations).

Therefore, in consideration of the comments "line section" is used in place of the term "replacement transmission line" in part 192, and "line section" is used in place of the term "replacement pipeline" in part 195, as those terms are used in the NPRM. "Line section," as added to part 192 is similar to "line section" as it is defined in § 195.2.

In part 195, "line section" is currently defined in § 195.2 to mean a continuous run of pipe between adjacent pressure pump stations, between a pressure pump station and terminal or breakout tanks, between a pressure pump station and a block valve, or between adjacent block valves. Now, in part 192 "line section" is defined in § 192.3 to mean a continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves.

Accordingly, §§ 192.150(a) and 195.120(a) have been revised to clarify that when a replacement is made of line pipe, line valve, line fitting, or other line component in an existing pipeline, covered by this rule, the complete line section must be made to accommodate smart pigs.

Also, RSPA has modified the final rule in response to the comment from the gas transmission operator that felt replacements of certain partial segments within an existing valve section that are replaced because of MAOP class change or regular maintenance work requirements, should be excepted because of construction constraints. Although, the construction restraints were not specified, RSPA has addressed construction type problems with the procedure set out in §§ 192.150(c) and 195.120(c).

Launchers and Receivers

Several commenters agreed with statements in the NPRM that installation of pig traps should not be required by this rulemaking, but should be left to the discretion of pipeline operators. Also, a commenter agreed with the statement in the NPRM that operators should determine where pig traps are to be permanently located based on individual operating circumstances. A gas pipeline operator said that in a practical sense, it would be more cost effective to add launchers and receivers

at the time of construction rather than after the transmission line is in service (which could again require the line to be taken out of service). The National Transportation Safety Board urged RSPA to revise its proposal so that facilities for entering and removing smart pigs are required on all pipelines capable of being traversed by such equipment. However, RSPA believes that revising the NPRM for this purpose would delay the regulatory effect of this rulemaking and the requirement may be included in a future rulemaking.

In the final rule, as in the NPRM, RSPA has not included requirements for launchers or receivers. However, when the rulemaking mandated by the PLSA of 1992 is issued, RSPA may prescribe the circumstances for inspection with smart pigs. Such circumstances, if included in any final rule, may require facilities for launching or receiving smart pigs. In the meantime, RSPA urges pipeline operators to consider the economic advantages of voluntarily installing facilities, at the time of construction or replacement of pipelines, for launching and receiving smart pigs.

Exemption of Gathering Lines

Several commenters urged clarification of the exception for gas gathering lines in the proposed § 192.9.

In light of the comments, RSPA agrees that clarification is needed. Therefore, the exception, of the new § 192.150, has been retained and the current exception, as provided in § 192.1; has been referenced in the revised § 192.9.

Moreover, in §§ 192.150(b)(7) and 195.120(b)(6), RSPA has excepted offshore pipelines other than gas transmission or liquid main lines, 10 inches or larger, that transport gas or liquids to onshore facilities. Liquid gathering lines, which are defined in § 195.2, are included in this exception.

Economic Impact

Nineteen commenters discussed the economic impact and the majority found fault with RSPA's assessment that the rule would add minimally to the average expense of pipeline design and construction.

As a result of information presented by the commenters, RSPA has excepted various categories of pipelines from the final rule. These exceptions are: Piping associated with storage facilities, other than gas transmission lines; piping sizes for which a smart pig is not commercially available; gas transmission lines, operated in conjunction with a distribution system, which are installed in Class 4 locations; and offshore pipelines other than certain gas transmission and liquid main lines. Additionally, operators are permitted to make a provisional determination of impracticability in instances of emergencies, construction time constraints or other unforeseeable construction problems that require immediate action. Other less urgent problems can be handled through the newly established procedure in § 190.9, "Petitions for finding or approval."

Accordingly, these exceptions together with others carried forward from the NPRM substantially reduce the cost of compliance with the rule. RSPA finds that the compliance costs will be minimal. A Regulatory Evaluation has been prepared and is available in the Docket.

Regulatory Notices and Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under 3(f) of Executive Order 12866 and, therefore, is not subject to review by the Office of Management and Budget. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979).

RSPA believes that the rule will add minimally to the average expense of pipeline design and construction. The information RSPA has collected for the study under section 304 of the Reauthorization Act shows that about 90 percent of hazardous liquid pipelines and 60 percent of gas transmission lines have been constructed to accommodate the passage of smart pigs. This information confirms RSPA's field experience that most operators are now constructing new and replacement gas transmission lines and hazardous liquid pipelines to accommodate smart pigs.

RSPA lacks detailed information about carbon dioxide pipelines which recently became subject to part 195. However, there are only about 10 such pipeline systems and we understand that they are not expected to grow in mileage or to require a significant amount of replacement in the near term. Thus, those pipelines should not be greatly affected by the revision of § 195.120.

Federalism Assessment

This final rule will not have substantial direct effects on the states, on the relationship between the Federal 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 (52 FR 41685; October 30, 1987), RSPA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

There are very few small entities that operate pipelines affected by this rulemaking. To the extent that any small entity is affected, the regulatory evaluation accompanying this rule shows that the costs are minimal. Based on these facts, I certify that under section 605 of the Regulatory Flexibility Act that this final regulation does not have a significant impact on a substantial number of small entities.

List of Subjects

49 CFR Part 190

Administrative practice and procedure, Penalties, Pipeline safety.

49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Fire prevention, Pipeline safety, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 195

Anhydrous Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements, Security measures.

In consideration of the foregoing, RSPA amends 49 CFR parts 190, 192, 193, and 195 as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 continues to read as follows:

Authority: 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009, and 2010; 49 CFR 1.53.

2. Section 190.9 is added to read as follows:

§ 190.9 Petitions for finding or approval.

(a) In circumstances where a rule contained in parts 192, 193 and 195 of this chapter authorizes the Administrator to make a finding or approval, an operator may petition the Administrator for such a finding or approval.

(b) Each petition must refer to the rule authorizing the action sought and contain information or arguments that justify the action. Unless otherwise specified, no public proceeding is held on a petition before it is granted or denied. After a petition is received, the Administrator or participating state agency notifies the petitioner of the

disposition of the petition or, if the request requires more extensive consideration or additional information or comments are requested and delay is expected, of the date by which action will be taken.

(1) For operators seeking a finding or approval involving intrastate pipeline transportation, petitions must be sent to: (i) The state agency certified to participate under section 5 of the NGPSA (49 U.S.C. 1674) or section 205 of the HLPSA (49 App. U.S.C. 2004); or

(ii) Where there is no state agency certified to participate, the Administrator, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

(2) For operators seeking a finding or approval involving interstate pipeline transportation, petitions must be sent to the Administrator, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

(c) All petitions must be received at least 90 days prior to the date by which the operator requests the finding or approval to be made.

(d) The Administrator will make all findings or approvals of petitions initiated under this section. A participating state agency receiving petitions initiated under this section shall provide the Administrator a written recommendation as to the disposition of any petition received by them. Where the Administrator does not reverse or modify a recommendation made by a state agency within 10 business days of its receipt, the recommended disposition shall constitute the Administrator's decision on the petition.

PART 192—[AMENDED]

3. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

4. In § 192.3, the definition of *Secretary* is removed, and definitions of *Administrator* and *Line section* are added to read as follows:

§ 192.3 Definitions

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * * * *

Line section means a continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves.

* * * * *

5. Section 192.9 is revised to read as follows:

§ 192.9 Gathering lines.

Except as provided in §§ 192.1 and 192.150, each operator of a gathering line must comply with the requirements of this part applicable to transmission lines.

6. Section 192.150 is added to read as follows:

§ 192.150 Passage of internal inspection devices.

(a) Except as provided in paragraphs (b) and (c) of this section, each new transmission line and each line section of a transmission line where the line pipe, valve, fitting, or other line component is replaced must be designed and constructed to accommodate the passage of instrumented internal inspection devices.

(b) This section does not apply to: (1) Manifolds;

(2) Station piping such as at compressor stations, meter stations, or regulator stations;

(3) Piping associated with storage facilities, other than a continuous run of transmission line between a compressor station and storage facilities;

(4) Cross-overs;

(5) Sizes of pipe for which an instrumented internal inspection device is not commercially available;

(6) Transmission lines, operated in conjunction with a distribution system which are installed in Class 4 locations;

(7) Offshore pipelines, other than transmission lines 10 inches or greater in nominal diameter, that transport gas to onshore facilities; and

(8) Other piping that, under § 190.9 of this chapter, the Administrator finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

(c) An operator encountering emergencies, construction time constraints or other unforeseen construction problems need not construct a new or replacement segment of a transmission line to meet paragraph (a) of this section, if the operator determines and documents why an impracticability prohibits compliance with paragraph (a) of this section. Within 30 days after discovering the emergency or construction problem the operator must petition, under § 190.9 of this chapter, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within 1 year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

PART 193—[AMENDED]

7. The authority citation for part 193 continues to read as follows:

Authority: 49 App. U.S.C. 1671 *et seq.*; and 49 CFR 1.53.

§ 193.2015 [Removed]

8. Section 193.2015 is removed and reserved.

PART 195—[AMENDED]

9. The authority citation for part 195 is revised to read as follows:

Authority: 49 App. U.S.C. 2002 and 2015; 49 CFR 1.53.

10. In § 195.2, the definition of *Secretary* is removed, and the definition of *Administrator* is added to read as follows:

§ 195.2 Definitions.

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * * * *

§§ 195.8, 195.56, 195.58, 195.106, 195.260 [Amended]

11. In §§ 195.8, 195.56(a), 195.58, 195.106(e), and 195.260(e), the term "Secretary" is removed and the term "Administrator" is added in its place.

12. Section 195.120 is revised to read as follows:

§ 195.120 Passage of internal inspection devices.

(a) Except as provided in paragraphs (b) and (c) of this section, each new pipeline and each line section of a pipeline where the line pipe, valve, fitting or other line component is replaced; must be designed and constructed to accommodate the passage of instrumented internal inspection devices.

(b) This section does not apply to:

(1) Manifolds;

(2) Station piping such as at pump stations, meter stations, or pressure reducing stations;

(3) Piping associated with tank farms and other storage facilities;

(4) Cross-overs;

(5) Sizes of pipe for which an instrumented internal inspection device is not commercially available;

(6) Offshore pipelines, other than main lines 10 inches or greater in nominal diameter, that transport liquids to onshore facilities; and

(7) Other piping that the Administrator under § 190.9 of this chapter, finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

(c) An operator encountering emergencies, construction time constraints and other unforeseen construction problems need not construct a new or replacement segment of a pipeline to meet paragraph (a) of this section, if the operator determines and documents why an impracticability prohibits compliance with paragraph (a) of this section. Within 30 days after discovering the emergency or construction problem the operator must petition, under § 190.9 of this chapter, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within 1 year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

Issued in Washington, DC on April 6, 1994.

Ana Sol Gutiérrez,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 94–8622 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 59, No. 70
Tuesday, April 12, 1994

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 212, 217, 235, 264 and 286

[INS No. 1603–93]

RIN 1115–AD30

Charging of Fees for Services at Land Border Ports-of-Entry

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations to allow the Immigration and Naturalization Service (the Service) to charge a fee for the processing and issuance of specified documents at land border Ports-of-Entry (POEs). Consistent with Federal user fee statutes and regulations, the Service has identified services that are currently provided free of charge and for which it would be appropriate to impose a fee. The revenue generated by the collection of fees for these application processing services will enable the Service to improve service to the public at land border POEs.

DATES: Written comments must be submitted on or before June 13, 1994.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., room 5307, Washington, DC 20536. Please include INS number 1603–93 on the mailing envelope to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT: Linda Loveless, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone (202) 616–7489.

SUPPLEMENTARY INFORMATION: Traffic at land border POEs has continued to increase dramatically in recent years. During FY 1992, Immigration and Customs inspectors at land border ports completed more than 475 million inspections, representing an increase of over 50 million more inspections than were completed in FY 1991. This growth in transborder traffic has made it increasingly difficult to provide expeditious service to the traveling public. Immigration laws require that all applicants-for-admission at land border POEs undergo a brief interview and preliminary screening in a primary vehicle or pedestrian lane. Those found admissible are allowed to proceed without further delay. Persons who do not appear to be immediately admissible, or who require further processing or documentation, are referred for a secondary inspection. Activities directly related to secondary inspection include, among other duties, examining documents, conducting record checks, and issuing permits for extended stays in the United States. Additionally, those submitting applications for benefits, such as border crossing cards and boating permits, often require extensive interviews, as well as record checks, document production, and other time-consuming paperwork.

Currently, appropriated funds are the major source of funding for the staffing of land border POEs. This funding has not kept pace with the increased workload at land border locations. Despite the increase in traffic affecting inspection services, and resulting new construction needed to expand the capacity of many land border POEs, no substantial increase in appropriated fund has been received for land border positions within the last ten years.

The Service has sought to identify those services that are currently provided free of charge for which it would be appropriate to impose a fee. Generation of sufficient revenue to recover the costs of providing specific services, such as document-processing, is consistent with the Federal user fee statute (31 U.S.C. 9701) and regulations which require that recipients of special benefits bear the costs of providing those services. The Office of Management and Budget (OMB) Circular A–25, User Charges, states as a general policy that reasonable charges should be imposed to recover the full cost to the Federal government of rendering such services. The specific application-processing services provided by the Service in secondary inspection at land border POEs result in the issuance of documents that are beneficial to the specific user. Therefore, it is appropriate that fees be charged to these users.

This rule proposes to permit the Service to impose a fee at land border POEs for the processing of Form I–94, Arrival/Departure Record, and I–94W, Nonimmigrant Visa Waiver Arrival/Departure Form; Form I–444, Mexican Border Visitors Permit; Form I–68, Canadian Border Boat Landing Permit; Form I–175, Application for Nonresident Alien Canadian Border Crossing Card for issuance of Form I–185, Nonresident Alien Canadian Border Crossing Card; and Form I–190, Application for Nonresident Alien Mexican Border Crossing Card, to replace a lost, stolen, or mutilated Nonresident Alien Border Crossing Card, Form I–586.

Prior to development of this proposal, the total cost of providing these specific services to the public was included as part of the total Service budget and was not separately identified. The fees proposed in this rule were determined by an analysis of document-processing services and associated costs, and are calculated to recover the direct and indirect costs to the government of providing these special services and benefits. As the Service collects more detailed information related to providing these specific services, refinements to the cost base may be necessary.

These services and processes include, among other things, interviewing applicants, determining validity of documents, conducting background checks, verifying information, providing assistance to complete application forms, issuing the appropriate documents, and the administrative and support activities associated with providing these services.

The appropriate fee for each application was primarily based on an assessment of the amount of inspector direct labor devoted to processing each type of application. To arrive at this assessment, the Inspections Program obtained work hour information directly from various INS field offices. The estimate derived from this survey was then applied to the estimated volume of

each type of application to determine the total estimated inspector direct labor required for each application. The number of supervisory inspector hours required was determined by applying a standard ratio to the inspector direct labor estimate. Resource levels for training, management, and administrative support were determined based on the current ratio of these functions to the areas to which they normally provide support. The associated costs were calculated based on the level of support that would be required to process each application. Other identifiable costs related to a specific application, such as card production costs, were calculated and applied to the specific application.

With the increase in transborder traffic, the demand for additional resources at land border POEs has become critical. The collection of fees will allow the Service to support the secondary application-processing services provided at land border POEs without depending on appropriated resources. Unlike appropriated funding, fluctuations in fee revenues will correspond directly to fluctuations in workload. Consequently, in the event workload increases, the level of fee resources available to fund the processing of applications would increase commensurately. It is anticipated that the imposition of the fee-for-service charge will enable the Service to improve inspection services at the land border. Once the fee revenues are available, appropriated resources formerly allocated to provide these services may be redirected to augment staffing of vehicle and pedestrian traffic lanes. The resulting benefit would be improved facilitation of traffic through the POE.

The specific forms for which fees are being proposed are as follows:

Forms I–94 and I–94W are issued to record the entry of many nonimmigrant aliens and serve as a form of alien registration. These forms document the benefits of admission and permit the alien to travel anywhere within the United States for a designated purpose and period of time. Payment of a fee will not be required when an I–94 is issued for the purpose of paroling an alien into the United States.

Form I–44 is issued in conjunction with presentation of a Nonresident Alien Border Crossing Card (BCC) or nonimmigrant visitor's visa by a Mexican national requesting entry as a visitor for business or pleasure (B–1/B–2). This form is issued in lieu of, and serves a similar purpose to, Form I–94, and is issued only to Mexican nationals when they are traveling to the five-border-state area of Arizona, California, Nevada, New Mexico, or Texas for a period not to exceed 30 days. Current procedure allows the inclusion of several persons on one Form I–444. The proposed regulation will require a separate form with fee for each individual; however, there is a family fee cap applicable to a husband, wife, and minor children under 18 years of age.

Form I–68 may be issued to eligible United States and Canadian citizens and residents to allow pleasure boaters, who have been previously inspected and issued the form, to enter the United States by small boat from Canada without the necessity of reporting for inspection upon each entry. Considerable personnel resources and work hours are spent each year in its issuance, including record checks and INS outreach activities at boat shows, recreational clubs, and other similar gatherings to facilitate registration in the program. This rule also provides for the issuance of a Form I–68 for each individual, rather than for each family group, although a family fee cap is applicable to a husband, wife, and minor children under 18 years of age.

Form I–185 (CBCC) is issued to Canadian citizens or lawful permanent residents of Canada having a common nationality with Canada and is intended to facilitate the entry of those individuals into the United States. Since these groups are automatically waived passport and visa requirements when crossing the border into the United States, Form I–185 is normally issued in conjunction with an approved waiver of excludability pursuant to section 212(d)(3)(B) of the Act. Form I–185 therefore serves as evidence of a long-term waiver of inadmissibility for the holder of the document. Currently, no fee is charged for this benefit, although each application requires substantial time to adjudicate and provides a clear benefit to the applicant by eliminating the need for a yearly waiver application.

Form I–586 (BCC), and its former version Form I–186, offer the same privileges as the B–1/B–2 visa. The issuance of BCCs is a benefit which the Service performs voluntarily. No law or regulation requires the Service to issue this document, which is an extremely desirable benefit to many Mexican nationals. Possession of the BCC allows access to the area within 25 miles of the border for periods not to exceed 72 hours without the need for further documentation upon each entry. With the issuance of other documentation, the BCC also allows travel to all parts of the United States without the need to obtain a nonimmigrant visa and passport. The existing Agreement on Passports/Visas (Treaty) between the United States and Mexico currently prohibits charging a fee for the initial issuance of a BCC. However, the treaty does not specifically preclude charging a fee for replacement cards. The application process for replacement is identical to the application for initial issuance, placing a significant demand on personnel resources. Institution of a fee for the application for issuance of a replacement Form I–586 will help to make the process financially self-supporting and substantially expedite issuance of the card.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. The fees proposed in this rule, calculated to cover only the costs of providing the service, are nominal, and will apply only to individuals, not small entities. This rule is not significant within the meaning of section 3(f) of Executive Order 12866, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

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

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Aliens, Authority delegation (Government agencies), Fees, Forms.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas.

8 CFR Part 217

Aliens, Passports and visas.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Port-of-entry.

8 CFR Part 264

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 286

Fees, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

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

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

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by adding, in proper numerical sequence, the following forms to the list of forms, to read as follows:

§ 103.7 Fees.

(b) * * *

(1) * * *

Form I–68. For application for issuance of the Canadian Border Boat Landing Permit under section 235 of the Act—$16.00. The maximum amount payable by a family (husband, wife, and any minor children under 18 years of age) shall be $32.00.

* * * * *

Form I–94. For issuance of Arrival/Departure Record at a land border Port-of-Entry under section 286 of the Act—$6.00.

Form I–94W. For issuance of Nonimmigrant Visa Waiver Arrival/Departure Form at a land border Port-of-Entry under section 217 of the Act—$6.00.

* * * * *

Form I–175. For issuance of Nonresident Alien Canadian Border Crossing Card (Form I–185)–$30.00.

Form I–175. For issuance of replacement Nonresident Alien Mexican Border Crossing Card (Form I–586) in lieu of one lost, stolen, or mutilated—$26.00.

* * * * *

Form I–444. For issuance of a Mexican Border Visitors Permit issued in conjunction with presentation of a Mexican Border Crossing Card or multiple-entry B–1/B–2 nonimmigrant visa to proceed for a period of more than 72 hours but not more than 30 days and to travel more than 25 miles from the Mexican border but within the five-state area of Arizona, California, Nevada, New Mexico, or Texas—$4.00. The maximum amount payable by a family (husband, wife, and any minor children under 18 years of age) shall be $8.00.

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

3. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR part 2.

4. Section 212.6 is amended by revising paragraph (e) to read as follows:

§ 212.6 Nonresident alien border crossing cards.

* * * * *

(e) *Replacement.* If a nonresident alien border crossing card has been lost, stolen, mutilated, or destroyed, the person to whom the card was issued may apply for a new card as provided for in this section. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application for the replacement card. The holder of a Form I–185, I–186 or I–586 which is in poor condition because of improper production may be issued a new form without submitting fee or application upon surrendering the original card.

* * * * *

PART 217—VISA WAIVER PILOT PROGRAM

5. The authority citation for part 217 continues to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

6. Section 217.2 is amended by revising paragraph (c) to read as follows:

§ 217.2 Eligibility.

* * * * *

(c) *Applicants arriving at land border Ports-of-Entry.* Any applicant arriving at a land border Port-of-Entry must provide evidence to the immigration officer of financial solvency and a domicile abroad to which the applicant intends to return. An applicant arriving at a land border Port-of-Entry will be charged a fee as prescribed in § 103.7(b)(1) of this chapter for issuance of Form I–94W, Nonimmigrant Visa Waiver Arrival/Departure Form.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

7. The authority citation for part 235 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, and 1252.

8. In § 235.1, paragraph (e) is amended by revising the phrase "without application or fee," in the first sentence to read: "upon application and payment of a fee prescribed under § 103.7(b)(1) of this chapter,".

9. In § 235.1, paragraph (f)(1) introductory text, paragraph (f)(2), and paragraph (g)(1) are revised to read as follows:

§ 235.1 Scope of examination.

* * * * *

(f) * * *

(1) *Nonimmigrants.* Except as indicated in this paragraph, each nonimmigrant alien who is admitted to the United States shall be issued a completely executed Form I–94 (Arrival-Departure Record) endorsed to show the alien's date and place of admission, the period of admission, and the alien's nonimmigrant classification. The Form I–94 is valid for applications for admission until it expires or will expire during the alien's intended stay in the United States. A nonimmigrant alien who will be making frequent entries into the United States over its land borders may be issued a Form I–94 endorsed to reflect that it is valid for multiple entries. A nonimmigrant alien entering the United States at a land border Port-of-Entry who is issued Form I–94 will be charged a fee as prescribed under § 103.7(b)(1) of this chapter. In the case of a nonimmigrant alien admitted as a TN under the NAFTA, the specific occupation of such alien as set forth in Appendix 1603.D.1 of the NAFTA shall be recorded in item number 18 on the reverse side of the arrival portion of Form I–94, and the name of the employer shall be notated on the reverse side of both the arrival and departure portions of Form I–94. The departure portion of Form I–94 shall bear the legend "multiple entry". A Form I–94 is not required in the case of:

* * * * *

(2) *Paroled aliens.* Any alien paroled into the United States under section 212(d)(5) of the Act, including any alien crewmember, shall be issued a completely executed Form I–94 which must include (i) Date and place of parole, (ii) Period of parole, and (iii) Conditions under which the alien is paroled into the United States. A fee shall not be required when a Form I–94 is issued for the purpose of paroling an alien into the United States.

(g) *Mexican Border Visitor's Permit, Form I–444.* (1) Any Mexican national exempt from issuance of a Form I–94 under paragraph (f)(1) (iii) or (iv) of this section shall be issued a Mexican Border Visitor's Permit, Form I–444, whenever: (i) The period of admission sought is more than 72 hours but not more than 30 days or (ii) The applicant desires to travel more than 25 miles

from the Mexican border but within the five-state area of Arizona, California, Nevada, New Mexico, or Texas. A separate Form I–444 will be issued for each applicant for admission and a fee prescribed under § 103.7(b)(1) of this chapter shall be charged for each applicant.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

10. The authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301–1305.

11. Section 264.4 is revised to read as follows:

§ 264.4 Application to replace a Nonresident Alien Border Crossing Card.

An application for a replacement Nonresident Alien Border Crossing Card must be filed pursuant to § 212.6(e) of this chapter. An application for a replacement Form I–185, Nonresident Alien Canadian Border Crossing Card, must be filed on Form I–175. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application. An application for a replacement Form I–586, Nonresident Alien Border Crossing Card, must be filed on Form I–190. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application to replace a lost, stolen, or mutilated card.

* * * * *

PART 286—IMMIGRATION USER FEE

12. The authority citation for part 286 continues to read as follows:

Authority: 8 U.S.C. 1103, 1356; 8 CFR part 2.

13. A new § 286.9 is added to read as follows:

§ 286.9 Fee for processing applications and issuing documentation at land border Ports-of-Entry.

(a) *General.* A fee may be charged and collected by the Commissioner for the processing and issuance of specified Service documents at land border Ports-of-Entry. These fees, as specified in § 103.7(b)(1) of this chapter, shall be dedicated to funding the cost of providing application processing services at land border ports.

(b) *Forms for which a fee may be charged.*

(1) A nonimmigrant alien who is required to be issued, or requests to be issued, Form I–94, Arrival/Departure Record, for admission at a land border Port-of-Entry must remit the required fee for issuance of Form I–94 upon determination of admissibility.

(2) A nonimmigrant alien applying for admission at a land border Port-of-Entry as a Visa Waiver Pilot Program applicant pursuant to § 217.2(c) or § 217.3(c) of this chapter must remit the required fee for issuance of Form I–94W upon determination of admissibility.

(3) A Mexican national in possession of a valid nonresident alien border crossing card or multiple-entry nonimmigrant B–1/B–2 visa who is required to be issued Form I–444, Mexican Border Visitors Permit, Pursuant to § 235.1(g) of this chapter, must remit the required fee for issuance of Form I–444 upon determination of admissibility.

(4) Citizens or lawful permanent resident aliens of the United States, Canadian citizens, and lawful permanent residents of Canada having a common nationality with Canadians, who request Form I–68, Canadian Border Boat Landing Permit, pursuant to § 235.1(e) of this chapter, for entry to the United States from Canada as an eligible pleasure boater on a designated body of water, must remit the required fee at time of application for Form I–68.

(5) A Canadian national or a British subject permanently residing in Canada and having a common nationality with Canada who submits Form I–175, Application for Nonresident Alien Canadian Border Crossing Card, must remit the required fee at time of application for Form I–185.

(6) A Mexican national who submits Form I–190, Application for Nonresident Alien Mexican Border Crossing Card, for replacement of a lost, stolen, or mutilated Form I–586, Nonresident Alien Border Crossing Card, must remit the required fee at time of application for a replacement Form I–586.

Dated: February 25, 1994.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 94–8717 Filed 4–11–94; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

[Docket No. PRM–32–3]

Advanced Medical Systems, Inc; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–32–3) from Advanced Medical Systems, Inc. The petitioner requested that the NRC amend its regulations because it believed that the requirements of part 32, which are applicable to original manufacturers and suppliers, were not equally applicable to manufacturers and suppliers of replacement parts. The petition is being denied because current regulations apply equally to manufacturers and suppliers of both original and replacement parts, ensuring the integrity of these parts; therefore, no additional requirements addressing the regulation of manufacturers and suppliers of replacement parts are necessary. Further, current regulations address service and maintenance of sources and devices possessed and used under an NRC license, including replacement parts, whether manufactured or supplied by the original manufacturer or supplier or some other manufacturer or supplier. Therefore the amendments suggested by the petitioner are not necessary.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3878.

SUPPLEMENTARY INFORMATION:

The Petition

In a letter dated June 28, 1991, Advanced Medical Systems, Inc. (AMS) filed a petition for rulemaking with the NRC. The petition was docketed by the Commission on July 19, 1991, and was assigned Docket No. PRM–32–3. The petitioner requested that the NRC amend its regulations because it believed that the requirements of part 32, which are applicable to original manufacturers and suppliers, were not equally applicable to manufacturers and suppliers of replacement parts. The petitioner has suggested two alternatives for accomplishing this objective. The first alternative is to insert the necessary language regarding manufacturers and suppliers of replacement parts into each appropriate section of part 32. The second alternative would revise the purpose and scope provisions of § 32.1

to include manufacturers and suppliers of replacement parts.

Basis for Petitioner's Request

The petitioner identified itself as an original teletherapy equipment manufacturer. As such, it has a definite and direct interest in the health and safety of the public who may use or be treated by equipment it manufactures.

According to the petitioner, it appears that the requirements of part 32 are being interpreted as applying only to manufacturers and suppliers of original equipment and not to manufacturers and suppliers of replacement parts, devices, products, or sources designated for units originally manufactured or transferred by others. In the petitioner's view, lack of specific requirements applicable to manufacturers and suppliers of replacement parts, devices, products, or sources, can lead to use of inferior quality replacement parts which in turn can cause malfunction or failure of devices, in particular teletherapy equipment, and thereby risk of overexposure. Advanced Medical Systems cited two incidents as examples of this problem: Access No. M49250, Anderson Memorial Hospital, Anderson, South Carolina; and Access No. M49324, St. Mary's Medical Center, Saginaw, Michigan.

Public Comments on the Petition

A notice of receipt of the petition for rulemaking was published in the **Federal Register** on October 10, 1991 (56 FR 51182). Interested persons were invited to submit written comments concerning the petition. The comment period closed December 9, 1991. The NRC received comments from the State of Illinois, Department of Nuclear Safety, and the Department of the Air Force, Headquarters Air Force Office of Medical Support.

The State of Illinois, Department of Nuclear Safety, stated that the Department fully supports development of the rule proposed in the petition. The Department further stated that the integrity of NRC evaluated devices (NRC or an Agreement State evaluate for safety any devices containing radioactive materials) may be compromised significantly if nonstandard replacement parts are used during the life of the device. While the Department agreed that the issue of replacement components needs to be addressed, it was concerned with the use of the term "replacement sources and devices" in the wording of §§ 32.74, 32.110 and 32.210 as suggested by the petitioner. The Department believed that all sources and devices must be evaluated by the NRC or an Agreement State, whether or not they are considered "original" or "replacement" equipment. Therefore, the Department did not believe it is necessary to distinguish between original or replacement sources or devices. The Department was in favor of the petitioner's suggested alternative to modify § 32.1, Purpose and Scope.

The Headquarters Air Force Office of Medical Support, Department of the Air Force, opposed the rule language proposed by the petitioner, as written, although it agreed with the petitioner's intent to ensure that the safety and effectiveness of devices not be compromised because original parts are replaced by inferior ones. They did not agree that all replacement parts should be subject to the requirements of 10 CFR part 32. They stated that NRC review and approval should apply to replacements of parts or components that are essential to the proper and safe operations of a device. The Air Force gave examples of parts (such as panel screws and covers) that conform to industry standards. These, the Air Force stated, should not be subject to the proposed requirements. The Air Force voiced concern that the petition, as written, may serve to restrict competition and would lead to greater expense which would have to be recouped through higher medical costs from patients, or, in the case of the Air Force, from taxpayers.

NRC Action on the Petition

The NRC reviewed the petition, the public comments, and the two cases (incidents) cited by the petitioner as supporting evidence for filing this petition. The NRC also reviewed its regulations pertinent to the petition.

Shortly after the NRC received correspondence [1] from AMS about the two cases, the NRC advised [2] AMS of its intention to investigate these incidents, especially with regard to the quality of service and replacement parts used in servicing the teletherapy units. From October to December 1989, the NRC conducted a thorough investigation which included three onsite inspections: Atom Mechanical Company, Cleveland, Ohio (The servicing company that conducted the maintenance and replacement of parts in the two cases), St. Mary's Medical Center, Saginaw, Michigan, and Picker International, Highland Heights, Ohio (The company that manufactured the teletherapy units at Anderson Memorial Hospital and at St. Mary's Medical Center). The NRC also referred the case of Anderson Memorial to the State of Maryland, because the company that serviced the teletherapy unit there, Atom Mechanical Company, is an authorized user on the Neutron Products, Inc. license, and Neutron Products is located in the State of Maryland, an Agreement State.

The incident at Anderson Memorial Hospital was caused by a broken spring in a teletherapy unit which failed to retract the source into the OFF position following a cobalt-60 cancer treatment. The hospital technologist promptly retracted the source manually. According to the hospital report, the technologist received very little additional exposure over expected monthly exposure, as evidenced by the individual's radiation film badge reading. Moreover, according to the same report the delivered daily dose to the patient was less than the prescribed daily dose, i.e., no patient overexposure for that treatment, because the technologist acted promptly. In its communication with NRC (prior to filing the petition), AMS stated that it was concerned about the quality of the replacement springs used in the teletherapy machine.

The incident at St. Mary's Medical Center was caused by the failure of a microswitch. The failure of the switch prevented a timing device from operating properly, to automatically terminate the treatment. No misadministration occurred because the subsequent treatment times were adjusted and the total delivered dose did not differ from the total prescribed dose. Neutron Products, Inc. was called to repair the machine.

The NRC investigation and subsequent inspections revealed several violations. Enforcement action was taken by the NRC against Atom Mechanical for violation of part 21 requirements, and against St. Mary's Hospital and Picker International for violations of part 35 and part 30 requirements, respectively.[3] Moreover,

[1] Three letters dated June 20, August 8, and August 25, 1989, to Hugh L. Thompson, Jr., Deputy Executive for Nuclear Materials Safety and Safeguards & Operations Support, NRC, from Sherry Stein, Director, Regulatory Affairs, Advanced Medical Systems, Inc.

[2] By a letter dated September 15, 1989 from Robert M. Bernero, Director, Office of Nuclear Material Safety and Safeguards, NRC, to Sherry Stein, Director, Regulatory Affairs, Advanced Medical Systems, Inc.

[3] Specifically, Atom Mechanical Company was found to be in violation of 10 CFR 21.21 (October 16, 1989), St. Mary Medical Center was found to be in violation of 10 CFR 35.59(g), 10 CFR 35.605, 10 CFR 35.630(a), 10 CFR 35.615(d)(4), 10 CFR 35.632(a), and 10 CFR 35.634(a) (October 17 and 26, 1989), and Picker International, Inc. was found to be in violation of 10 CFR 30.3 (subsequent to inspections that occurred on October 26 and

Continued

the State of Maryland determined from its own investigation that the incident at Anderson Memorial Hospital resulted from a failure of the part, i.e., breakage of the return spring. No enforcement action was taken by the State of Maryland.

Under current NRC regulations, persons authorized under a specific license to use devices containing byproduct material (e.g., use of teletherapy equipment under a part 35 specific license) ultimately are responsible for the safe use of these devices, and for assuring that such devices are properly maintained. Suppliers of sources or devices containing byproduct material, whether they are an original manufacturer or a manufacturer of replacement sources or devices, must be licensed under parts 30 or 32 or an appropriate Agreement State license, and also have responsibility for the safety of the sources or devices that they supply or replace. Service or repair, which would include the replacement of parts or components of medical or industrial sources or devices that present a risk of radiation exposure from the failure of certain parts, such as the teletherapy devices discussed as examples in this petition, may be performed only by qualified persons authorized under an NRC or Agreement State license (cf. §§ 35.605, and 39.43(e)). Some generally licensed devices may be serviced by general licensees who are authorized to perform limited service work if sufficient information about the service work (e.g., procedures, training, expected dose, etc.) is submitted by manufacturer or initial distributor and accepted by the NRC. However, these devices typically are not mechanically complex and do not present the same risk of significant radiation exposure. Moreover, the NRC has no record of failure of these devices leading to a radiation exposure attributable to defective replacement parts or improper servicing. Finally, under the provisions of part 21, the supplier of any basic component,[4] whether or not a licensee of NRC or an Agreement State, is also responsible for the quality of the component, whether it is original or replacement.

Reasons for Denial

The NRC has examined the petition (1) in light of its regulations and policies for both general and specific licensees, and (2) in view of the cases cited by the petitioner in support of the petition. The NRC is denying the petition because current regulations apply equally to manufacturers and suppliers of both original and replacement parts, ensuring the integrity of these parts; therefore, no additional requirements addressing the regulation of manufacturers and suppliers of replacement parts are necessary. Further, current regulations address service and maintenance of sources and devices possessed and used under an NRC license, including replacement parts, whether manufactured or supplied by the original manufacturer or supplier or some other manufacturer or supplier.

Accordingly, the petition for rulemaking is denied.

Dated at Rockville, Maryland this 28th day of March, 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94–8697 Filed 4–11–94; 8:45 am]

BILLING CODE 7590–01–P

November 9, 1989). Inspection reports are available for review in the NRC Public document room.

[4] A "basic component" is defined in part 21 as one, "* * * in which a defect could create a substantial safety hazard."

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–CE–05–AD]

Airworthiness Directives: Univair Aircraft Corporation Models Ercoupe 415–C, 415–CD, 415–D, 415–E, and 415–G, Forney F–1 and F–1A, Alon A–2 and A–2A, and Mooney M10 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Univair Aircraft Corporation (Univair) Models Ercoupe 415–C, 415–CD, 415–D, 415–E, and 415–G, Forney F–1 and F–1A, Alon A–2 and A–2A, and Mooney M10 airplanes. The proposed action would require installing inspection openings in the outer wing panels, inspecting (one-time) the wing outer panel structure for corrosion, and repairing any corrosion found. Several reports of corrosion in the outer wing panels of the affected airplanes prompted the proposed action. The actions specified by the proposed AD are intended to prevent wing structural damage that, if not detected and corrected, could progress to the point of failure.

DATES: Comments must be received on or before June 24, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–05–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Univair Aircraft Corporation, 2500 Himalaya Road, Aurora, Colorado 80011; telephone (303) 375–8882; facsimile (303) 375–8888. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roger P. Chudy, Aerospace Engineer, FAA, Denver Aircraft Certification Field Office, 5440 Roslyn Street, suite 133, Denver, Colorado 80216; telephone (303) 286–5684; facsimile (303) 286–5689.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–05–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the

FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–05–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports of wing structure corrosion on Univair Models Ercoupe 415–C, 415–CD, 415–D, 415–E, and 415–G, Forney F–1 and F–1A, Alon A–2 and A–2A, and Mooney M10 airplanes. At least four of these incidents revealed major corrosion in the outer wing panels.

Current maintenance inspection provisions do not allow for thorough viewing of the wing structure. With this in mind, Univair issued Service Bulletin (SB) No. 29, dated January 27, 1994, which specifies procedures for (1) installing inspection openings in the outer wing panels, and (2) inspecting the outer wing panels for evidence of corrosion.

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that AD action should be taken to prevent wing structural damage that, if not detected and corrected, could progress to the point of failure.

Since an unsafe condition has been identified that is likely to exist or develop in other Univair Models Ercoupe 415–C, 415–CD, 415–D, 415–E, and 415–G, Forney F–1 and F–1A, Alon A–2 and A–2A, and Mooney M10 airplanes of the same type design, the proposed AD would require installing inspection openings in the outer wing panels, inspecting (one-time) the wing outer panel structure for corrosion, and repairing any corrosion found. The proposed actions would be accomplished in accordance with Univair SB No. 29, dated January 27, 1994. The inspection will become part of the affected airplanes' annual maintenance inspection program.

The compliance time for the proposed AD is presented in calendar time instead of hours time-in-service (TIS). The FAA has determined that a calendar time for compliance is the most desirable method because the unsafe condition described by the proposed AD is caused by corrosion. Corrosion can occur on airplanes regardless of whether the airplane is in service or in storage. Therefore, to ensure that corrosion is detected and corrected on all airplanes within a reasonable period of time without inadvertently grounding any airplanes, a compliance schedule based upon calendar time instead of hours TIS is utilized.

The FAA estimates that 2,672 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours (maximum) per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $67 (maximum) per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,354,704. This figure is based on the assumption that no affected airplane owner/operator has accomplished the proposed action.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 AD:

Univair Aircraft Corporation: Docket No. 94–CE–05–AD.

Applicability: Models Ercoupe 415–C, 415–CD, 415–D, 415–E, and 415–G, Forney F–1 and F–1A, Alon A–2 and A–2A, and Mooney M10 airplanes (all serial numbers), certificated in any category.

Compliance: Required within the next 12 calendar months after the effective date of this AD, unless already accomplished.

To prevent wing structural damage that, if not detected and corrected, could progress to the point of failure, accomplish the following:

(a) Install inspection openings in the outer wing panels and inspect the wing outer panel internal structural components for corrosion in accordance with the PROCEDURE section of Univair Service Bulletin No. 29, dated January 27, 1994. Prior to further flight, repair any corrosion in accordance with instructions contained in the above-referenced service information.

(b) Send the results of the inspection required by paragraph (a) of this AD to the Manager, Denver Aircraft Certification Field Office, 5440 Roslyn Street, suite 133, Denver, Colorado 80216. State whether corrosion was found, the location and extent of any corrosion found, and the total hours TIS of the component at the time the corrosion was found. (Reporting approved by the Office of Management and Budget under OMB no. 2120–056.)

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Denver Aircraft Certification Field Office, 5440 Roslyn Street, suite 133, Denver, Colorado 80216. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Denver Aircraft Certification Field Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Denver Aircraft Certification Field Office.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Univair Aircraft Corporation, 2500 Himalaya Road, Aurora, Colorado 80011; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 6, 1994.

Larry D. Malir,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–8681 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–047A]

RIN 1218–AA68

Safety Standards for Scaffolds Used in Shipyard Employment

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule; limited reopening of the rulemaking record.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reopening the record for the proposed revision of the regulation of scaffolds used in shipyard employment (part 1915, subpart N) (53 FR 48182, November 29, 1988). This reopening incorporates the entire record for scaffolds used in the construction industry (part 1926, subpart L) (Docket S–205, 51 FR 42680, November 25, 1986; Docket S–205A, 58 FR 16509, March 29, 1993; Docket S–205B, 59 FR 4615, February 1, 1994) including the scaffold-related materials from the record for the proposed general industry standard for walking and working surfaces (part 1910, subpart D) (Docket S–041, 55 FR 13360, April 10, 1990) that were previously incorporated into the subpart L record in Docket S–205B. Through this notice, the Agency also requests input on the scope and application of subpart N; the appropriateness of replacing the term "capable person" with the term "qualified person" throughout subpart N; the maximum permissible distance between the front edge of a platform and the face of a vessel or structure; the requirements for a scaffold that the Agency considers to be an interior hung scaffold; the frequency of scaffold inspections; the qualifications for persons performing scaffold inspections; and the requirements for the performance of electric welding operations from suspension scaffolds. In addition, this notice corrects a typographic error in proposed paragraph § 1915.252(b)(18)(iv) and invites public comment on that paragraph as corrected. The information received as a result of this action will be used by the Agency in developing its final rule for scaffolds used in shipyard employment.

DATES: Written comments on the materials incorporated through the notice of reopening must be postmarked by June 13, 1994.

ADDRESSES: Comments are to be sent to the Docket Office, Docket No. S–047A, U.S. Department of Labor, room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Written comments limited to 10 pages or less in length also may be transmitted by facsimile to (202) 219–5046, provided that the original and three copies are sent to the Docket Office thereafter.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, U.S. Department of Labor, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219–8148.

SUPPLEMENTARY INFORMATION:

I. Background

A. Scope and Application

Proposed § 1915.251(a)(1) reads as follows:

> (a) Scope and application. (1) This subpart applies to all scaffolds used in shipyard workplaces and operations (including shipbuilding, ship repairing, and shipbreaking), but does not apply to construction operations in shipyards covered under 29 CFR part 1926.

OSHA received only two comments (Exs. 6–1 and 6–3) on this paragraph. Both of those commenters stated that the inclusion of the construction standards in the application of the shipyard standards is inappropriate and would be counterproductive to efforts to bring uniformity to shipyard employment through a vertical standard. They suggested that this paragraph be changed in order to apply part 1926 only to work being performed in a shipyard by outside non-shipyard employees.

It should be noted that construction work in shipyards is performed by both shipyard employees and non-shipyard employees. Shipyard employees fabricate and construct smoke stacks, tunnel sections, railroad cars, and bridge sections when shipbuilding, ship repairing, and shipbreaking work are either unavailable or in short supply. This work involves the use of scaffolds in shipyards. OSHA is considering whether all scaffold-related work performed at shipyards, regardless of who performs the work, should be covered by standards in part 1915, subpart N. If the Agency adopts that approach, subpart N will apply whenever employees perform work involving scaffolds, including construction operations in shipyards.

The Agency notes that several types of scaffolds specifically addressed in the proposed construction scaffold standards were not addressed in the proposed shipyard scaffold standards. If the Agency were to adopt a comprehensive approach to scaffold use in shipyards, it would incorporate the various construction scaffold standards into part 1915, except that the shipyard scaffold standard's threshold height for the provision and use of fall protection (5 feet (1.52 m)) would apply. Placing those standards in part 1915 would make the proposed reference to part 1926 unnecessary.

In addition, the Agency is considering if the use of the term "shipyard workplaces and operations" in proposed § 1915.251(a)(1) inappropriately limits the scope and application of proposed subpart N. Accordingly, OSHA is contemplating replacement of the proposed term with the term "shipyard employment", so that the activities covered by subpart N would be described accurately.

OSHA is also considering whether the proposed exclusion of construction operations from the scope of subpart N should be limited to outside contractors using non-shipyard employees. Under such an approach, the scaffold operations of outside (non-shipyard) construction employers would still be subject to part 1926, subpart L. In addition, OSHA would require that scaffolds addressed by part 1926, but not by part 1915, comply with part 1926, regardless of who the affected employers and employees were. Accordingly, the Agency seeks comment on all or part of the following alternative language for proposed § 1915.251(a)(1):

> (a) Scope and application. (1) This subpart applies to all scaffolds, except as indicated below, used in shipyard employment (e.g., shipbuilding, ship repairing, shipbreaking, and related employments), but does not apply to construction operations being performed in shipyards by outside contractors using non-shipyard employees.
>
> (i) Types of scaffolds which are specifically covered by 29 CFR part 1926 subpart L, but which are not specifically addressed by this subpart, shall meet the applicable requirements of part 1926 subpart L, except that fall protection shall be provided for each shipyard employee working more than 5 feet (1.52 m) above a lower level on such scaffolds.

B. Qualified Person

OSHA proposed in §§ 1915.252 (b)(11), (b)(12), (b)(18)(i), and (d)(4) that scaffolds be evaluated by a capable person, and in § 1915.252(d)(7) that scaffolds not be erected, moved, dismantled, or altered except under the supervision of a capable person. Furthermore, OSHA proposed the following definition, which is identical to the definition of "competent person" in § 1926.32(f), for "capable person":

"Capable person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

At its meeting on November 20, 1991, the Shipyard Employment Standards Advisory Committee (SESAC) recommended (Tr. p. 84) that OSHA replace the term "capable person" with the term "qualified person" throughout the shipyard standards (29 CFR part 1915). Accordingly, OSHA is considering the appropriateness of replacing the term "capable person" with the term "qualified person (QP)" in the above-mentioned standards. The definition being considered for "qualified person (QP)" is based on the definition for "qualified" found in § 1926.32(l) of the construction standards to which the word "person" and the clause "and who has authorization to take prompt corrective measures to eliminate any such problems" have been added in order to indicate clearly that a "qualified person (QP)", for the purposes of subpart N, would have both the ability and the authority needed to correct problems. Accordingly, OSHA seeks comment on the following definition, which would apply to subpart N only:

"Qualified person (QP)" means an individual who by possession of a recognized degree or certificate of professional standing, or who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems related to the subject matter, the work, or the project, and who has authorization to take prompt corrective measures to eliminate any such problems.

Does a person who evaluates scaffolds need authority over other employees in order to perform his or her duties?

C. Maximum Distance Between the Front Edge of a Platform and the Face of a Vessel or Structure

Proposed paragraph § 1915.252(b)(4), which is effectively identical with proposed § 1926.451(b)(4), reads as follows:

(4) The front edge of all platforms, except those on outrigger scaffolds, shall be positioned not more than 14 inches (36 cm) from the face of the vessel, vessel section, building or structure being worked on, unless Type I guardrails are erected along the open edge or body belt/harness systems are used to protect employees from falling. The maximum distance for outrigger scaffolds shall be 3 inches (8 cm).

OSHA is concerned that allowing a 14-inch (36 cm) opening may not be justified by the nature of work performed in shipyards. Unlike construction work, where an opening of up to 14 inches (36 cm) may be necessary if the structure is being constructed outward toward the scaffold, the fabrication of vessels and similar structures by shipyard workers is not usually conducted in that manner. Accordingly, OSHA seeks public comment on the appropriateness of reducing the maximum space allowed between the front edge of a platform and the face of the structure. Should OSHA extend the 3-inch (7.62 cm) maximum distance provision for outrigger scaffolds to cover all scaffolds? Should OSHA set some other distance? If so, what should that distance be? Please submit supporting information with any suggestions.

D. Interior Hung Scaffolds

OSHA recently became aware of a type of scaffold used in shipyards that consists of single-level or multi-level platforms suspended by several wire ropes attached to "S" hooks inserted through openings in the overhead longitudinal structural members in tanks. Wire rope clips are used to form the ends of the ropes into eyes. Those eyes are placed over the bottom of the "S" hooks. The platforms are supported by horizontal struts (usually, metal pipes) with slotted ends into which the suspension ropes are placed with a bolt or wire placed at the end of the opening. The struts rest on wire rope clips attached to the suspension ropes. OSHA is concerned that the proposed rules may not adequately address these scaffolds. The Agency also has some concerns about the adequacy of the proposed requirements for suspension scaffolds, in general. Accordingly, OSHA seeks public comment on the following issues:

1. OSHA has characterized these scaffolds as a type of interior hung scaffold. To what extent is the above-described characterization correct? If this characterization is correct, to what extent do the proposed requirements for interior hung scaffolds (§ 1915.253(p)) and the general scaffold requirements (§ 1915.252) adequately address the above-described scaffolds? To what extent does proposed Appendix A adequately address the above-described scaffolds? What changes, if any, should be made in proposed subpart N to improve the coverage of the above described scaffolds?

2. The Agency is concerned about the possibility that a suspension rope could be inadvertently disconnected from an "S" hook, thereby allowing an interior hung scaffold to fall. Accordingly, OSHA is considering requiring that the end of the "S" hook which supports the suspension rope be effectively closed. If so, what methods can be used to close the hook? OSHA is considering if mousing (wrapping rope around the hook opening when the suspension rope is connected) would adequately assure that the suspension rope did not disconnect from the "S" hook. What experience have employers had with the use of mousing to close the hook opening? OSHA is also considering if locking hooks, such as required in § 1910.66, Powered platforms, should be required. To what extent would the use of locking hooks be appropriate with these scaffolds?

3. Proposed paragraph § 1926.253(p)(3) requires that suspension ropes and cables on interior hung scaffolds be connected to overhead supporting members by shackles, clips, thimbles, or equivalent means. To what extent do the "S" hooks used on the above-described scaffolds constitute equivalent means of connection? Should OSHA prohibit the use of "S" hooks for suspending these scaffolds?

4. OSHA is also concerned about the possibility that an "S" hook could be inadvertently disconnected from its support, thereby allowing an interior hung scaffold to fall. Accordingly, OSHA is considering requiring that the "S" hooks be secured to the overhead longitudinal structural members in tanks. If so, what methods can be used to secure them?

5. In its rulemaking for scaffolds used in construction, OSHA reopened the rulemaking record (58 FR 16509, March 29, 1993) to solicit comments and information regarding the feasibility of providing fall protection and safe access for employees erecting and dismantling scaffolds, including interior hung scaffolds (proposed § 1926.452(t)). The materials submitted in response to that notice (Ex. 34, with attachments) will be considered when OSHA drafts the final rule for part 1915, subpart N.

In addition, the Agency is considering requiring the provision and use of fall protection and safe access for employees erecting and dismantling scaffolds used in shipyard employment. To what extent is it feasible for shipyard employers to provide fall protection and safe access for employees erecting or dismantling scaffolds, such as the above-described scaffolds, used in shipyard employment?

6. How would a fall protection requirement affect the erection and dismantling of scaffolds?

7. OSHA is considering requiring that measures be taken to prevent the swaying of vertical lines suspending employees erecting or dismantling the

above-described scaffolds. What measures have been taken to prevent such swaying? What other methods would be appropriate?

8. OSHA is considering specifying a minimum diameter for wire ropes used to suspend these scaffolds. Proposed 1915.252(a)(4)(ii) requires that ropes suspending catenary scaffolds be equivalent to at least one-half inch diameter wire rope. Would that minimum diameter be appropriate for the above described scaffolds? If not, how should OSHA address the minimum diameter for ropes used to suspend such scaffolds?

9. OSHA is considering requiring that only improved plow steel wire rope be used as suspension ropes on scaffolds. To what extent would such a requirement be appropriate?

10. OSHA is concerned that incorrect size wire rope clips might be used on the wire ropes used to suspend scaffolds. Accordingly, OSHA is considering specifying that when clips are used they must be the right size for the rope. To what extent would such a requirement be appropriate?

11. When a U-bolt wire rope clip is installed backwards on a wire rope (i.e., the saddle is placed on the dead end and the U-bolt is placed on the live end of a rope), the live end may be damaged through contact with the U-bolt. OSHA is concerned that the use of U-bolt wire rope clips could damage wire rope so that a rope is not capable of supporting a scaffold. Accordingly, OSHA is considering prohibiting the use of U-bolt wire rope clips on suspension scaffolds. To what extent would such a requirement be appropriate?

12. The struts that support the platforms on the above described scaffolds usually rest on wire rope clips attached to the suspension ropes. The clips usually are attached to only one section of the rope, instead of two sections as is the case when an eye is formed in a rope. OSHA is concerned that wire rope clips, especially U-bolt clips, used in this manner might not provide adequate support for a scaffold. OSHA is also concerned that wire rope clips, especially U-bolt clips, used in this manner might damage a rope, reducing its load carrying ability (see question 11 above). Accordingly, OSHA is considering prohibiting the use of wire rope clips in this manner, and seeks comment on the extent to which wire rope clips adequately support the struts when used in this manner. Would it be appropriate for OSHA to prohibit the use of U-bolt clips for this purpose, but to allow such a use of double-saddle clips? If the use of clips is allowed for this purpose, (1) are clips necessary on the top of each strut as well as at the bottom in order to adequately secure each strut to its wire rope, and (2) how many clips should OSHA require, as a minimum, for rigging these scaffolds?

13. OSHA is considering requiring that measures be taken to prevent the unintentional dislodgement of a suspension rope from the slot in a strut. Accordingly, the Agency seeks comment on the feasibility of complying with such a requirement. If such a requirement is promulgated, should OSHA specify the use of a bolt and nut that are at least ½ inch (1.27 cm) in diameter for this purpose? Also, Should OSHA prohibit the use of tie wires for this purpose?

14. OSHA is concerned that suspension ropes used on the above-described scaffolds could be damaged through contact with the struts or the overhead longitudinal structural members found in tanks. Accordingly, OSHA is considering requiring that measures be taken to prevent damage to suspension ropes from contact with the struts or the overhead longitudinal structural members. To what extent do the procedures currently used to rig such scaffolds prevent damage? What, if any, changes to rigging procedures or equipment are needed?

15. OSHA is considering setting minimum requirements (such as length, diameter, thickness (wall thickness for pipes), shape, or type of material) for the struts used to support the above-described scaffolds. What, if any, minimum requirements should the Agency set for the struts? To what extent would struts currently in use satisfy any such requirements?

16. OSHA is concerned that scaffolds designed by persons lacking the necessary skills and knowledge may prove to be unsafe. Accordingly, OSHA seeks comment on the level of expertise that should be required for persons who design scaffolds and scaffold components. Should OSHA require that scaffolds and scaffold components be designed by a registered professional engineer? Should OSHA require that scaffolds and their components be designed by a person who is "qualified" as defined in § 1926.32(l) (see discussion of Item B, above)?

17. OSHA is considering prohibiting the performance of heavy structural repairs and steel erection from the above-described scaffolds to prevent situations where an overload could occur. To what extent are structural repairs and steel erection performed from such scaffolds? How reasonable would it be for OSHA to require that any such work be performed using other means of access?

18. Proposed paragraph § 1915.252(e)(1)(i) requires that employees on catenary scaffolds, float scaffolds, and needle beam scaffolds, all of which are non-adjustable scaffolds, be protected by personal fall arrest systems. Since the above-described scaffolds and interior hung scaffolds in general are also non-adjustable suspension scaffolds, OSHA is considering requiring the provision of personal fall arrest systems for employees working on the above-described scaffolds. The Agency is also considering requiring personal fall arrest systems for suspended scaffolds in general. To what extent are such systems currently provided to and used by affected employees?

19. OSHA is considering requiring the use of guardrail systems on the above-described scaffolds. Accordingly, the Agency seeks information on methods that are currently used to provide guardrail systems on those scaffolds. To what extent are the ropes used to suspend the scaffold capable of serving as vertical supports in a guardrail system?

20. In what types of shipyard operations, other than for blasting and painting, are the above-described scaffolds used?

21. Does the use of the above-mentioned scaffolds expose employees erecting, dismantling, or using them to any unique hazards? If so, what are those hazards, and how can the employer prevent them or protect employees from them?

22. OSHA is considering requiring that the suspension ropes on the above-described scaffolds be secured at the bottom of the tank. To what extent are suspension ropes currently being secured? What methods are being used? What other methods would be appropriate?

23. OSHA is considering requiring that the suspension ropes on the above-described scaffolds be kept in a vertical position while employees are on the scaffolds. To what extent are suspension ropes currently kept in a vertical position? What methods are being used? What other methods would be appropriate?

24. OSHA is considering requiring that platform units used on the above-described scaffolds be secured to the supporting struts. To what extent are those scaffolds currently secured to the supporting struts? What methods are used or can be used for securing the platform units to the struts?

E. Inspection of Scaffolds

Proposed paragraph § 1915.252(d)(3) requires that scaffolds be inspected as follows:

(3) Supported scaffolds and scaffold components shall be inspected for visible defects periodically and after any occurrence which could affect a scaffold's structural integrity. Suspension scaffolds and scaffold components shall be inspected for visible defects immediately after installation prior to their first use; periodically thereafter (preferably before each use); and after any occurrence which could affect a scaffold's structural integrity.

This language does not specify who is to perform the inspection or what qualifications that person must possess, nor does it specify how frequently inspections must occur. The Agency sought public comment in these matters for both supported and suspension scaffolds in Issue 13 of the proposal. In that issue the Agency stated incorrectly that the proposed rule required supported scaffolds and scaffold components to be inspected for visible defects prior to each workshift and after any occurrence which could affect the scaffold's structural integrity. The Agency intended all scaffolds and scaffold components to be inspected for visible defects prior to each workshift. However, proposed paragraph § 1915.252(d)(3) simply expresses a preference for inspection before each use. The Agency also sought public comment on whether the scaffold inspector should be an engineer, a qualified person, or a capable person.

OSHA received three comments (Exs. 6–1, 6–3, and 6–7) in response to Issue 13. Two of these commenters (Exs. 6–1 and 6–3) stated that the proposed rule uses specification-oriented language and is unnecessarily restrictive, and that a thorough inspection before each workshift would be impossible and expensive. These two commenters added that existing rule § 1915.71(b)(5), which requires that scaffolds be maintained in a safe and secure condition and that defective components be replaced, is performance-oriented and has caused the industry to implement effective programs to ensure safe scaffolds. They recommended the retention of existing § 1915.71(b)(5), and that proposed § 1915.252(d)(3) not be included in the final rule. The other commenter (Ex. 6–7) stated that "[s]caffolds should be inspected by a capable person during and immediately after the system is anchored. Thereafter, the system should be inspected daily by the employees using the system." This commenter added that the proposed frequency of inspections adequately reflects current shipyard practices.

OSHA does not believe that proposed § 1915.252(d)(3) is unnecessarily restrictive. To the contrary, OSHA is concerned that proposed § 1915.252(d)(3) and existing § 1915.71(b)(5) might not adequately address the hazards associated with the use of unsafe scaffolds. Accordingly, the Agency seeks public comment on the adequacy of proposed § 1915.252(d)(3), and on the appropriateness of replacing proposed § 1915.252(d)(3) with the following language, which is the same as the corresponding proposed requirement for scaffolds used in the construction industry (51 FR 42706, November 25, 1986) except that "competent person" has been changed to "qualified person" (see discussion of Item B, above):

(3) Scaffolds and scaffold components shall be inspected for visible defects by a qualified person prior to each work shift, and after any occurrence which could affect a scaffold's structural integrity.

F. Correction to Proposed § 1915.252(b)(18)(iv)

The word "not" was inadvertently dropped from paragraph § 1915.252(b)(18)(iv) when proposed subpart N was published in the **Federal Register** (53 FR 48207, November 29, 1988). Due to a typographic error, proposed § 1915.252(b)(18)(iv) read as follows:

(iv) Counterweights shall be removed from a scaffold until the scaffold is disassembled.

The preamble discussion for proposed § 1915.252(b)(18)(iv) (53 FR 48188) clearly states that OSHA intended to prohibit the removal of counterweights until the scaffold is disassembled. In addition, the Agency notes that the corresponding provision in proposed part 1926, subpart L (§ 1926.451(b)(18)(iv)) states that "counterweights shall not be removed * * *." Proposed paragraph § 1915.252(b)(18)(iv) should have read as follows:

(iv) Counterweights shall *not* be removed from a scaffold until the scaffold is disassembled (emphasis added).

OSHA seeks public comment on the appropriateness of the proposed provision as corrected.

H. Performance of Electric Welding Operations From Suspension Scaffolds

OSHA raised the issue of the regulation of electric welding on suspension scaffolds in Issue 2 of the NPRM (53 FR 46197). The Agency asked for input on six precautions that might reduce the possibility of the welding current arcing through the wire rope when welding is performed by employees on suspension scaffolds. OSHA received only one response to Issue 2. That commenter (Ex. 6–7) stated that the use of welding equipment on suspended platforms has not caused any safety hazards.

On the issue of welding work performed while on scaffolds, OSHA seeks public comment on the following provisions that are being considered for inclusion in the final rule. These requirements are the same as those found in section 6.2.9 of ANSI A10.8–1988 except that in paragraph (b) the term "unit" has been changed to "scaffold" so that the language clearly indicates the Agency's intent.

To reduce the possibility of the welding current arcing through the suspension wire rope during the course of welding from suspension scaffolds, the following precautions shall be taken:

(a) An insulated thimble shall be used to attach each suspension wire rope to its hanging support (such as cornice hook or outrigger). Excess suspension wire rope and any additional independent lines from grounding shall be insulated.

(b) The suspension wire rope shall be covered with insulating materials at least 4 feet (1.22 m) above the hoist. In the event a tail line exists below the hoist, it shall be insulated to prevent contact with the platform. The portion of the tail line that hangs free below the scaffold shall be guided or retained, or both, so that it does not become grounded.

(c) Each hoist shall be covered with protective cover made from insulating materials.

(d) In addition to a work lead attachment required by the welding process, a grounding conductor shall be connected from the scaffold to the structure. The size of this conductor shall be equal to or greater than the size of the welding process work lead and shall not be in series with the welding process or the work piece.

(e) If the scaffold grounding lead is disconnected at any time, the welding machine shall be shut off.

(f) At no time shall an active welding rod or an uninsulated welding lead be allowed to contact the scaffold or its suspension system.

Paragraph (b) above addresses suspension scaffolds with hoists but does not specifically address non-adjustable suspension scaffolds (i.e., scaffolds that do not have hoists). The Agency believes that employees performing welding operations from non-adjustable suspension scaffolds are exposed to the same or similar hazards as those faced by employees on adjustable suspension scaffolds. Accordingly, the Agency seeks public comment on the following issues:

1. Should OSHA require that wire ropes on non-adjustable suspension scaffolds from which employees are

performing welding operations be insulated to a height above the scaffold sufficient to prevent accidental contact between the ropes and an active welding rod or an uninsulated welding lead? If so, what should that height be?

2. Should OSHA require that an insulated thimble or equivalent be used to attach each suspension wire rope to the platform of a non-adjustable suspension scaffold used for welding operations?

3. What other measures should OSHA require for the protection of employees performing welding from suspended scaffolds?

I. Incorporation of Dockets S–205, S–205A, and S–205B (Part 1926, Subpart L, Scaffolds Used in the Construction Industry)

On November 25, 1986, the Agency proposed to update the requirements for protection of employees on scaffolds used in construction (part 1926, subpart L, 51 FR 42680). The public record on scaffolds used in construction was reopened on March 29, 1993 (58 FR 16509), and again on February 1, 1994 (59 FR 4615). The proposed construction industry requirements for scaffolds were generally consistent with those proposed for shipyards in 1988. The construction proposal and the two notices of limited reopening generated public input which OSHA is considering as the Agency drafts the final rule for scaffolds covered by part 1926, subpart L. Many of those materials contain relevant information or raise scaffold-related concerns not yet addressed in the comments on part 1915, proposed subpart N. The Agency believes that, in developing separate standards for the construction industry (part 1926) and for the shipyard industry (part 1915), the substance of those standards should be consistent, except where there are demonstrable differences in scaffold use which would justify differences in coverage. Therefore, OSHA has determined that the Agency needs to consider the information generated in the subpart L rulemaking when the Agency drafts the final rule for scaffolds in the shipyard industry. In addition, OSHA notes that Docket S–205B also contains scaffold-related materials from the proposed general industry standard for walking and working surfaces (Docket S–041, part 1910, subpart D) and an August, 1993, NIOSH study of construction-related fatalities titled Fatal Injuries to Workers in the United States, 1980–1989: A Decade of Surveillance. In order to assure that those relevant materials are considered by both the Agency and the public as they relate to scaffold use in shipyards, OSHA is incorporating pertinent exhibits from the construction industry rulemaking record (Dockets S–205, S–205A, and S–205B) into the part 1915, subpart N rulemaking (Docket S–047). All the materials incorporated from subpart L will be identified in the subpart N docket as Exhibit 8, with attachments.

J. Costs, Benefits, and Technological Feasibility

In the regulatory analysis accompanying the proposed rule published in the **Federal Register** on November 29, 1988, the Agency identified three provisions that would impose compliance burdens: (1) Requiring scaffolds to be no more than 14 inches from the vertical work area unless there was a guardrail or body belt employed; (2) prohibiting the use of ladders on top scaffolds; (3) forbidding workers to ride on mobile scaffolds unless the surface to be driven over was free of hazards.

The Agency requests comments from the shipyard industry about the costs of these provisions, other provisions in the original proposed rule, and the issues raised in this notice, especially the use of interior hung scaffolds.

In order to update the rulemaking record, the Agency solicits information regarding: (1) The annual number of accidents (especially falls) that occur while workers are engaged in erecting or working on scaffolds; (2) the annual number of workers injured; (3) the severity of injuries; and (4) the causes of accidents. OSHA also solicits comments regarding the extent to which shipyard scaffold accidents will be avoided by complying with the proposed rule.

The Agency also requests comments, with supporting information, about the technological feasibility of applying the proposed standard, including the alternatives set out in this notice, to the shipyard industry.

II. Public Participation

Comments

Written comments regarding the materials incorporated into the subpart N record through this notice must be postmarked by June 13, 1994. Four copies of these comments must be submitted to the Docket Office, Docket No. S–047A, U.S. Department of Labor, room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 219–7894. All materials submitted will be available for inspection and copying at the above address. Materials previously submitted to the Docket for this rulemaking need not be resubmitted.

III. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), section 41 of the Longshore and Harbor Worker's Compensation Act, as amended (33 U.S.C. 941), and 29 CFR part 1911.

Signed at Washington, DC, this 6th day of April, 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–8687 Filed 4–11–94; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF EDUCATION

34 CFR Part 361

RIN 1820–AB12

The State Vocational Rehabilitation Services Program

AGENCY: Department of Education.

ACTION: Notice of meetings and teleconferences.

SUMMARY: The Assistant Secretary announces a series of meetings and teleconferences to discuss a preliminary draft of proposed regulations to implement certain provisions of the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992 and 1993 (the Act).

The meetings and teleconferences will allow interested parties an opportunity to review and discuss the draft proposed regulations prior to the publication of a formal notice of proposed rulemaking in the **Federal Register**. This effort is part of a broader initiative to be more open to input from the various constituencies interested in the programs administered by the Office of Special Education and Rehabilitative Services (OSERS).

The purpose of the meetings and teleconferences is to invite public comment on the draft proposed regulations, especially as these regulations interpret or clarify statutory requirements of the Rehabilitation Act Amendments of 1992 and 1993.

DATES: The meetings in Washington, DC, will be held on April 19, 1994, May 12, 1994, and May 17, 1994. The meeting in Chicago, Illinois, will be held on April 26, 1994, and the meeting in Oakland, California, will be held on May 4, 1994. An additional meeting may be held on May 5, 1994, in Oakland, California, if more individuals

are interested in participating than can be accommodated at the May 4 meeting.

The teleconferences are scheduled to be held on April 20, 1994, May 13, 1994, and May 18, 1994.

All written comments may be received on or before May 27, 1994.

ADDRESSES: The meetings will be held at the following locations:

1. Washington, DC—Mary Switzer Building, room 3065, 330 C Street, SW., Washington, DC.

2. Chicago, Illinois—Palmer House Hilton, Conference Center, 7th Floor, 17 E. Monroe Street, Chicago, Illinois.

3. Oakland, California—Parc Oakland Hotel, 1001 Broadway, Oakland, California.

Individuals who cannot attend the meetings or teleconferences are invited to send in written comments regarding the draft proposed regulations and the issues identified in the **SUPPLEMENTARY INFORMATION** section of this notice to Howard Moses, Acting Commissioner, Rehabilitation Services Administration, 400 Maryland Avenue, SW., room 3028, Switzer Building, Washington, DC 20202–2531.

FOR FURTHER INFORMATION CONTACT: Persons desiring to participate in the meetings or teleconferences or seeking additional information should contact Beverlee Stafford, 400 Maryland Avenue, SW., room 3028, Switzer Building, Washington, DC 20202–2531. Telephone: (202) 205–9331. Individuals who use a telecomunications device for the deaf (TDD) may call (202) 205–5538 for TDD services.

SUPPLEMENTARY INFORMATION: The draft proposed regulations would replace existing regulations under 34 CFR part 361 governing The State Vocational Rehabilitation Services Program. These draft proposed regulations, however, do not include the provisions relating to order of selection under 34 CFR 361.36 that were published in the **Federal Register** for comment on July 16, 1993 (58 FR 38482). Final regulations relating to the order of selection requirement will be published as a separate document later this year. In addition, these draft proposed regulations do not implement section 106 of the Act relating to evaluation standards and performance indicators for The State Vocational Rehabilitation Services Program. Proposed regulations implementing section 106 will also be published separately for public comment.

Staff from OSERS and other offices of the Department of Education will be available at the meetings and teleconferences to discuss the draft proposed regulations and provide technical assistance and clarification of the proposed provisions. Participants are particularly encouraged to express their support for or raise concerns about specific sections of the regulations and, if possible, to provide alternative language if they disagree with the wording in the draft proposed regulations.

Availability of Copies of the Draft Proposed Regulations

The draft proposed regulations can be accessed through the RSA Bulletin Board System (BBS) by calling one of the following access numbers: (202) 205–5574 (low speed modems) or (202) 401–6147 (high speed modems, 9,600 bps or faster). If you experience any difficulty in accessing the BBS, please contact either John Chapman at (202) 205–9290 or Teresa Darter at (202) 205–8444, co-system operators (sysops), for assistance. For those individuals unable to access the BBS, copies of the draft proposed regulations are available in regular print, large print, and computer diskette (WordPerfect 5.1 and ASCII formats) by calling (202) 205–5482. A limited number of copies in braille are also available.

Meeting and Teleconference Information

The Assistant Secretary encourages interested parties to participate in one of the meetings or teleconferences. There will be three meetings held in Washington, DC. Additional meetings will be held in Chicago, Illinois, and Oakland, California. There will be three teleconferences to allow individuals to participate who cannot travel to the meeting sites. Individuals will have to reserve a space for the meetings or teleconferences. Reservations will be accepted on a first-come, first-served basis. Both meeting space and teleconference lines are limited. Given the level of response expected, individuals should plan on participating in only one meeting or teleconference and should make reservations as soon as possible. When making reservations, individuals must indicate the need for any special accommodations, including sign language interpreters. The meeting rooms and proceedings will be accessible for individuals with disabilities.

The meetings in Washington, DC, will be held on April 19, 1994, from 1 p.m. to 4 p.m.; May 12, 1994, from 9 a.m. to 12 noon; and May 17, 1994, from 9 a.m. to 12 noon. The location for these three meetings is the Mary Switzer Building, room 3065, 330 C Street, SW., Washington, DC. For reservations for the meetings in Washington, DC, please call Beverlee Stafford at (202) 205–9331.

The meeting in Chicago, Illinois, will be held on April 26, 1994, from 9 a.m. to 4 p.m., at the Palmer House Hilton, Conference Center, 7th Floor, 17 E. Monroe Street, Chicago, Illinois. For reservations for the meeting in Chicago, Illinois, please call Terry Conour at (312) 886–5372.

The meeting in Oakland, California, will be held on May 4, 1994, from 9 a.m. to 4:30 p.m., at the Parc Oakland Hotel, 1001 Broadway, Oakland, California. For reservations for the meeting in Oakland, California, please call Jon Kissinger at (415) 556–3786.

The teleconferences will be held on April 20, 1994, from 2 p.m. to 3:30 p.m. (Eastern time); May 13, 1994, from 2 p.m. to 3:30 p.m. (Eastern time); and May 18, 1994, from 2 p.m. to 3:30 p.m. (Eastern time). A total of 17 sites can be connected to each teleconference. Interested individuals are encouraged to gather at a single site and use a speaker phone to allow a maximum number of individuals to participate on each call. Interested individuals can call Beverlee Stafford at (202) 205–9331 to reserve a line for one of the three teleconferences. Information on how to access the teleconferences will be provided when reservations are made.

(Authority: 29 U.S.C. 701)

Dated: April 8, 1994.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 94–8891 Filed 4–11–94; 8:45 am]

BILLING CODE 4000–01–P–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AF22

Schedule for Rating Disabilities; Diseases of the Ear and Other Sense Organs

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its rating schedule regarding evaluation of diseases of the ear and other sense organs. This amendment is necessary in order to comply with a General Accounting Office (GAO) study, which recommended that medical criteria in the rating schedule be reviewed and updated. The intended effect is to update the portion of the Schedule for Rating Disabilities pertaining to diseases

of the ear and other sense organs to ensure that it uses current medical terminology and unambiguous criteria for evaluating these disabilities and reflects recent medical advances.

DATES: Comments must be received on or before June 13, 1994. Comments will be available for public inspection until June 21, 1994. This change is proposed to be effective 30 days after the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this change to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until June 21, 1994.

FOR FURTHER INFORMATION CONTACT: John L. Roberts, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–3005.

SUPPLEMENTARY INFORMATION: In response to the advance notice of proposed rulemaking published in the **Federal Register** on May 2, 1991, we received comments and suggestions from VA medical doctors and VA Rating Specialists.

The comments included suggestions that we delete several diagnostic codes, include diagnostic codes for additional conditions, and change evaluation criteria for a number of conditions. We have considered all of these suggestions and implemented several as explained in the following proposal.

If medical terminology in the rating schedule is outdated, it is difficult for a rating specialist to accurately associate medical evidence with the proper evaluation criteria. For that reason, we propose to update the medical terms which identify diseases of the ear so that the schedule uses the most common terms.

In addition to publishing an advance notice of proposed rulemaking, we also contracted with an outside consultant to recommend changes to the evaluation criteria to ensure that the schedule uses current medical terminology and unambiguous criteria, and that it reflects medical advances which have occurred since the last review. The consultant convened a panel of non-VA specialists to review that portion of the rating schedule dealing with hearing and ear conditions in order to formulate recommendations.

We are proposing to adopt many of the recommendations the contractor submitted. Some recommendations, however, addressed areas other than evaluation criteria, such as percentage evaluations and frequency of examinations. Since these suggestions are clearly beyond the scope of the contract and deal with issues which would affect the internal consistency of the entire rating schedule rather than one section, we have generally not adopted them.

We propose to change the terminology describing several of the conditions in this section for clarity and to reflect current medical terminology. Under diagnostic code 6201, the term "otitis media, catarrhal, chronic" is outdated and we propose to replace it with "chronic otitis media, with effusion (serous otitis media)." Similarly, "chronic otitis externa" is the medically preferred term for "auditory canal, disease of" and we propose to use it as the heading for diagnostic code 6210. Meniere's syndrome (diagnostic code 6205) is often referred to as "endolymphatic hydrops" and we propose to add this designation in parenthesis to the heading of this diagnostic code. When first included in the rating schedule, the term "chronic labyrinthitis" under diagnostic code 6204 was used to indicate pathology affecting organs of equilibrium. That term, however, is not used in current medical practice; these conditions are currently described as vestibular disorders. For this reason, we propose to change the heading of code 6204 to "peripheral vestibular disorders." Since the word "neoplasm" connotes a pathological abnormality better than the term "new growth," we propose to substitute that word under diagnostic codes 6208 and 6209, which pertain to malignant and benign conditions, respectively.

A number of grammatical elements are useful in eliminating ambiguity and ensuring that the schedule presents rating criteria as precisely as possible. We are proposing editorial changes, primarily of syntax and punctuation, throughout this portion of the schedule. These changes are intended to clarify the rating criteria and represent no substantive amendment.

Section 4.85 describes the use of tables VI and VIa in the evaluation of hearing impairment. Table VI is a chart of average puretone decibel losses and speech discrimination percentages, with conversion to Roman numeral designations where the values intersect. Table VIa assigns Roman numeral designations to ranges of average puretone decibel loss without regard to speech discrimination. The Roman numeral designations derived from tables VI or VIa for each ear are then transferred to Table VII and combined to yield diagnostic codes and disability percentages from 0 to 100. Higher numeric designations equate to a higher disability percentage. Currently table VIa is reserved for cases of language impairment or inconsistent test results, and table VI is used in all other hearing loss ratings.

Based on research and statistical studies conducted by the Veterans Health Administration, we propose the addition of two new provisions to § 4.85. The first new provision, designated as § 4.85(d), directs that the rating specialist choose the higher Roman numeral designation derived from table VI or VIa whenever puretone thresholds in four of five specified testing frequencies (500, 1000, 2000, 3000, and 4000 Hertz (Hz)) are 55 decibels hearing level (dBHL) or more. While results of speech discrimination tests with this type of hearing loss in a controlled setting are often near normal, they do not reflect the true extent of difficulty understanding speech in the everyday work environment, even with the use of hearing aids. Table VIa, which measures pure tone loss only, will be used as an alternative to the combination of speech discrimination and pure tone scores for this particular configuration of hearing loss, but only if it results in a higher evaluation.

The second new provision (§ 4.85(e)) directs that the rating specialist choose the higher Roman numeral designation derived from table VI or VIa when puretone thresholds are 30 dBHL or less at frequencies of 1000 Hz and below, and are 70 dBHL or more at 2000 Hz. The rating specialist will then elevate the Roman numeral designation to the next higher number. This type of hearing loss is an extreme handicap in the presence of any environmental noise, and often cannot be overcome by the use of hearing aids. It is therefore appropriate to assign the next higher numeric designation in order to compensate for this outcome. The intended effect of these two new provisions is to fairly and accurately assess the hearing disabilities of veterans as reflected in a real life industrial setting and is thus a liberalization of the current version of this section of the Schedule.

Table VII currently includes a footnote indicating entitlement to special monthly compensation when the criteria for a 100 percent evaluation are met. Entitlement to special monthly

compensation under 38 CFR 3.350(a) (38 U.S.C. 1114(k)) for total deafness is only one of many instances in which hearing loss is a factor in establishing special monthly compensation. Because the criteria for entitlement to special monthly compensation contained in 38 CFR 3.350 are extremely complex, we propose to delete the footnote in favor of a note following § 4.85 directing rating specialists to refer to § 3.350 when evaluating any claim for impaired hearing to determine whether the veteran is entitled to special monthly compensation. We believe that this will be more effective than the footnote in ensuring complete review for special monthly compensation.

Sections 4.86, 4.86a, and 4.87 currently deal with tests to evaluate hearing loss, evidence of hearing loss other than puretone and controlled speech audiometry, and the definition of impaired auditory acuity. All three of these provisions are closely related to the evaluation of hearing loss and should be included in one section. We propose to state that the evaluations are designed to measure best uncorrected hearing, reflecting the accepted testing method of measuring hearing without hearing aids in place. We therefore propose to reorganize this material so that it is contained in a single section, § 4.86, and to delete § 4.86a. Section 4.87a has been redesignated as § 4.87.

Suppurative otitis media is currently classified under diagnostic code 6200, and mastoiditis under diagnostic code 6206. Since mastoiditis is often a complication of suppurative otitis media, we propose to include mastoiditis under diagnostic code 6200 and delete diagnostic code 6206. Cholesteatoma is another condition associated with suppurative otitis media, and we propose to include it under diagnostic code 6200 as well.

The diagnosis of "otitis interna," (diagnostic code 6203), is archaic and the medical advice we received indicates it is no longer a recognized category of disability. For this reason, we propose to delete diagnostic code 6203 from the schedule and to rate the symptoms attributed to this condition under peripheral vestibular disorders, code 6204.

We propose to amend the NOTE which currently follows diagnostic code 6204 to state that objective findings supporting the diagnosis of disequilibrium are required prior to the assignment of any compensable evaluation. This requirement will preclude the use of purely subjective symptoms as the exclusive basis for payment of compensation. The words "severe," "moderate" or "mild" now precede the evaluation criteria for compensable evaluations under diagnostic codes 6204 and 6205. These descriptions do not materially help to explain or clarify the specific evaluation criteria they precede. For that reason, we propose to delete these labels.

The evaluation criteria under the diagnostic code for Meniere's disease (6205) currently require "frequent episodes" for an evaluation of 100 percent. We propose to clarify this ambiguous requirement by specifying that such attacks must occur more than once weekly for this level of disability since, in our judgment, such frequency would most reasonably constitute total disablement. We also propose to include the criteria of deafness to the 60 percent evaluation, since this is a common symptom of the disease.

The current evaluation criteria for loss of auricle, code 6207, are unclear because they do not specify the extent of loss required to qualify for the various evaluation levels. We propose to revise the criteria to indicate that the 30 percent evaluation requires complete loss of one auricle and that the 50 percent evaluation requires complete loss of both. This is consistent with the current instructions for the 10 percent evaluation which require a quantifiable loss of one-third or more of one auricle.

Because of the likelihood of serious disablement and the severe side effects which chemotherapy and radiation treatment produce in the average person, we propose to assign a 100 percent evaluation under the diagnostic code for malignancies (6208), with the total evaluation continuing after the cessation of surgical, X-ray, antineoplastic or other theraputic procedure. We propose to continue the total evaluation under this code indefinitely after treatment is discontinued, and to examine the veteran six months thereafter. If the results of this or any subsequent examination warrant a reduction in evaluation, the reduction would be implemented under the provisions of 38 CFR 3.105(e). This method has the advantage of offering the veteran timely notice of any proposed action and, under the provisions of 38 CFR 3.105(e), the opportunity to present evidence showing that the action should not be taken. This is consistent with evaluation of malignancies which we have proposed in other parts of the Schedule.

The evaluation for benign neoplasms of the ear (diagnostic code 6209) currently instructs the rater to evaluate the condition based on impairment of function, with a minimum evaluation of 10 percent. Likewise, there is an instruction to add 10 percent to the evaluation for residuals of malignant new growths. We propose to delete these minimum evaluations. Advances in reconstructive surgery have reduced the disability associated with this condition and loss of function is the most accurate way of evaluating the residuals of this condition. Since any disability sufficient to warrant a compensable evaluation would be noted on VA examination, a minimum evaluation is no longer appropriate.

The evaluation for tinnitus (diagnostic code 6260) currently requires that the condition be "persistent" in order to qualify for a 10 percent evaluation. Tinnitus is a subjective sensation which, under certain circumstances, comes and goes. The word "persistent" suggests a meaning of constant, and we propose to replace it with "recurrent," meaning that the tinnitus might not always be present, but that it does return at regular intervals. Requiring that tinnitus be "recurrent" will allow a realistic evaluation of the typical disablement from this condition.

Tinnitus can be caused by a number of conditions, including injuries, acute diseases and drug reactions. Compensable evaluation for persistent tinnitus is currently restricted to conditions caused by head injury, concussion or acoustic trauma. Since the severity of disablement from tinnitus does not depend on its origin, we propose to eliminate the restriction that tinnitus result from trauma, and provide instead for a compensable evaluation whenever tinnitus is recurrent. We also propose to remove reference to diagnostic code 8046 (cerebral arteriosclerosis), and to remove reference to tinnitus under diagnostic code 6204 (peripheral vestibular disorder) in order to allow separate evaluations for tinnitus when caused by cerebral arteriosclerosis and peripheral vestibular disorder.

No change is proposed in § 4.87b, which provides evaluations for loss of smell (diagnostic code 6275) and taste (diagnostic code 6276) except wording changes in the NOTE following, for clarity, and redesignation of the section as § 4.87a.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the

initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

This regulation is subject to review under Executive Order 12866.

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Approved: June 23, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

Editorial note: This document was received at The Office of the Federal Register April 6, 1994.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is proposed to be amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

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

Authority: 72 Stat. 1125; 38 U.S.C. 1155.

2. Section 4.85 is revised to read as follows:

§ 4.85 Evaluation of hearing impairment.

(a) Examinations will be conducted using a controlled speech discrimination test together with a puretone audiometry test. The horizontal rows in Table VI represent levels of speech discrimination determined from the controlled speech discrimination test. The vertical columns in Table VI represent levels of puretone decibel loss determined from the puretone audiometry test. The Roman numeral designation of impaired efficiency (I through XI) is determined at the point where the horizontal row (percentage of speech discrimination) and the vertical column (puretone decibel loss) intersect. For example, with 70 percent speech discrimination and average puretone decibel hearing loss of 64, the Roman numeral designation is V. Each ear will be evaluated separately.

(b) The percentage evaluation will be determined from Table VII. The horizontal row of Roman numeral designations represents the ear having the better hearing and the vertical column the Roman numeral designations for the ear having the poorer hearing. The percentage of disability and the diagnostic code are located at the point where the row and column intersect. For example, if the better ear (horizontal row) has a Roman numeral designation of "V" and the poorer ear (vertical column) has a Roman numeral designation of "VII," the row and column intersect where the percentage evaluation is 30 percent and the diagnostic code is 6103.

(c) Table VIa provides Roman numeral designations based solely on puretone decibel hearing loss averages. It is for application when the Chief of the Audiology Clinic certifies that language difficulties or inconsistent speech discrimination scores make the combined use of puretone decibel hearing loss and speech discrimination inappropriate.

(d) When puretone thresholds in any four of the frequencies 500, 1000, 2000, 3000, and 4000 Hertz, are 55 decibels hearing loss or more, the rating specialist will select the Roman numeral designation from either Table VI or Table VIa, whichever permits the higher Roman numeral designation. Each ear will be evaluated separately.

(e) When puretone thresholds are 30 decibels hearing loss or less at frequencies of 1000 Hertz and below, and are 70 decibels hearing loss or more at 2000 Hertz, the rating specialist will select the higher Roman numeral designation from either Table VI or Table VIa, and then elevate the Roman numeral designation selected to the next higher Roman numeral. Each ear will be evaluated separately.

Note: When evaluating any claim for impaired hearing, refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation due either to deafness itself, or deafness or partial deafness in combination with other specified disabilities.

3. Section 4.86 is revised to read as follows:

§ 4.86 Auditory acuity, hearing aids, and evidence other than puretone audiometry and controlled speech.

(a) For Department of Veterans Affairs purposes, "impairment of auditory acuity" means the organic loss of the ability to hear speech.

(b) The evaluations derived from this schedule are designed to measure the best residual uncorrected hearing. Examinations comparing hearing with and without hearing aids are unnecessary.

(c) When the medical evidence necessary to establish service-connection for hearing loss predates the use of puretone audiometry and controlled speech, service-connection will be determined under the provisions of §§ 4.85 through 4.87 of this part as in effect on December 17, 1987.

BILLING CODE 8320-01-P

TABLE VI

Numeric Designation of Hearing Impairment

Average Puretone Decibel Loss

Percent of Discrimination	0-41	42-49	50-57	58-65	66-73	74-81	82-89	90-97	98 +
92-100	I	I	I	II	II	II	III	III	IV
84-90	II	II	II	III	III	III	IV	IV	IV
76-82	III	III	IV	IV	IV	V	V	V	V
68-74	IV	IV	V	V	VI	VI	VII	VII	VII
60-66	V	V	VI	VI	VII	VII	VIII	VIII	VIII
52-58	VI	VI	VII	VII	VIII	VIII	VIII	VIII	IX
44-50	VII	VII	VIII	VIII	VIII	IX	IX	IX	X
36-42	VIII	VIII	VIII	IX	IX	IX	X	X	X
0-34	IX	X	XI	XI	XI	XI	XI	XI	XI

TABLE VIa

Average Puretone Decibel Loss

0-41	42-48	49-55	56-62	63-69	70-76	77-83	84-90	91-97	98-104	105 -
I	II	III	IV	V	VI	VII	VIII	IX	X	XI

Numeric Designation

TABLE VII

Percentage Evaluations for Hearing Impairment (with diagnostic codes)

Better Ear \ Poorer Ear	XI	X	IX	VIII	VII	VI	V	IV	III	II	I
XI	100 (6110)										
X	90 (6109)	80 (6108)									
IX	80 (6108)	70 (6107)	60 (6106)								
VIII	70 (6107)	60 (6106)	50 (6105)	50 (6105)							
VII	60 (6106)	60 (6106)	50 (6105)	40 (6104)	40 (6104)						
VI	50 (6105)	50 (6105)	40 (6104)	40 (6104)	30 (6103)	30 (6103)					
V	40 (6104)	40 (6104)	40 (6104)	30 (6103)	30 (6103)	20 (6102)	20 (6102)				
IV	30 (6103)	30 (6103)	30 (6103)	20 (6102)	20 (6102)	20 (6102)	10 (6101)	10 (6101)			
III	20 (6102)	20 (6102)	20 (6102)	20 (6102)	20 (6102)	10 (6101)	10 (6101)	10 (6101)	0 (6100)		
II	10 (6101)	10 (6101)	10 (6101)	10 (6101)	10 (6101)	10 (6101)	10 (6101)	0 (6100)	0 (6100)	0 (6100)	
I	10 (6101)	10 (6101)	0 (6100)	0 (6100)	0 (6100)	0 (6100)	0 (6100)	0 (6100)	0 (6100)	0 (6100)	0 (6100)

BILLING CODE 8320-01-C

§ 4.86a [Removed]

4. Section 4.86a is removed.

5. Section 4.87 is revised to read as follows:

§ 4.87 Schedule of ratings—ear.

	Rating
Diseases of the Ear	
6200 Chronic suppurative otitis media including cholesteatoma or mastoiditis	
During suppuration	10
Note: Loss of hearing shall be separately rated and combined.	
6201 Chronic otitis media with effusion (serous otitis media)	
Rate loss of hearing.	
6202 Otosclerosis	
Rate loss of hearing.	
6204 Peripheral vestibular disorders	
Dizziness and occasional staggering	30
Occasional dizziness	10
Note: Objective findings supporting the diagnosis of vestibular disequilibrium are required before a compensable evaluation can be assigned under this code. Loss of hearing or suppuration shall be separately rated and combined.	
6205 Meniere's syndrome (endolymphatic hydrops) Deafness with attacks of vertigo and cerebellar gait occurring more than once weekly	100
Deafness with attacks of vertigo and cerebellar gait occurring once a week or less	60
Deafness with occasional vertigo	30
6207 Loss of auricle:	
Complete loss of both	50
Complete loss of one	30
Deformity of one, with loss of one-third or more of the substance	10
6208 Malignant neoplasm of the ear, (other than skin only)	100
Note: Following the cessation of surgical, X-ray, antineoplastic or other therapeutic procedure, the rating of 100 percent shall continue with a mandatory VA examination at the expiration of six months. Any change in evaluation based upon that examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residual impairment of function.	
6209 Benign neoplasms of the ear, (other than skin only)	
Rate on impairment of function	
6210 Chronic otitis externa swelling, dry and scaly or serous discharge and itching requiring frequent and prolonged treatment	10
6211 Tympanic membrane, perforation of	0
6260 Tinnitus, recurrent	10

6. Section 4.87a is revised to read as follows:

§ 4.87a Schedule of ratings—other sense organs.

6275 Sense of smell, complete loss	10
6276 Sense of taste, complete loss	10

Note: These ratings will be assigned only if there is an anatomical or pathological basis for the condition.

§ 4.87b [Removed]

7. Section 4.87b is removed.

[FR Doc. 94–8555 Filed 4–11–94; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPPTS–62105B; FRL–4765–2]

Asbestos; Withdrawal of Rulemaking for Exemption from Asbestos Ban on Manufacture, Processing and Distribution in Commerce

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA has decided to withdraw the proposed rulemaking to exempt Omega Phase Transformations, Inc. (Omega) from processing prohibitions in the Asbestos Ban and Phaseout (ABPO) Rule and not to initiate rulemaking in response to a similar petition from Vitrifix, Inc. (Vitrifix). Omega and Vitrifix had petitioned EPA for exemptions from the ABPO Rule for thermal processes that convert asbestos-containing waste material into non-asbestos glass, and EPA had agreed to initiate rulemaking to exempt such processes from the ABPO Rule. EPA issued a Notice of Proposed Rulemaking in the **Federal Register** of June 2, 1992, to grant an exemption to Omega for its vitrification process. EPA has since decided that thermal conversion processes that destroy asbestos are not prohibited by the ABPO Rule. Accordingly, the exemption rulemaking is unnecessary.

FOR FURTHER INFORMATION CONTACT: Mike Mattheisen, Chemical Management Division (Mail Code 7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–7363.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

In the **Federal Register** of July 12, 1989 (54 FR 29460), EPA issued the ABPO Rule at 40 CFR 763.160–763.179 under section 6 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605, to prohibit, at staged intervals, the manufacture, importation, processing and distribution in commerce of several categories of asbestos-containing products identified in the ABPO Rule. One banned category is "new uses of asbestos," which is defined in the ABPO Rule as "commercial uses of asbestos not identified in § 763.165 the manufacture, importation or processing of which would be initiated for the first time after August 25, 1989" (40 CFR 763.163). "New uses of asbestos" are banned by the ABPO Rule after August 27, 1990 (40 CFR 763.165(a), 763.167(a), and 763.169(a)).

On October 18, 1991, the United States Court of Appeals for the Fifth Circuit, in *Corrosion Proof Fittings v. EPA*, 947 F2d 1201 (5th Cir., 1991), vacated and remanded most of the ABPO Rule. The ban on "new uses of asbestos" is unaffected by the Court's remand and remains in effect. For a more complete discussion of the decision in *Corrosion Proof Fittings v. EPA*, see 58 FR 58964, November 5, 1993.

The ABPO Rule specifies that applications for exemptions for new uses of asbestos will be treated as petitions to amend the ABPO Rule pursuant to section 21 of TSCA (15 U.S.C. 2620) (See 54 FR 29464, July 12, 1989 and 40 CFR 763.173.) Section 21 of TSCA provides, in part, that any person may petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule issued under TSCA section 4, 6, or 8. The petition must set forth the facts which it claims establish the need for the action. EPA is required to grant or deny the petition within 90 days after filing. If EPA grants the petition, EPA must promptly commence an appropriate rulemaking (15 U.S.C. 2620(a)).

The ABPO Rule also establishes general requirements for submission of data that are needed for EPA decisions on all exemption applications, including those submitted as section 21 petitions (40 CFR 763.173). Petitioners must submit evidence which demonstrates, among other requirements, that the proposed manufacture, importation, processing, distribution in commerce, and use, as proposed, will not present an unreasonable risk of injury to human health (40 CFR 763.173(d)(1)(ix)).

In response to requests for clarification of the ABPO Rule from the State of California (September 29, 1989) and Omega (October 13, 1989) with respect to "processes that transform asbestos into asbestos-free material" EPA responded that "processing for commercial purposes asbestos-containing material (ACM) by vitrification, or other transformation processes, was a 'new use' within the meaning of the [ABPO Rule]." Therefore, it was subject to the Rule and to the exemption application procedures outlined in the Rule. EPA also noted that the ABPO Rule "does not regulate disposal activities" and:

> operations that transform asbestos-containing materials, as defined in 40 CFR 61.141, into nonasbestos material solely for disposal, (as an alternative disposal method under the asbestos NESHAP regulations), would be subject to the disposal requirements at 40 CFR 61.151 or 61.152, or any final standards revising the asbestos NESHAP under 40 CFR 61.155.

(Letter to State of California, Department of Health Services, dated March 29, 1990. See also, letter to Omega, dated March 30, 1990). The National Emission Standard for Hazardous Air Pollutants Standard for Operations that Convert Asbestos-containing Waste Material into Non-asbestos (Asbestos-free) Material (the Asbestos NESHAP Standard) went into effect in November 1990 (40 CFR 61.155).

On October 9, 1990, Omega submitted a TSCA section 21 petition to EPA requesting an exemption from the ABPO Rule's "new use" prohibitions in order to operate its vitrification process at a location in California. Omega's proposed process converts ACM (e.g., demolition debris from asbestos abatement projects) into glass. Omega proposed to sell the glass as aggregate for paving material, among other uses. In addition, the metal ingots produced from the molten metal waste by-product would be sold as scrap metal. The Omega vitrification process is a modification of glassmaking technology which would utilize high temperatures over 2000 °F to melt the asbestos fibers. Evaluation of the Omega process for the proposed rule indicates that when asbestos is exposed to temperatures over 2000 °F, the needle-like structure of asbestos fibers breaks down to form amorphous molten glass and asbestos fibers are destroyed. The Omega petition was followed by a section 21 petition from Vitrifix, Inc., on November 26, 1990. An earlier feasibility test conducted by Vitrifix for EPA's Office of Air Quality Planning and Standards demonstrated that, under the test conditions utilizing high temperatures over 2000 °F, ACM waste material was converted into non-asbestos material.

EPA granted Omega's and Vitrifix's section 21 petitions on January 7, 1991, and February 20, 1991, respectively, indicating its intent to initiate rulemakings under TSCA section 6 to amend the ABPO Rule to allow Omega and Vitrifix to operate their proposed vitrification operations.

On June 2, 1992 (57 FR 23183), EPA issued a proposal to amend the ABPO Rule to allow vitrification by Omega. EPA never issued a proposed rule to allow vitrification by Vitrifix. EPA has reached the conclusion, as explained below, that thermal processes that convert asbestos into non-asbestos material are not governed by the ABPO Rule. It was not the intent of the ABPO Rule to regulate processes that permanently remove asbestos from the environment. Rather, the objective was to prevent introduction of new asbestos into the environment.

II. Interpretation

The ABPO Rule specifically prohibits "processing for any use" an asbestos-containing product listed in 40 CFR 763.165, including "new uses of asbestos" (40 CFR 763.167). The ABPO Rule, however, does not prohibit disposal or processing for disposal. Because thermal conversion operations destroy asbestos fibers, such operations constitute processing for disposal and do not constitute use of asbestos as contemplated by the ABPO Rule, and are, therefore, not regulated by the ABPO Rule. EPA is revising its initial response on the issue of vitrification (as set forth in EPA's March 29, 1990, letter to the State of California) to reconcile the function of these operations with the intent of the Rule.

This interpretation is consistent with EPA's overall intent when it promulgated the ABPO Rule. In general, EPA developed the ABPO Rule to limit the introduction or continued marketing of additional asbestos products, rather than to regulate disposal of products that were already in use when the ABPO Rule was issued. In keeping with the overall objective to reduce entry of asbestos into commerce and into the environment, the ABPO Rule does not prohibit other distribution activities undertaken solely to dispose of asbestos. (see generally 40 CFR 763.163).

In some situations, thermal conversion operations may still be subject to the ABPO Rule. If the end product contains asbestos that has not been converted into glass, for example, and the end product is used for any purpose, the operation would be subject to the prohibition against processing for use in § 763.167 of the ABPO Rule. In that case, an exemption would be necessary to engage in the activity.

As building materials deteriorate, or as buildings are renovated or demolished, much of this asbestos waste will require disposal. In a national survey of asbestos-containing friable materials in buildings, conducted in 1984, EPA estimated that approximately 20 percent of all buildings have some asbestos-containing friable materials. EPA further estimated that buildings targeted in the survey contained approximately 1.2 billion square feet of sprayed- or trowelled-on ACM (in an estimated range of 18,000 to 365,000 buildings), and that approximately 16 percent (or between 239,000 - 888,000 buildings) contain asbestos pipe and boiler insulation. EPA also estimates that approximately 31,000 schools contain asbestos. (*Asbestos in Buildings - A National Survey of Asbestos-Containing Friable Materials* - EPA Publication No. 560/5–84–006, October 1984, EPA Docket No OPPTS–62105). In addition to building materials, asbestos is a component of automotive brakes, clutches and transmission components, as well as other commercial and industrial friction materials which are eventually discarded for disposal after the components' useful life. The magnitude of asbestos waste requiring disposal will place an increasing economic burden on society as landfill capacity decreases.

By converting asbestos into glass, vitrification provides an alternative to land disposal of asbestos waste and produces a commercially useful non-asbestos product. Vitrification avoids costs of landfilling and of health costs associated with exposure to asbestos waste. These costs could include a substantial burden on the individual and society, including medical costs of treating asbestos-related diseases resulting from exposure to asbestos throughout the life cycle of asbestos products and disposal of asbestos waste. The asbestos vitrification process destroys asbestos and eliminates any risks from asbestos exposure which occur in the disposal and landfill stages of the asbestos fiber life cycle.

III. Asbestos Regulations

Several existing regulations provide protection against asbestos exposures and releases from asbestos conversion operations if such facilities are established. Owners or operators of facilities that intend to commence operations to convert asbestos-containing waste material into non-asbestos material are subject to permit and performance requirements under

the Asbestos NESHAP Standard and to certain reporting requirements under several other EPA regulations. In addition, such companies would be subject to the worker protection requirements of the Occupational Safety and Health Administration (OSHA) or of OSHA-approved state, or EPA asbestos worker protection standards.

The Asbestos NESHAP Standard was established as an alternative to land disposal of asbestos waste (55 FR 48406, November 20, 1990). The Standard establishes permit and performance requirements, including a requirement to obtain EPA approval to construct a facility, as well as monitoring, recordkeeping, and reporting requirements. During normal operations, a company must demonstrate by laboratory analysis that ACM is completely destroyed. If laboratory testing reveals that the output material contains asbestos, the company must reprocess the ACM, or dispose of it as asbestos-containing waste material according to 40 CFR 61.150. Continuous monitoring requirements are also imposed under § 61.155 of the Asbestos NESHAP Standard. The Standard is designed to ensure that there are no visible air emissions and that the output material contains no asbestos.

Asbestos thermal disposal facilities may also be subject to public disclosure and notification requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 U.S.C. 11001 11050). Among other things, EPCRA requires emergency notification of any release of 1 pound or more of friable forms of asbestos to the appropriate State Emergency Response Commission and Local Emergency Planning Committee. Section 313 of EPCRA requires submission of Toxics Release Inventory (TRI) reports to EPA and designated State officials, including the amount of the toxic chemical entering each environmental medium, such as air and water, annually. Asbestos thermal disposal facilities would be subject to section 313 of EPCRA only if they fall within the Standard Industrial Classification (SIC) codes 20-39, they employ the equivalent of 10 full time employees, and they manufacture, process, or otherwise use a listed toxic chemical in excess of the TRI reporting thresholds. Conversion of material containing friable forms of asbestos into non-asbestos glass that is distributed in commerce is subject to section 313 reporting if the facility otherwise meets the SIC Code and threshold requirements. Under the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109), facilities that are required to file a TRI report under EPCRA section 313 must include with it certain additional information about toxic chemical source reduction and recycling. Under the Comprehensive Emergency Response, Compensation and Liability Act (CERCLA), certain releases must also be reported to the National Response Center and advertised in local newspapers (42 U.S.C. 9663, 9611 (g)).

Asbestos thermal disposal facilities are also subject to OSHA, EPA, or State laws for occupational exposure to asbestos in the workplace (see e.g., 29 CFR part 1910 and 1926 and 40 CFR 763.120–763.125). These laws all set permissible exposure limits to asbestos and establish required work practices to protect workers.

Asbestos thermal disposal facilities must also obtain construction approval from other appropriate Federal, State and local authorities.

IV. Administrative Record

EPA has established a record of those documents EPA considered in addressing Omega's and Vitrifix's petitions. The record consists of documents located in the file designated by docket control number, OPPTS–62105 located at the TSCA Nonconfidential Information Center (NCIC). A public version of the record, without any confidential business information, is available in the TSCA NCIC for reviewing and copying from noon to 4 p.m., Monday through Friday, excluding legal holidays, at EPA headquarters, Rm. E–G102, 401 M St., SW., Washington, DC 20460.

V. Conclusion

EPA hereby withdraws the proposed rule entitled Proposed Exemption from Asbestos Ban on Manufacture, Processing, and Distribution in Commerce issued June 2, 1992 (57 FR 23183).

List of Subjects in Part 763

Environmental protection, Administrative practice and procedure, Asbestos, Confidential business information, Hazardous substances, Imports, Intergovernmental relations, Labeling, Occupational safety and health, Reporting and recordkeeping requirements, Schools.

Dated: April 5, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94–8734 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 401, 403, and 404

[CGD 92–072]

RIN 2115–AE45

Great Lakes Pilotage Rate Methodology

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking and hearing.

SUMMARY: The Coast Guard proposes to amend the Great Lakes Pilotage Regulations by establishing new procedures for determining Great Lakes pilotage rates, and revising the financial reporting requirements mandated for Great Lakes pilot associations. The proposed methodology would adopt methods which have proven effective in ratemaking methodologies used by regulators of other public service industries. This notice of proposed rulemaking (NPRM) does not propose a change to the existing Great Lakes pilotage rates and charges, but proposes to standardize the methodology by which those rates would be determined in the future.

DATES: Comments must be received on or before July 11, 1994.

A public hearing will be held on May 20, 1994. Details regarding the place and time of this hearing are discussed below under "Request for Comments."

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA–2/3406) (CGD 92–072), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or may be delivered to Room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection of information requirements must also be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

As discussed below under "Request for Comments," the Coast Guard intends to conduct a public hearing regarding this NPRM. The public hearing will be held in room 769 of the Federal Building, 1240 E. 9th Street, Cleveland, OH 44199.

FOR FURTHER INFORMATION CONTACT: Mr. Scott A. Poyer, Project Manager, Office of Marine Safety, Security and Environmental Protection, (G-MVP/12), room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–6249.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 92–072) and the specific section of this rule to which each comment applies, and give a reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard intends to conduct a public hearing on May 20, 1994 in room 769 of the Federal Building, 1240 E. 9th Street, Cleveland, OH 44199. The hearing will begin at 9 a.m. and last until all comments have been heard, or until 5 p.m., whichever is earlier. The purpose of this hearing is to gather information relating to this rulemaking and to permit responses by interested persons to material filed in this docket.

Drafting Information

The principal persons involved in drafting this rule are: Mr. Scott A. Poyer, Project Manager, Office of Marine Safety, Security and Environmental Protection, Mr. David Richards, Project Consultant, Department of Transportation (DOT) Office of International Aviation, and Mr. Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

Under the Great Lakes Pilotage Act of 1960 (Pub. L. 86–555, 46 U.S.C. 9301 et seq.), vessels of the United States operating on register and foreign vessels must engage a U.S. or Canadian registered pilot when traversing the waters of the Great Lakes. The Great Lakes Pilotage Act, as amended, vests the Secretary of Transportation with responsibility for setting pilotage rates. The Great Lakes Pilotage Act 49 U.S.C. 9303 provides that the Secretary shall prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services. This authority, except for the authority to enter into, revise or amend arrangements with Canada, has been delegated to the Commandant of the Coast Guard by 49 CFR 1.46 (a).

Currently, the navigable waters of the Great Lakes are divided into eight pilotage areas. United States registered pilots, along with their Canadian counterparts, provide pilotage services in areas 1, 2, 4, 5, 6, 7, and 8. Pilotage area 3 (the Welland Canal) is currently a wholly-Canadian area where only Canadian pilots provide services. Pilotage areas 2, 4, 6, and 8 are "undesignated waters." Pilotage areas 1, 5, and 7 are "designated waters." Pilots are required to direct navigation of vessels in designated waters. Pilots are required to be on board and available to direct navigation in undesignated waters. The seven U.S. pilotage areas are grouped together into three pilotage districts. District 1 consists of areas 1 and 2. District 2 consists of areas 4 and 5. District 3 consists of areas 6, 7, and 8. Each district has its own pilot association.

Section 9305 of the Pilotage Act provides that the Secretary of Transportation, subject to the concurrence of the Secretary of State, may make agreements with the appropriate agency of Canada to prescribe joint or identical rates and charges. The latest Memorandum of Arrangements between Canada and the United States specifies that the Secretary of Transportation and the Minister of Transport will arrange for the establishment of regulations imposing identical rates. In the past, consultations resulted in nominally identical U.S. and Canadian rates. Not only are generally uniform rates required by the agreement with Canada, but they are also important from the standpoint of predictable costs for vessels requiring pilotage. However, there are differences in the cost bases and in the operating organizations of the U.S. and Canadian pilots, particularly with regard to pilot compensation. These differences need to be taken into account in reaching identical U.S. and Canadian rates. Therefore, the proposed methodology, like its predecessor, would not translate directly into new rates, but rather would form the basis for proposals to be negotiated with Canada.

On December 7, 1988, the Department of Transportation published the Great Lakes Pilotage Study Final Report (1988 DOT Pilotage Study). The study revealed weaknesses in accounting for the expenses incurred by the pilot associations and the need to formally establish the factors used in establishing pilotage rates. On April 25, 1990, the Coast Guard published a final rule (55 FR 17580) establishing improved audit requirements and general guidelines and procedures to be followed in ratemaking (CGD 92–072). In May, 1990, the Inspector General (IG) for the Department of Transportation initiated an audit of Coast Guard oversight of Great Lakes pilotage. The final report of the audit (Audit of the U.S. Coast Guard's Oversight and Management of the Great Lakes Pilotage Program), detailing further issues affecting the basis for Great Lakes pilotage rates, was issued on December 14, 1990.

On August 2, 1991, a DOT Task Force was formed to: (1) Develop an interim rate adjustment; and (2) establish a new pilotage ratemaking methodology. On June 5, 1992, an interim rate increase was published (CGD 89–104). This rate adjustment was designed to increase the revenue received by the pilots, pending development of a permanent rate methodology.

Copies of any of the published material listed above may be obtained by contacting Mr. Scott A. Poyer, as indicated in **FOR FURTHER INFORMATION CONTACT.**

Discussion of Proposed Amendments

This NPRM proposes a new methodology for setting pilotage rates on the Great Lakes. This NPRM would replace the general guidelines of the existing methodology, set forth in 46 CFR Part 404, with more detailed and specific steps to be followed when setting Great Lakes Pilotage rates. It would also make correlative changes to the accounting and reporting requirements set forth in 46 CFR part 403.

This NPRM would not change the current Great Lakes pilotage rates and charges contained in 46 CFR 401.400–401.428. This NPRM proposes to change the methodology by which those rates would be determined during Great Lakes pilotage ratemaking proceedings.

In summary, the proposed ratemaking methodology would provide that the Director of Great Lakes Pilotage (the Director), determine the timing for reviews of pilotage rates. Interested parties would be able to petition the Director for a review at any time. However, the Director would decide, under applicable law, if a review is warranted. If the Director determined that a review is warranted, he or she

would accomplish this review by following the steps detailed in this rulemaking.

Basically, these steps involve the projection of operating expenses (including pilot compensation) and revenues (using the current rate schedule), based on the anticipated demand for pilotage services, by pilotage area for the succeeding navigation period. Interest expense on the debt of the pilot organizations, and allowances for federal income taxes and the capital invested in the pilot organizations would be subtracted from this projected operating profit or loss. Ideally, projected revenues received under the existing rate schedule would be sufficient to cover projected operating expenses, interest, and allowances.

If a rate adjustment appeared warranted, the Director would calculate a new hourly rate schedule for basic pilotage service in each pilotage area by dividing the sum of the projected costs (operating expenses, interest expense, and tax and return allowances) by the projected hours of pilotage service. The Coast Guard would publish any proposed rate adjustments in a NPRM inviting comments on the changes. That NPRM, and any subsequent comments on it, would then form the basis for negotiations on pilotage rates between the United States and Canada. Once these negotiations resulted in an agreement to change pilotage rates, the Coast Guard would publish a rule establishing a new rate schedule.

This NPRM also proposes to change the financial reporting requirements for pilot associations to more closely comport to ratemaking needs. The proposed changes to the reporting requirements, while an integral part of the ratemaking process, should be considered independently from any proposed ratemaking provisions. This NPRM also proposes to add a certification requirement.

The proposals contained in the discussion section of this preamble are presented in two parts. Part A of this section discusses proposed revisions to the ratemaking methodology. Part B addresses proposed revisions to the financial reporting requirements. The order of discussion in this preamble differs from the order of presentation in the regulations. The revisions to the ratemaking methodology are discussed first because an understanding of the methodology is important to an understanding of the proposed changes to the financial reporting requirements, and because the changes to the proposed methodology are more extensive than the changes to the financial reporting requirements.

Adoption of Public Service Rate Methodology

The Pilotage Act (46 U.S.C. 9303) provides, in part, that the rates and charges for pilotage services shall be fair and equitable, giving due consideration to the public interest and the reasonable cost and expense of providing and maintaining such facilities and arrangements as are required for the efficient performance of pilotage services.

Because the provision of service by the pilot organizations contains many of the characteristics and requirements of a public utility, this NPRM proposes to employ basic utility ratemaking procedures in setting pilotage rates and charges. Basic utility ratemaking concepts include the non-discriminatory treatment of users, operational and economic efficiency through the use of ratemaking standards, and other general public policies.

This NPRM describes the general financial structure of public service rates and proposes to apply this structure to the three U.S. pilot organizations providing pilotage services on the Great Lakes, with several economic standards applied to cost elements and specific application and designation of revenue categories.

1. General Public Service Rate Structure and Definitions

Public service rates are generally defined rates with established economic standards, most often based upon an allowed return on investment. Shown below is a basic structure for such rates:

PUBLIC SERVICE RATE STRUCTURE USING RATE OF RETURN STANDARDS

Line	Description
1.	Adjusted Operating Revenue.
2. less	Adjusted Operating Expense.
3. equals	Adjusted Operating Profit (Loss).
4. less	Adjusted Interest Expense.
5. equals	Adjusted Earnings Before Tax.
6. less	Federal Tax Allowance.
7. equals	Net Income.
8.	Return Element (Net Income plus Interest).
9. divided by ..	Investment Base (Separately determined).
10. equals	Return on Investment (ROI).

This NPRM defines the elements of this basic structure for Great Lakes Pilotage Rates below.

1. *Adjusted Operating Revenue:* Adjusted Operating Revenue is the sum of all operating revenues received by the pilot organizations for their pilotage services, less revenues from ancillary pilotage services that are offset against operating expenses, discussed below.

2. *Adjusted Operating Expense:* Adjusted Operating Expense is the sum of all operating expenses incurred by the pilot organizations for their pilotage services, less the sum of all disallowed expenses, discussed below.

3. *Adjusted Operating Profit (Loss):* Adjusted Operating Profit (Loss) is the Adjusted Operating Revenue, less the Adjusted Operating Expense.

4. *Adjusted Interest Expense:* Adjusted Interest Expense is the reported pilot association interest expense on operations, adjusted to exclude any interest expense attributable to non-pilotage operations.

5. *Adjusted Earnings Before Tax:* Adjusted Earnings Before Tax is the Adjusted Operating Profit (Loss), less the Adjusted Interest Expense.

6. *Federal Tax Allowance:* The Federal Tax Allowance is the Federal statutory tax on Earnings Before Tax, for those pilot organizations subject to federal tax.

7. *Adjusted Net Income:* Adjusted Net Income is the Adjusted Earnings Before Tax, less the Federal Tax Allowance.

8. *Return Element:* The Return Element is the Adjusted Net Income, plus Adjusted Interest Expense. The return element can be considered the sum of the return to equity capital (the net income) and the return to debt (the interest expense). Both interest expense and net income must be summed to determine the return to the combined debt and equity investment, below.

9. *Investment Base:* The Investment Base is the net capital invested in the pilot organization, including both equity and debt. Should capital be invested in other than pilotage operations, that capital and related revenues and expenses would be excluded from the rate base. The investment base is defined below.

10. *Return on Investment:* The Return on Investment (ROI) is the Return Element, divided by the Investment Base, and expressed as a percent.

Putting actual data into the format described above would generate the pilot organizations' actual financial performance for a past period. This NPRM proposes to establish prospective rates, however, and therefore propose several additional regulatory adjustments. These adjustments include establishing a prospective return to investment, adjusting for inflation, and projecting the need for pilotage services.

These adjustments are described in Part A.

2. Investment Base

The Investment Base is the recognized capital investment in the useful assets employed by the pilot groups. In general, it is the sum of available cash and the net value of real assets, less the value of land. This NPRM proposes to establish the investment base through the use of the balance sheet accounts, as amended by material supplied in the Notes to the Financial Statement, discussed below. Below are the accounts and methodology this NPRM proposes to use. The account numbers are taken from the accounting revisions in Part B.

CONSTRUCTION OF INVESTMENT BASE

Account No.	Description
Recognized assets:	
+10999	Total current assets
−29999	Total current liabilities
+20100	Current notes payable
+13999	Total property and equipment (Net)
−12000	Land
+15000	Total other assets
	Total recognized assets
Non-recognized assets:	
+11999	Total investments and special funds
	Total Non-recognized assets
Total Recognized and Non-Recognized Assets	
Recognized sources of funds:	
+39999	Total stockholders equity
+26000	Long-term debt
+20100	Current notes payable
+24500	Advances from affiliated companies
+26100–500	Long-term obligations—Capital leases
	Total recognized sources
Non-Recognized sources of funds:	
+26600	Pension liability
+26800	Other non-current liabilities
+27000	Deferred Federal income taxes
+27200	Other deferred credits
	Total Non-recognized sources
Total Recognized and Non-Recognized Sources	

The proposed Investment Base is the Recognized Assets, multiplied by the ratio of Recognized Sources of Funds to Total Sources of Funds. Recognized assets are adjusted by this ratio to ensure that the assets are not encumbered by outstanding liabilities. The non-recognized sources of funds are available only because they have not been demanded; they represent costs that have been incurred, but not paid.

Notes to the Financial Statement and Other Informational Notes

All matters which may materially influence interpretations or conclusions drawn from the financial statement with regard to the financial condition or earnings position are required to be clearly and completely stated as footnotes to the financial statement (46 CFR Part 403.)

Part A: Proposed Methodology

In summary, the basic steps to be followed in the proposed Great Lakes pilotage ratemaking methodology would be as follows: (1) Projection of operating expenses, including target pilot compensation; (2) projection of operating revenues at current rates, including revenues from ancillary services; (3) calculation of investment base; (4) determination of target rate of return on investment; (5) substitution of data into the basic utility rate structure; and (6) adjustment of the basic pilotage rate schedule if necessary, subject to the requirements of the Memorandum of Arrangements between the United States and Canada. The details of each of these steps can be found in Appendix A of the proposed amendments to 46 CFR part 404.

General Ratemaking Provisions

The Director would continue to determine, under applicable law, when reviews of Great Lakes pilotage rates would be conducted. In addition, this NPRM proposes to allow an interested party or parties to petition the Director for a review, provided that sufficient justification is included in the request. This would allow the Director to react to changing circumstances which might affect pilotage rates. The Coast Guard invites comment on whether rate reviews should be conducted at fixed intervals, and if so, what the timing of the intervals should be.

This NPRM proposes that each of the seven U.S. pilotage areas be treated as separate cost centers for ratemaking calculations. This is because each area consists of either designated or undesignated waters, and the target pilot compensation would be different for each.

Part A.1. Derivation of Return on Investment and Adjustment for Inflation

Return on Investment

The proposed rate schedule, based on average costs per pilotage hour as developed below, are in part determined by the permitted rate of return on investment (ROI). This is calculated by dividing the sum of return to debt (interest expense) and the return to equity (net income), by the investment base. Revenues received must be sufficiently high to create sufficient net income, when added to interest expense and the sum divided by the investment base, to equal the allowed rate of return on investment.

The ROI for any industry can vary significantly depending solely on the mix of debt to equity capital. Many public service ratemaking authorities determine the allowable ROI using an artificial debt/equity ratio. This is generally done to encourage equity capital investment in an industry, since the return to equity is generally set higher than the return to debt. Since such a mechanism is neither feasible nor necessary in the case of pilotage services, this NPRM does not propose to establish any ROI standard based on a specified debt/equity ratio, but would accept the debt/equity ratio of each of the pilot organizations as reported.

This NPRM proposes to set the allowed rate of return to equity capital at the most recent return on stockholder's equity for a representative cross-section of transportation industry companies, including maritime companies, with a minimum rate equal to the interest rate incurred by the associations for debt capital, and a maximum rate of 20.0 percent. Alternate proposed rate of return to capital percentages should contain reasonable support for their selection over this NPRM's proposal. For example, under this NPRM's proposed methodology, the computed ROI standard for pilotage rates, assuming a 50/50 debt/equity ratio, an implicit interest rate of 14 percent on debt capital and a 20 percent return to equity capital, would be 17.0 percent (.50 times .14, plus .50 times .20 = .170, or 17.0 percent.)

The average hourly charge for pilotage services would be set to generate sufficient revenues to cover operating expense and the return on investment allowance (including Federal taxes, if any).

Adjustment for Inflation

This NPRM proposes to project annual inflation factors to the succeeding navigation season, reflecting

the gradual increase in cost throughout the season. These inflation factors would be applied to the actual costs of the pilot organizations, other than for pilot compensation, in computing the rate necessary to achieve the target ROI. The factors would not be applied to pilot compensation costs, which are estimated separately.

This NPRM proposes to project the actual annual experienced changes in the average costs per pilot assignment for each pilotage area after the initial two years of cost inflation under this NPRM's proposed rate methodology. The initial two years of cost adjustment would be based on the preceding year's change in the North Central Region's Consumer Price Index, as calculated by the U.S. Bureau of Labor Statistics. Costs not subject to inflation (depreciation, for example) would not be adjusted for this initial period. Alternate methods of cost projection proposed during the comment period of this rule would be carefully considered.

Part A.2. Recognition of Costs for Ratemaking Purposes

Virtually all regulated rates contain economic incentives, penalties, or limits. This NPRM has already mentioned one such standard sometimes used, an artificial debt/equity ratio for return on investment. This NPRM proposes one explicit economic standard for Great Lakes pilotage ratemakings—recognition of lease expenses only to the extent that they either: (a) Approximate open market costs (for those leased assets with readily available markets); or (b) approximate ownership cost (for those leased assets with limited alternative markets, or which were obtained through transaction with affiliated companies.)

This NPRM also proposes to place expenses that appear excessive under greater scrutiny than in the past. Regulators may disallow expenses, subject to appeal by the pilot associations, as excessive or unrelated to the provision of pilotage services.

Finally, while the Coast Guard is unaware of the use of other than the straight-line method of recording depreciation expense by the pilot organizations, this NPRM does not propose to recognize, for rate-setting purposes, depreciation expenses on other than a straight-line basis.

Recognition of Lease Expenses

Economic organizations lease equipment or other assets for a number of operational or financial reasons. This NPRM proposes no general objection to the leasing of assets. However, lease transactions, and lease transactions with related companies in particular, are subject to two general guidelines in public ratesetting. The first guideline allows recognition of lease expense with no adjustment should the lease terms generally approximate the market conditions for the leased asset. The second guideline allows the recognition of lease expenses only to the extent that the lease cost approximates the cost of owning the asset.

This NPRM proposes to recognize lease costs to the extent that they generally approximates open market costs, subject to the condition that a readily available alternative supplier for the leased asset exists. Should there be no readily available alternate supplier, recognition of lease costs would be limited to the approximate cost of ownership, including a return to capital. Since related-party transactions by definition are not open market transactions, this NPRM proposes to generally apply the more stringent guideline to all related-party transactions. (See 14 CFR 399.43, for example).

This NPRM proposes to amend the financial reporting requirements to require that lease costs be recorded in accordance with the Financial Accounting Standards Board (FASB) publication FASB–13, including subsequent rulings on this subject by the FASB.

Part A.3. Ancillary Charges

Several charges have traditionally been levied for ancillary pilotage services, such as docking/undocking and moving to an anchorage, as well as penalty charges, such as for delay or cancellation. Revenues received for these services have been included as part of the overall revenues received by the pilot organizations in estimating the need for rate changes. However, accepting these revenues as general revenues does not tie the revenues received to the provision of a service or the incursion of a cost. For example, overhead costs (non-pilot compensation costs) are incurred in assigning a pilot. Should that order be later cancelled, the revenue received from the cancellation charge is reported as cancellation charge revenue, but is not linked to the overhead cost of assigning the pilot.

This NPRM proposes to link revenues received for ancillary services to the cost of services provided through the use of revenue offset methodology. Under this method, revenues received from charges for ancillary services are "offset" against the direct expenses of providing that service. In the above example, overhead costs would be reduced by the revenues received for the cancellation charge, other costs (pilot compensation costs for example) would be unaffected. The total amount of revenue received (needed) or expenses recognized under revenue offset methodology is unchanged. However, as discussed below, this NPRM proposes to set the charges for ancillary services separately from the basic pilotage rates in this NPRM. In addition, this NPRM also proposes to equalize ancillary charges between districts. For equity, as well as for economic reasons, a docking charge at Duluth should be equal to one at Chicago, Detroit, or Buffalo. This NPRM will discuss these charges in turn.

Docking/Undocking and Harbor Movement Charges

The current docking/undocking charges in undesignated waters are $297, $256, and $271, for Districts 1 through 3, respectively. Districts 1 and 3 also have a direct charge for a moveage in a harbor, at $580 and $531, respectively. For comparability, during the next ratemaking the Coast Guard would propose to set the docking/undocking charge at the same level for all three districts (e.g. at $250), subject to supported comment for establishment at any other level, or for differentiation between districts. This NPRM does not propose to adjust this charge for inflation, but may change the level of the charge from time to time upon review of the Director. In similar fashion, during the next ratemaking the Coast Guard would propose to set the charge for moveage in a harbor for all three districts at twice the docking charge, (e.g. $500), under the presumption that a moveage requires both an undocking (or lifting anchor) and a docking (anchorage). This adjustment is again subject to supported comment as to level and applicability. Again, this NPRM does not propose to adjust this charge for inflation, but may change the level of the charge from time to time upon review of the Director.

Revenue received for docking/undocking and moveage within a harbor would be offset against revenues required for pilot compensation.

Delay Charges

Delay charges, per hour, whether for trip interruption or departure or moveage delays, would be set at the rate determined in the pilot compensation phase, below, as adjusted for ship size. The maximum basic rate for any 24 hour period would be the per hour delay charge, as adjusted for ship size, times 16 hours. Delay charges would not be imposed for interruption caused by ice,

weather, or traffic (except from December 1 through April 8 of each year), and would also not be imposed in undesignated waters if a trip, though delayed, is still completed within the minimum 6 hour period under 401.410(a). Revenues received for delay charges would be offset against revenues required for pilot compensation.

Cancellation Charges

If a pilot reports for duty and the order is cancelled, the ship would pay the minimum basic pilot compensation charge for a six-hour period, unadjusted for ship size; if the order is cancelled, and the pilot has started travel but not arrived, the minimum charge would also apply. If the cancellation is more than six hours after the pilot reports to the designated boarding point, the ship would pay the minimum basic pilot compensation charge for six-hour period, plus delay charges for each hour or fraction of an hour over six hours, subject to the maximum basic rate for delay charges (the delay charge per hour times 16 hours for any 24 hour period.) Revenues received for cancellation charges would be offset against operating expenses.

Lock Passage Charges

As for docking/undocking and moveage, this NPRM proposes that the fee for lock passage should be the same for all three districts. During the next ratemaking the Coast Guard would propose to set the lock transit charge at the same level for all three districts (e.g. $150), subject to supported comment for establishment at any other level, or for differentiation between districts. This NPRM does not propose to adjust this charge for inflation, but may change the level of the charge from time to time upon review of the Director. Revenues received for lock passage charges would be offset against revenues required for pilot compensation.

Part A.4. Development and Application of Hourly Pilotage Charges

The operating expenses recognized under this NPRM's proposed methodology are broken into two major components, pilot compensation costs and non-pilot operating costs. The projected non-pilot operating costs for the ensuing navigation season, including the constructed amount necessary to bring the pilot organizations to the ROI standard, would be divided by the sum of the estimated pilotage hours for both designated and undesignated waters, by District. This standard charge per hour would be applied on a per hour basis for each supplied pilotage hour, whether in designated or undesignated waters.

Total pilot compensation costs for designated and undesignated waters are derived from the target pilot compensation for masters and first mates, times the number of needed pilots. The pilot compensation cost per hour for designated and undesignated waters is this constructed cost, divided by the pilot hours projected in designated or undesignated waters. Target pilot compensation and the number of needed pilots is developed below.

The sum of non-pilot operating costs per hour and pilot compensation costs per hour (for designated and undesignated waters separately) is the total cost per hour to be charged for pilotage services.

Target Pilot Compensation

The Coast Guard and Department policy is to maintain income comparability between pilots providing international regulated pilot services and private masters and first mates operating domestic vessels on the Great Lakes with similar responsibilities. This NPRM proposes to continue the current income comparability policy of using as target compensation for pilots in undesignated waters the compensation of first mates on U.S. Great Lakes vessels. Target compensation for pilots providing service in designated waters would continue to be comparable to masters on Great Lakes vessels, but this NPRM proposes to set the target at 150% of the compensation of first mates, rather than attempting to determine the actual average compensation of Great Lakes masters. While the Coast Guard would periodically review this estimate, available data indicate that this average premium has remained reasonably stable, is relatively simple to administer, and avoids costly sampling of individual master's contracts, which are not publicly available.

This NPRM lists below those items proposed to be included as part of the pilot compensation portion of the rate schedule. Line items here included would be removed from the cost pools included in direct operating expenses to preclude double counting.

Target Pilot Compensation Designated and Undesignated Waters

Undesignated Waters—First Mate Compensation Component

1. Contractual daily rate @ 260 days: Medical allowance, Pension allowance, Holiday pay, Overtime pay, Winter close-down allowance.
2. Additions to compensation: F.I.C.A., Workmen's compensation allowance, Total.

Designated Waters—150 Percent of First Mate Compensation

This NPRM proposes to exclude profit sharing as a component of pilot compensation expense, since this is a voluntary contribution by the employer paid from profits, similar in form to the return element proposed to be paid the pilot organizations (which may be distributed as a bonus). Profit sharing expense, which may have been included in past rate-setting as an expense item in the pilot associations expense accounts, would be disallowed.

This NPRM proposes to add a F.I.C.A. allowance and a workmen's compensation allowance to pilot compensation to ensure comparability between pilot groups, and to properly reflect the allocated cost of pilot services. Allowances listed here would be transferred from general pilot association costs (if included there), or added to the cost pools (if not currently included in general association costs). This NPRM proposes to require these costs to be separately identified and reported in either the financial statement or by special report (See Part B).

Number of Required Pilots

The Coast Guard and Department policies have set the minimum number of pilots needed by establishing specific minimum annual pilot hours for designated and undesignated waters (1,000 and 1,800 hours per pilot, respectively) for a pilot to receive comparable compensation discussed above. The required number of pilots for any succeeding navigation season was determined by dividing a projection of the number of pilot hours required in designated and undesignated waters, by District, by the minimum standard annual pilot hours. This required number of pilots, for both designated and undesignated services and individually rounded upward, was then multiplied by the target income per pilot (above) to determine the revenue necessary under the rate.

This NPRM proposes to continue this policy and methodology in determining the number of pilots and the necessary pilot comparability income to be included in the rate schedule.

Pilot Compensation Charges Per Hour

The target pilot compensation, by District and by designated (Master) and undesignated (First Mate) compensation, would then be divided by the estimated pilotage hours in

designated or undesignated waters to construct an average hourly cost per hour for pilot compensation in designated or undesignated waters.

Total Pilotage Charges Per Hour

Pilot compensation charges per hour, for designated and undesignated waters separately, would be added to the average cost for non-pilot compensation expenses per hour. The sum of these average costs, for designated and undesignated waters separately, would be the average cost per pilotage hour to be recovered under the rate, subject to the adjustment for vessel size, below.

Part A.5. Adjustment of Pilotage Charges for Vessel Size

It is accepted belief and practice that pilotage of larger vessels deserves a higher level of compensation than that for smaller vessels. The current rate schedule uses a vessel size multiplier to increase the charge for larger vessels, and, presumably, the pilot compensation. (46 CFR 401.400) Also, maintaining shipping in the Great Lakes is a public benefit and goal, and is supported by government agencies. As smaller ships carry less cargo and are more affected by pilotage cost on a per-ton basis, a differential in cost (or lesser increase) is likely to encourage the continuation of their service.

Based on this perceived public interest, this NPRM proposes to continue to use these vessel-size rate multipliers for the proposed rates for all three districts. However, the average base rate derived above must be adjusted for such multiplication, since the average base rate is an unweighted charge. This NPRM proposes to adjust the base rate to reflect a ship weighting factor of 1.0 by dividing the average base rate by the average ship weighting factor derived from pilot billings. For 1990 the average weighted ship sailing, for designated and undesignated waters was as follows:

WEIGHTED SHIP SAILING FACTOR, C.Y. 1990

	District 1	District 2	District 3
Designated waters	1.269	1.279	1.330
Undesignated waters	1.268	1.303	1.309

This NPRM proposes to adjust the hourly charge for pilot services by dividing the average total pilotage charge by the average vessel weighting factor for the preceding year.

For illustrative purposes only, this adjustment to the pilotage charge per hour is shown below. (In the example, the hourly rates are derived from the interim rate increase published in the **Federal Register** on June 5, 1992 (CGD 89–104) to calculate charges on an hourly basis.) For District 1, Area 1, ship factor 1.0 would equal the average cost per hour of $166, divided by the average ship weighting factor of 1.269, or $131. Ship factor 1.3 would be $131 times 1.3, or $170. For ease of calculation this NPRM proposes to continue to use hourly rates rounded to the nearest dollar.

Example

ADJUSTMENT OF AVERAGE PILOTAGE CHARGE PER HOUR—TO SHIP WEIGHTING FACTOR 1.0

	Unadjusted average pilotage charge/hour	Average ship weighting factor	Ship factor 1.0—adjusted pilotage charge/hour
District 1:			
Area I	$166	1.269	$131
Area II	96	1.268	76
District 2:			
Area IV	83	1.303	64
Area V	150	1.279	117
District 3:			
Area VI	87	1.309	67
Area VII	179	1.330	135
Area VIII	90	1.309	69

Part A.6. Application of the Pilotage Charges to Vessel Trips

The required pilotage charges per pilot hour are determined above. Most trips and sailings, however, are provided between relatively few points, in part due to pilot changeover, and in part due to ship movements involving mostly the larger trading ports. For simplicity and operational efficiency, this NPRM proposes to fix the pilotage charges for selected sailings and trips, based upon average transit time as reported in pilot source forms. This NPRM proposes that the average time for sailings served more than ten times per year in each direction would adequately define the necessary pilot time for these repeated sailings, exclusive of delay and demurrage. This NPRM proposes to multiply the average time for these repeated sailings by the adjusted pilotage charge for Ship Factor 1 to construct a base charge for these sailings. These base charges would be published in matrix form, by district.

This NPRM proposes to base the pilotage charges for sailings to less-served points upon the actual time spent in pilotage (subject to minimum and incremental hourly charges, below), multiplied by the adjusted pilotage charge per hour. Charges listed in matrix form and computed time-based charges would be subject to the vessel-size multiplier, as in the current rate schedule.

This NPRM also proposes, for less-served points, to continue a minimum

six-hour pilotage charge, but with additional charges added in three hour increments. This NPRM's proposal to use three hour increments represents a reduction from the six hour increments in the current rate schedule, to more closely match the services performed.

Part B: Financial Reporting

Summary of Changes to Reporting Requirements

As indicated in Part A, several changes are proposed to the accounting regulations and reporting requirements under the Great Lakes Pilotage Regulations. In order to facilitate ratemaking, this NPRM proposes to require more detailed financial reporting from each pilot association.

This NPRM proposes that each pilot association report financial data in a standard format prescribed by the Director, and that financial statements of each association be signed by an officer of that association to verify accuracy. In addition, 46 CFR part 403 would be renumbered and reorganized to bring this part into conformance with current regulatory guidelines on the numbering and organization of regulations.

This NPRM proposes that the general ledger account numbers in part 403 be expanded from four digits to five digits, and placed in Appendices A and B to part 403. This proposed change would allow greater flexibility in making future changes to the system of accounts. In addition, the definitions of profit and loss accounts currently found in 46 CFR 403.9 would be deleted because this section does not add any significant information to the uniform accounting system.

This NPRM proposes that the straight line depreciation method would be consistently used by all pilotage associations. Using this method would evenly allocate the acquisition costs over the useful life of assets subject to depreciation. It would also minimize the annual fluctuation of operating expenses and their effect over the ratemaking calculations.

This NPRM proposes that the recording of lease costs be guided by the Financial Accounting Standards Board (FASB) publication FASB–13 and subsequent pronouncements on this subject by the FASB. This proposed change would differentiate capital leases from operating leases, updating the Great Lakes pilotage accounting standards in conformance with current accounting practices.

Under the current regulations (46 CFR part 403), all pilot associations maintain the same general system of accounts. However, no two associations currently report financial information in the same format, leading to inconsistencies between associations. This NPRM proposes an adjustment to the system of accounts. This change would facilitate ratemaking calculations, and would put pilot associations on a comparable footing for ratemaking calculations.

Corporations are required by law to pay certain expenses (e.g., Federal Insurance Contribution Act (FICA) and Workmen's Compensation). However, for unincorporated associations, these expenses are paid by the individual members, and are not shown on the association's financial statement. If these expenses are not considered in the ratemaking calculations for unincorporated associations, a lower level of compensation for those pilots would be shown, as compared to compensation for their counterparts in associations organized as corporations. This NPRM proposes that each unincorporated pilot association report this financial information, now separately reported, in notes to the association's financial statement. Only reported items would be considered in ratemaking calculations for all pilot associations. The Director would not impute such items. This change would put pilot associations with different organizations on a comparable footing for ratemaking calculations.

This NPRM proposes to require that financial information which is currently reported on a quarterly basis be reported on a semiannual basis, and to update the address for the Director. This proposed change to the financial reporting requirements would ease the burden on pilot associations, without affecting the ratemaking process or oversight of the pilot associations.

This NPRM proposes that profit and loss accounts be reported semiannually in accordance with the charter of accounts proposed in Appendix B to part 403.

This NPRM proposes standardized reporting, by account number, for financial data now submitted in summarized, unnumbered fashion. The proposed revisions and additions to the reporting requirements are necessary to examine selected costs for reasonableness (lease and interest costs, etc.); to specifically list expenses that would be included in pilot compensation costs (e.g., pension and health costs, etc.); and to provide identification for costs not currently listed as incurred in some districts (e.g., pilot insurance, FICA, retirement).

For ratemaking purposes, more detailed information is needed than that supplied in the current financial statements to determine the reasonableness of capital lease agreements and the depreciable lives and residual value of selected assets. This NPRM proposes that all matters which may materially influence interpretations or conclusions drawn from the financial statements of pilot associations with regard to the financial condition or earnings position of the association would have to be clearly and completely stated as footnotes to the financial statement.

This NPRM proposes to continue the requirement that all financial records, including information on lease transactions, be maintained and be readily available to the Director's auditors for 10 years.

This NPRM does not propose any significant changes to the form of Inter-Association Settlement Statements. However, comments on whether it is necessary to retain this section, or any other suggested changes, are specifically requested.

Regulatory Evaluation

This proposal is a significant regulatory action under Executive Order 12866, and significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040, February 26, 1979). The Coast Guard considers this proposed regulation to be significant because a rulemaking affecting the setting of pilotage rates is controversial and of significant interest to the public.

The primary purpose of this rulemaking is to standardize the financial reporting of Great Lakes pilot associations and to clarify the methodology to be used in future ratemakings. The methodology proposed is expected to have a minimal impact on pilotage rates. Since the effect of the rulemaking on pilotage rates is expected to be minimal, a full Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because this proposal does not affect the overall level of pilotage rates, this proposal should have little or no impact on small entities which pay pilotage rates, or receive income from pilotage rates.

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection of information requirements in the additions to 46 CFR part 403. The following particulars apply:

DOT No.: 2115.

OMB Control No.: 2115–0022.

Administration: U.S. Coast Guard.

Title: Great Lakes Pilotage Rate Methodology.

Need for Information: The information is necessary for ratemaking calculations and for the proper financial oversight of the Great Lakes pilot associations. However, pilot associations currently report financial information as required by 46 CFR part 403. This proposal merely amends the existing reporting requirements by separating several existing summary accounts into their individual components, and requiring that the financial reporting of all accounts be done in a standardized format.

Proposed Use of Information: The reported data would be used in Great Lakes pilotage ratemaking calculations, and for the proper financial oversight of the Great Lakes pilot associations.

Frequency of Response: The Balance Sheet, and the Profit and Loss Statement, which are currently required quarterly, would be required semiannually. Revenue and Traffic Statements would be required monthly.

Burden Estimate: No change from the current burden.

Respondents: Each Great Lakes pilot association (there are currently three).

Form(s): Designated by the Director, Great Lakes Pilotage.

Average Burden Hours Per Respondent: No change to the current burden hours.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES**.

Federalism

The Coast Guard has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Under 49 CFR 1.46(a) the Secretary delegates to the Commandant of the Coast Guard the authority to carry out the Great Lakes Pilotage Act of 1960, as amended, except the authority to enter into, revise, or amend arrangements with Canada.

Furthermore, since vessel traffic in the Great Lakes tends to move between U.S. ports in the national marketplace, pilotage regulations for the Great Lakes is a matter for which regulations should be of national scope to avoid unreasonably burdensome variances. State action addressing the same subject matter is preempted by 46 U.S.C. 9306, which provides that a State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.

Environment

The Coast Guard considered the environmental impact of this NPRM and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. The rule is procedural in nature because it deals exclusively with ratemaking and accounting procedures. Therefore, this is included in the categorical exclusion in subsection 2.B.2.1—Administrative actions or procedural regulations and policies which clearly do not have any environmental impact. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Parts 401, 403, and 404

Administrative Practice and Procedure, Great Lakes, Navigation(water), Penalties, Reporting and Recordkeeping Requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard proposes to amend parts 401, 403, and 404 of title 46 of the Code of Federal Regulations as follows:

PART 401—[AMENDED]

1. The authority citation for part 401 is revised to read as follows:

Authority: 46 U.S.C. 2103, 6101, 7701, 9303, 9304; 49 CFR 1.45, 1.46. 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.

2. In § 401.110 the introductory text of paragraph (a) and paragraph (a)(9) are revised, and paragraph (a)(16) is added to read as follows:

§ 401.110 Definitions.

(a) As used in this chapter:

* * * * *

(9) *Director* means Director, Great Lakes Pilotage. Communications with the Director may be sent to the following address: Director, Great Lakes Pilotage, Commandant (G–MVP), 2100 2d Street, SW., Washington, DC 20593.

* * * * *

(16) *Association* means any organization which holds or held a Certificate of Authorization issued by the U.S. Coast Guard to operate a pilotage pool on the Great Lakes.

3. Part 403 is revised to read as follows:

PART 403—GREAT LAKES PILOTAGE UNIFORM ACCOUNTING SYSTEM

Subpart A—General

Sec.

Subpart B—General Accounting Policies

Subpart C—Balance Sheet

Subpart D—Profit and Loss Classifications

Subpart E—Inter-Association Settlements

Authority: 46 U.S.C. 2103, 9303, 9304; 49 CFR 1.46.

Subpart A—General

§ 403.100 Applicability of system of accounts and reports.

Each Association shall keep its books of account, records and memoranda, and make reports to the Director in accordance with the system of accounts prescribed in Appendices A, B and C of this part. These financial records shall be prepared in accordance with the guidelines of the Generally Accepted Accounting Principles (GAAP) issued by the Financial Accounting Standards Board (FASB). These guidelines are available by writing to the Director, Great Lakes Pilotage at the address listed in § 401.110(a)(9) of this chapter. The Director reserves the right, however, to expand or otherwise modify this system of accounts and reports in accordance with this rule.

§ 403.105 Waivers from the system of accounts and reports.

The Director may grant a waiver from any provision of the system of accounts or reports prescribed in this part upon his or her own initiative or upon written request from any Association, provided that such a waiver is in the public interest. Each request for waiver must expressly demonstrate that: existing peculiarities or unusual circumstances warrant a departure from a required procedure or technique prescribed herein; a specifically defined alternative procedure or technique will result in a substantially equivalent or more accurate portrayal of operating results or financial condition, consistent with the principles embodied in this part; and the application of such alternative procedure will maintain or improve uniformity in substantive results between Associations.

§ 403.110 General description of system of accounts and reports.

(a) The Uniform System of Accounts required by this part permits limited contraction or expansion to reflect the varying needs and capabilities of different Associations without impairing basic accounting comparability between Associations.

(b) Under the Uniform System of Accounts, both balance sheet and profit and loss accounts and account groupings are designed, in general, to embrace all activities, both pool and nonpool, in which the Association engages. Except for transactions which are of sufficient magnitude to distort current year operating results, prior year transactions are recorded in the same accounts as current year transactions of a like nature.

(c) In order to afford each Association flexibility to establish ledger and subsidiary accounts to meet its individual needs, a minimum number of accounts are prescribed in the Uniform System of Accounts. Each Association, in maintaining its accounting records, must use the prescribed chart of accounts. If additional accounts are necessary, the new accounts must be consistent with the prescribed chart of accounts classification.

§ 403.115 System of accounts coding.

A five digit control number is assigned for each balance sheet and profit and loss account. Each account is numbered sequentially, within blocks, designating basic balance sheet and profit and loss classifications.

§ 403.120 Records.

(a) The general books of account and all books, records, and supporting memoranda shall be maintained in such manner as to provide, at any time, full information relating to any account. Supporting memoranda must provide sufficient information to verify the nature and character of each entry and its proper classification under the prescribed Uniform System of Accounts.

(b) Each Association shall maintain all records necessary to show the history of, or facts regarding, each accounting or financial transaction. These records include but are not limited to, organization tables and charts, internal accounting manuals and revisions, minutes books, stock books, reports, cost distributions and other accounting work sheets, correspondence, and memoranda.

(c) Each Association shall maintain all books, records and memoranda in a manner that will readily permit audit and examination by the Director or the Director's representatives at any time. All books, records and memoranda shall be protected from loss, theft, or damage by fire, flood or otherwise, and shall be retained for 10 years unless otherwise authorized by the Director.

§ 403.125 Accounting entities.

Each Association shall be a separate accounting entity. However, the records shall be maintained with sufficient particularity to allocate items to each pilotage pool operation or nonpool operation and to support the equitable proration of items which are common to two or more pilotage pools.

§ 403.130 Interpretation of accounts.

Questions concerning accounts or reports required by this part should be submitted to the Director.

§ 403.135 Address for reports and correspondence.

Reports, statements, and correspondence required by this part shall be submitted to the Director at the address listed in § 401.110(a)(9) of this chapter.

Subpart B—General Accounting Policies

§ 403.200 Bases of allocation between pool and nonpool operations.

(a) Profit and loss items and assets common to two or more pools or to nonpool operations shall be allocated equitably to each pool and to nonpool operations.

(b) Changes in methods of allocating items between pools shall only be made as of the beginning of each calendar year.

§ 403.205 Accounting period.

(a) Each Association subject to this part shall maintain its accounts on a calendar year basis unless otherwise approved by the Director.

(b) Each Association shall keep its financial accounts and records on a full accrual basis. All transactions, as nearly as may reasonably be ascertained, shall be reflected in the Association's books for the accounting period, matching revenues earned with the costs attaching thereto.

(c) Expenses incurred during the current accounting year which demonstrably benefit operations to be performed during subsequent accounting years to a significant extent shall be deferred and amortized.

§ 403.210 Liability accruals.

Charges shall be made against income and accruals made for only those liabilities for which a definitely demonstrable obligation exists. Where a definite obligation has been incurred and the precise liability has not been determined, an estimate may be made of the currently existing liability on such actuarial or other bases as can be justified from available information, provided that balances are reevaluated

and adjusted at least once each accounting year.

§ 403.215 Federal income tax accruals.

(a) All income taxes shall be accrued by proportionate charges or credits to income each accounting period in such manner as will allocate the charges for taxes, or the tax credits for losses, to the periods in which the related profits or losses respectively, are reflected.

(b) The accrual of income taxes for each accounting period requires that each Association take up in its accounts an amount equivalent to the actual tax liability applicable to the period as computed or estimated on the basis of income tax laws and regulations then in effect, except where the Association computes depreciation for tax purposes at rates which differ from straight-line depreciation based upon the estimated life of the asset. In all cases, regardless of the amount of depreciation which is reported to Federal, State, and local tax authorities for tax purposes, each Associations' financial reports to the Director shall reflect adjustment of cost to reflect straight-line depreciation.

§ 403.220 Delayed items.

(a) All items affecting net income, including income adjustments, shall be recorded in appropriate profit and loss accounts and reflected on the income statement and shall not be entered directly to retained earnings.

(b) Items applicable to operations occurring prior to the current accounting year which were not recorded in the books of account shall be included in the same accounts which would have been charged or credited if the items had not been delayed; except that if any delayed item is relatively so large in amount that its inclusion in the accounts for a single year would materially distort the affected accounts, it shall be included in profit and loss classification 69000 "Miscellaneous."

§ 403.225 Estimated items.

(a) If a transaction has occurred but the amount involved is not precisely determinable, the amount shall be estimated, included in the proper accounts and, where significant, noted for financial statement purposes.

§ 403.230 Improvements, additions and betterments.

(a) As a general rule, expenditures for additions, betterments or improvements, which increase the productive capacity of units of property or equipment, shall be capitalized rather than charged directly against income of the period in which incurred. Expenditures of insignificant amount may be expensed as incurred rather than capitalized, provided their inclusion as individual items or when aggregated for like items, will not distort current operating results.

(b) The costs to be capitalized shall include all costs directly incurred by reason of the acquisition of the capital item, including transportation and installation costs.

§ 403.235 Accounting for transactions in gross amounts.

(a) All assets and liabilities shall be stated in balance sheet presentations in gross values, provided that all depreciation, provisions for uncollectible accounts, and other valuation reserves shall be offset against the class of asset to which related.

(b) The cost of Treasury Certificates or other tax notes, which are to be surrendered to the United States Treasury, rather than independently sold, in satisfying Federal income tax liabilities, may be offset against accrued Federal income tax liabilities provided both the gross income tax liability and the value of the tax notes are reflected on the face of the balance sheet. The offset of other government securities or other assets against Federal income tax liabilities is prohibited.

§ 403.240 Valuation of assets.

All assets shall be recorded at cost to the Association and shall not be adjusted to reflect changes in market value except that items which have been expensed from current inventories, and are recovered, may be returned to inventory at estimated value with contra credit to the expense accounts initially charged.

§ 403.245 Establishment of reserves.

(a) Provisions for reserves covering transactions or conditions which do not diminish assets or result in demonstrable liability to the Association, with corresponding diminution in stockholder equity during the period over which accrued, shall not be charged against income but shall be charged directly against balance sheet account 39100 "Unappropriated retained earnings."

(b) All reserves shall be classified in balance sheet presentations in terms of their inherent impact upon the Association's financial condition as either valuation of assets (offsetting the assets to which related), accrued liabilities, or appropriations of retained earnings.

§ 403.250 Depreciation and amortization.

(a) Assets of a type possessing prolonged service lives significantly longer than one year, and which are generally repaired and reused shall be written off against operations through periodic depreciation or amortization charges from the date first placed in regular service. Assets of a type which are recurrently expended and replaced, rather than repaired and reused, shall not be depreciated or amortized but shall be charged to expense as issued for use.

(b) Assets of a type which are subject to depreciation shall not be classified as current assets but shall be carried in property and equipment or other appropriate noncurrent asset account classifications. Assets of a type which are recurrently expended and replaced shall be classified as current assets.

(c) Depreciation shall be calculated and reported to the Director using the straight-line depreciation method.

§ 403.255 Contingent assets and contingent liabilities.

Contingent assets and contingent liabilities shall not be included in the body of the balance sheet but shall be explained in the footnotes.

§ 403.260 Notes to financial statements.

(a) All matters which are not clearly identified in the body of the financial statements of the Association, but which may materially influence interpretations or conclusions that may reasonably be drawn in regard to financial condition or earnings position of the Association, shall be clearly and completely stated as footnotes to the financial statements.

(b) Financial items which are not otherwise required to be reported in the Association financial statements, but which may affect ratemaking calculations, are required to be reported to the Director in the notes to the financial statements. Any financial items that are not reported to the Director will not be imputed by the Director during ratemaking procedures contained in part 404 of this chapter.

Subpart C—Balance Sheet

§ 403.300 General.

(a) The balance sheet accounts are designed to show the financial conditions of the Association as of a given date, reflecting the asset and liability balances carried forward subsequent to the closing or constructive closing of the Association's books of account.

(b) The balance sheet accounts prescribed in this system of accounts are listed in appendix A of this part.

§ 403.305 Balance sheet account groupings.

(a) Current Assets. (1) Each Association shall include in this classification all resources which may

reasonably be expected to be realized in cash or sold or consumed within one year, including but not limited to:

(i) Unrestricted cash;

(ii) Assets that are readily convertible into cash; or

(iii) Assets held for current receivables and claims against others to the extent settlement is reasonably assured.

(2) Securities of investment and special fund accounts at date of acquisition need not be reclassified until disposition.

(3) Inventories of all materials, supplies, lubricating oils, motor fuels, and expendable spares shall be physically verified at least annually. Differences between the inventory account and the actual physical inventory due to shortage, overage, shrinkage, etc. shall be adjusted by charges or credits to the appropriate expense account.

(4) Items of general current asset characteristics which are not expected to be realized or consumed within one year may be included in this classification provided the noncurrent portion is not substantial in amount and classification as a current item will not impair the significance of working capital.

(b) Investments and special funds. (1) Each Association shall include in this classification long-term investments in securities of others exclusive of United States Government securities, including:

(i) Securities which are not readily marketable;

(ii) Funds set aside for specific purposes or involving restrictions preventing current use;

(iii) Contract performance deposits and other securities receivable; or

(iv) Funds not available for current operations.

(2) Investments in United States Government securities shall be included in the current assets account group.

(3) Investments in securities of others shall be recorded at cost exclusive of amounts paid for accrued interest or dividends.

(c) Property and equipment. (1) All investments of the Association in land and units of tangible property and equipment shall be included within this general classification.

(2) The property and equipment records shall be maintained so as to identify property with each pool operation, with nonpool operations, and joint pool or nonpool operations. Property used by two or more pools or nonpool operations will be maintained to permit an equitable proration of depreciation, amortization, and repair and maintenance cost.

(3) Operating and nonoperating property and equipment shall be accounted for separately as follows:

(i) Investment in property and equipment shall be recorded at total cost including all expenditures applicable to acquisition, other costs of a preliminary nature, costs incidental to placing in position and conditioning for operation, and costs of additions, betterments, improvements and modifications.

(ii) Upon disposal by sale, retirement, abandonment, dismantling, or otherwise, of equipment depreciated on a unit basis, the Association shall:

(A) Credit the account in which the property or equipment is carried with the cost thereof;

(B) Charge the depreciation and maintenance reserves with the related reserve balance applicable to the property disposed of;

(C) Charge the cash proceeds of the sale or the value of salvaged material to the appropriate asset accounts; and

(D) When the sales price or salvage value less the cost of dismantling differs from the cost of the property less accrued depreciation and maintenance reserves, the difference shall be recorded in the appropriate capital gain or loss accounts.

(iii) Upon disposal by sale, retirement, abandonment, dismantling, or otherwise, of equipment depreciated on a group basis, the Association shall credit the account in which the property or equipment is carried, and charge the related depreciation reserve with the original cost thereof, less any salvage realized, regardless of the age of the item. No gain or loss is recognized on the retirement of individual items of property or equipment depreciated on a group basis.

(iv) When property or equipment owned by the Association is applied as part payment of the purchase price of new property or equipment, the new property or equipment shall be recorded at its full purchase price, provided an excessive allowance is not made for assets traded-in, in lieu of price adjustments or discounts on the purchase price of assets acquired. The difference between the depreciated cost of assets applied as payment and the amount allowed therefor shall be treated as retirement gain or loss.

(v) The Association shall maintain property and equipment records setting forth the description of all property and equipment recorded in balance sheet classification 12000–13000, Property and Equipment. With respect to each unit or group of property or equipment, the record shall show the description, location, date of acquisition, the original cost, the cost of additions and betterments, the cost of parts retired rates of depreciation, residual values not subject to depreciation, and the date of retirement or other disposition

(d) Property and equipment depreciation and maintenance reserves. (1) Each Association shall include in this balance sheet classification the accumulation of all provisions for losses occurring in property or equipment from use and obsolescence. For example, it shall include accumulated depreciation established to record current and cumulative cost expiration of assets being depreciated due to wear and tear from use and the action of time and the elements which are not replaced by current repairs; as well as losses in capacity for use or service occasioned by obsolescence, supersession, discoveries, change in popular demand or the requirement of public authority Residual values and rates for accrual of depreciation and maintenance shall be calculated using the straight-line depreciation method.

(2) Depreciation shall be calculated from the date on which a building, structure or unit of property is placed in service, and shall cease on the date such property is disposed of by sale, retirement, abandonment, or dismantling, or when the difference between the cost and residual value shall have been charged to expense.

(3) Land owned or held in perpetuity; expenditures on uncompleted units of property and equipment during construction or manufacture; and items classified as current assets are not subject to depreciation.

(e) Other assets. (1) Each Association shall include in this classification all debit balances in general clearing accounts, including charges held in suspense pending receipt of information necessary for final disposition, prepayments chargeable against operations over a period of years, capitalized expenditures of an organizational or developmental character, property acquisition adjustments, and the cost of patents, copyrights, and miscellaneous intangibles.

(2) Deferred charges having a definite time incidence shall be amortized over the periods to which they apply.

(f) Current liabilities. (1) Each Association shall include in this classification all debts or obligations for which liquidation or payment is reasonably expected to require the use within one year, of existing resources of a type which are properly classifiable as current assets, or the creation of other current liabilities. Current liabilities shall include payables incurred in the acquisition of materials, collections

received in advance of performance of services, debts accruing from expenses incurred from operations, and other liabilities that are regularly and ordinarily subject to current liquidation.

(2) Lease costs shall be recorded in accordance with the guidelines of the Financial Accounting Standards Board (FASB) publication number 13, and subsequent pronouncements on this subject by the FASB. Lease costs payable on demand within one year, including the portion of long-term debt due within one year of the balance sheet date, shall be recorded in balance sheet account 20100.

(g) Noncurrent liabilities. (1) Each Association shall include in this classification all debts or obligations for which liquidation or payment is not reasonably expected to require the use, within one year, of existing resources of a type which are properly classifiable as current assets, or the creation of current liabilities. Noncurrent liabilities include mortgages, bonds and debentures maturing more than one year from the date of the balance sheet, or other obligations not payable within 12 months. This classification shall reflect the principal amount or par value of debt securities issued or other long-term debt assumed by the Association. Discount and expenses on long-term debt shall be recorded in the Deferred Charges balance sheet group. Premiums on long-term debt shall be recorded in the Deferred Credits balance sheet account group.

(2) In cases where debt coming due within 12 months is to be refunded, or where payment is to be made from assets of a type not properly classifiable as current, the amount payable shall not be removed from this classification.

(3) Gains or losses on liquidation of bonds, debentures, or other debt securities of the Association shall be entered in profit and loss classification 47000 "Other Income," or 69000 "Miscellaneous." Gains and losses or adjustments to liabilities applicable to expenses incurred in operations shall be entered in the expense accounts initially charged.

(h) Deferred credits. (1) Each Association shall include in this classification all credit balances in general clearing accounts, including credits held in suspense pending receipt of information necessary for final disposition and premiums on long-term debt securities of the Association.

(2) Deferred credits having a definite time incidence shall be amortized over the periods to which they apply.

(i) Stockholder's equity (Capital). (1) Each Association shall include in this classification all items which record the aggregate interest of Association members in assets owned by the Association.

(2) The general classification "Stockholder's Equity (Capital)" shall be subdivided between that portion representing direct contributions of the members (Paid-In Capital) and that portion representing income retained from operations of the Association (Retained Earnings).

(3) The "Paid-In Capital" classification shall be subdivided between membership shares and "Other Paid-In Capital." Membership shares shall include par or stated value of shares issued or the cash value of the consideration actually received, in cases of shares having no par or stated value. "Other Paid-In Capital," shall include the excess (premium) or deficiency (discount) of each value of the consideration received from the issue of any shares having par or stated value, donations by stockholders, adjustments of capital resulting from reorganization or recapitalization, and gains or losses from reacquisition and resale or retirement of the Association's shares.

(4) The "Retained Earnings" balance sheet classification shall reflect the balance of net profits, income, and gains of the Association from the date of formation. In cases where a deficit has been absorbed by a reduction of "Other Paid-In Capital" as a result of a restatement of shares or retained earnings, a new Retained Earnings account shall be established, dated to show that it runs from the effective date of the restatement. This date shall be disclosed in financial statements until such time as the effective date no longer possesses special significance.

Subpart D—Profit and Loss Classifications

§ 403.400 General.

(a) Each Association shall keep profit and loss accounts in accordance with the Chart of Profit and Loss Accounts in appendix B to this part. The profit and loss accounts are designed to reflect, through natural groupings, the elements entering into income or loss accruing to the proprietary interests during each accounting period.

(b) The system of accounts in appendix B to this part provides for the coordinated grouping of all revenues and expenses in terms of both major objectives and functional activities.

Subpart E—Inter-Association Settlements

§ 403.500 General.

Each Association that shares revenues and expenses with the Canadian Great Lakes Pilotage Authority (GLPA) shall submit settlement statements completed in the format shown in Appendix C to this part. The Memorandum of Arrangements (MOA) between the United States and Canada provides that settlement of accounts between United States pools and Canadian pools shall be effected on an interim basis as of the end of each month with an annual settlement as of December 31 of each year. Payments on account shall be made by the 15th of the following month on a net balance basis.

Subpart F—Reporting requirements

§ 403.600 Financial reporting requirements.

(a) Each Association shall file semiannually with the Director the following financial statements:

(1) Balance Sheet.

(2) Profit and Loss Statement.

(b) The financial statements shall list each active account, including subsidiary accounts, in the Uniform System of Accounts in Appendices A and B of this part.

(c) The financial statements shall be prepared for the six months ending June 30, and December 31, unless otherwise authorized in writing by the Director. An officer of the Association shall certify the accuracy of the financial statements.

(d) Each Association shall furnish the Director a copy of all settlement statements, including monthly settlement statements.

(e) The financial statements, together with any other required statistical data, shall be submitted to the Director within 30 days of the end of the reporting period, unless otherwise authorized by the Director.

(f) Each Association shall furnish the Director, by April 1 of each year, an unqualified long form audit report for the preceding year prepared by an Independent Certified Public Accountant. The audit shall conform to the Generally Accepted Auditing Standards promulgated by the American Institute of Certified Public Accountants.

(g) Each Association shall furnish the Director with monthly revenue and traffic reports listing data on a monthly and year-to-date basis.

§ 403.605 Operating budgets.

(a) Each Association shall prepare and submit to the Director, by the 31st day of January each year, an estimated operating budget for the forthcoming operating season.

(b) Estimates of revenue shall be itemized to reflect the principal sources

of income, with pilotage income segregated from other classes of income.

(c) Estimates of expenses shall be on a calendar year basis, with adequate explanation of any unusual or nonrecurring items.

(d) Those items of expenses includable in Inter-Association settlement statements shall be segregated and supported by required detail.

Subpart G—Bonds

§ 403.700 Fidelity bonds.

(a) Each Association shall maintain a fidelity bond to indemnify against loss of money or other property through fraudulent or dishonest acts by employees.

(b) The Officers of each Association shall annually fix the amount and character of fidelity bonds required of those persons handling or having custody of funds or other liquid assets.

(c) The Director shall be advised of the amount and period of coverage.

Subpart H—Source Forms

§ 403.800 Uniform pilot's source form.

(a) The "Pilot's Source Form-Great Lakes Pilotage" shall be used by all Great Lakes pilotage districts. This form shall be issued to pilots by authorized United States pilotage pools and changes shall not be made in the format thereof unless authorized by the Director.

(b) Pilots shall complete forms in detail as soon as possible after completion of assignment and return the entire set to the dispatching office, together with adequate support for reimbursable travel expense.

(c) Upon receipt by the Association, the forms shall be completed by insertion of rates and charges as specified in part 401 of this chapter.

(d) Copies of the form shall be distributed as follows:

(i) Original to accompany invoice;

(ii) First copy to Director for statistical purposes;

(iii) Second copy to billing office for accounting record;

(iv) Third copy to pilot's own Association for pilot's personal record;

(v) Fourth copy to corresponding Canadian Association or agency for office use.

Associations shall account by number for all pilot source forms issued.

Appendix A to Part 403—Balance Sheet

Chart of balance sheet accounts.

Account No. and Title

Current Assets

10100 Cash
10130 Cash—Payroll
10140 Cash—Special Deposits
10160 Petty Cash
10170 Cash—Temporary Investments
10200 Accounts Receivable—Pilotage
10210 Accounts Receivable—Pilot Boat
10220 Accounts Receivable—Other
10240 Allowance for Bad Debts
10300 Notes Receivable
10310 Notes Receivable from Affiliates
10320 Interest Receivable
10410 Prepaid Insurance
10420 Prepaid Fuel
10500 Advances to Pilots
10530 Advances to Employees
10550 Advances to Affiliated Companies
10560 Other Prepaid and Advances
10600 Materials and Supplies
10700 Deferred Federal Income Tax
10800 Other Current Assets

Investments and Special Funds

11000 Investment in Securities
11100 Notes Receivable
11200 Advance and Investment in Affiliated Companies
11300 Special Funds
11400 Other Long-Term Investments

Property and Equipment

12000 Land
12100 Buildings and Structures
12150 Accumulated Depreciation—Buildings
12200 Machinery and Equipment
12250 Accumulated Depreciation—Machinery and Equipment
12300 Furniture and Fixtures
12350 Accumulated Depreciation—Furniture and Fixtures
12400 Automobiles
12450 Accumulated Depreciation—Automobiles
12500 Computers and Software
12550 Accumulated Depreciation—Computer and Software
13000 Capital Leases—Pilot Boats
13050 Accumulated Depreciation—Pilot Boats
13100 Leased Automobiles
13150 Accumulated Depreciation—Leased Automobiles
13500 Leasehold Improvements
13550 Accumulated Depreciation—Leasehold Improvements

Deferred Charges

14000 Long-Term Prepayments
14300 Deferred Federal Income Tax
15000 Other Assets

Current Liabilities

20000 Accounts Payable—Trade
20100 Notes Payable
20120 Current Portion—Capital Lease Obligations
20130 Current Portion—Other Long-Term Debts
20140 Deferred Income Tax
20200 Interest
20300 Due Pilots
20400 Due Employees
21000 Federal Income Tax
21100 State Income Tax
21200 City Income Tax
21300 FICA Tax Payable
21400 Federal Unemployment Tax
21500 State Unemployment Tax
22000 Accrued Payroll—Pilots
23000 Accrued Payroll—Employees
24000 Accrued Interest
24100 Accrued Taxes
24200 Accrued Vacation
24210 Sick Leave
24300 Accrued Pension
24400 Accrued Workmen's Compensation
24500 Advances from Affiliated Companies
24600 Dividends
24700 Other Current Liabilities

Non-Current Liabilities

26000 Long-Term Debt
26100 Capital Lease Obligations—Pilot Boats
26400 Capital Lease Obligations—Automobiles
26500 Capital Lease Obligations—Other
26600 Pension Liabilities
26700 Advances from Affiliated Companies
26800 Other Non-Current Liabilities

Deferred Credits

27000 Deferred Income Tax Liabilities
27100 Deferred Gain on Sale of Assets
27200 Other Deferred Credits

Stockholders' Equity (Capital)

30000 Pilots' Capital (Partnership)
31000 Common Stock
32000 Preferred Stock
33000 Paid-in Capital in Excess of Par-Common Stock
34000 Paid-in Capital in Excess of Par-Preferred Stock
36000 Treasury Stock
38000 Prior Year Adjustments
39000 Appropriations of Retained Earnings
39100 Unappropriated Retained Earnings

Description and classification of balance sheet accounts.

(a) *Current assets.*

(1) 10100 Cash.

Record here increases and decreases in cash (deposits and payments of funds) which are available for general operating business activities.

(2) 10130 Cash—Payroll.

Record here increases and decreases in cash (deposits and payments of funds) which are assigned for payroll transactions.

(3) 10140 Cash—Special Deposits.

Record here cash deposits not of a current nature and restricted as to general availability.

(4) 10160 Petty Cash Fund.

Record here all cash transactions made out of the petty cash fund. This fund is established for a fixed amount and periodically reimbursed for the exact amount necessary to bring it back to the fixed amount. The fund is used for making small expenditures that are most conveniently paid in cash, such as postage stamps, shipping charges, or minor purchases of supplies.

(5) 10170 Cash—Temporary Investments.

Record here the cost of marketable securities and other short-term negotiable instruments acquired for the purpose of temporarily investing cash. This account will be charged or credited for discount or

premium to be amortized to profit and loss account 45500 Interest Income.

(6) 10200 Accounts Receivable—Pilotage.

Record here all amounts billed for pilotage services.

(7) 10210 Accounts Receivable—Pilot Boat.

Record here all receivables billed for pilot boat services.

(8) 10220 Accounts Receivable—Other.

Record here all receivables resulting from revenue producing activities not recorded in accounts 10200 and 10210.

(9) 10240 Allowance for Bad Debts.

Record here estimated losses from uncollectible accounts. An annual review of the account balance must be made to determine the amount of uncollectible receivables and the related bad debt expense at year end.

(10) 10300 Notes Receivable.

Record here amounts due from others on demand or at a future date not to exceed 12 months. This amount will be in the form of promissory notes recorded at their current value.

(11) 10310 Notes Receivable from Affiliates.

Record here amounts due from affiliated companies on demand or at a future date not to exceed 12 months at their current value.

(12) 10320 Interest Receivable.

Record here interest income earned but not yet received, and due within one year.

(13) 10410 Prepaid Insurance.

Record here amounts paid in advance for insurance premiums that will be expensed within one year.

(14) 10420 Prepaid Fuel.

Record here amounts paid in advance for fuel to be used and expensed within one year.

(15) 10500 Advances to Pilots.

Record here amounts paid in advance to pilots, such as wages or travel advances.

(16) 10530 Advances to Employees.

Record here amounts paid in advance to Employees, such as wages and travel advances.

(17) 10550 Advances to Affiliated Companies.

Record here short-term advances paid to Affiliated Companies.

(18) 10560 Other Prepaid and Advances.

Record here other prepaid and short-term advances paid to entities not provided for in other accounts.

(19) 10600 Materials and Supplies.

Record here the cost of materials and supplies on hand at the balance sheet date, such as motor oil, stationery, and office supplies.

(20) 10700 Deferred Federal Income Tax.

Record here the difference between actual income tax payable and income tax expenses for the accounting period. This deferred amount is due to timing differences.

(21) 10800 Other Current Assets.

Record here other current assets not provided for in other balance sheet accounts.

(b) *Investments and special funds.*

(1) 11000 Investment in Securities.

Record here long-term investments in marketable securities, such as shares of stock or Government securities, at the lower of cost or market value.

(2) 11100 Notes Receivable.

Record here long-term notes receivable not provided for in accounts 10300 and 10310.

(3) 11200 Advance and Investment in Affiliated Companies.

Record here long-term investments in, or advances to, affiliated companies at cost.

(4) 11300 Special Funds.

Record here special funds not of a current nature and restricted as to general availability. Include items such as cash and securities deposited with courts of law, employee funds for the purchase of membership shares, and equipment purchase funds.

(5) 11400 Other Long-Term Investments.

Record here all other long-term investments not recorded in other investment accounts.

(c) *Property and equipment.*

(1) 12000 Land.

Record here the total cost of all land owned by the Association. The cost of land includes: (1) Purchase price; (2) all closing costs and costs of obtaining clear title, such as commissions, legal fees, escrow fees, title investigations, and title insurance; (3) all costs of surveying, clearing, draining, or filling to make the property suitable for the desired use; and (4) cost of land improvements that have an indefinite economic life.

(2) 12100 Buildings and Structures.

Record here the total cost of all buildings and structures owned by the Association. The cost includes the original cost and cost of any capital improvements incurred after the acquisition date. The account includes fixtures and equipment built into the structure or permanently affixed thereto, such as plumbing, heating, and lighting fixtures.

(3) 12150 Accumulated Depreciation—Buildings.

Record here the accumulated amount of expenses for the portion of the acquisition cost of buildings which has been used up through the depreciation process.

(4) 12200 Machinery and Equipment.

Record here the total acquisition costs of all machinery and equipment, including the necessary costs associated with acquisition and preparation for use.

(5) 12250 Accumulated Depreciation—Machinery and Equipment.

Record here the accumulated amount of expenses for the portion of the acquisition costs of machinery and equipment which has been used up through the depreciation process.

(6) 12300 Furniture and Fixtures.

Record here the total acquisition costs of all furniture and fixtures, including the necessary costs associated with acquisition and preparation for use.

(7) 12350 Accumulated Depreciation—Furniture and Fixtures.

Record here the accumulated amount of expenses for the portion of the acquisition costs of furniture and fixtures which has been used up through the depreciation process.

(8) 12400 Automobiles.

Record here the total acquisition costs of all automobiles, including the necessary costs associated with acquisition and preparation for use.

(9) 12450 Accumulated Depreciation—Automobiles.

Record here the accumulated amount of expenses for the portion of the acquisition costs of automobiles which has been used up through the process of depreciation.

(10) 12500 Computers and Software.

Record here the total acquisition costs of all computers and software, including the necessary costs associated with acquisition and preparation for use.

(11) 12550 Accumulated Depreciation—Computers and Software.

Record here the accumulated amount of expenses for the portion of the acquisition costs of computers and software, which has been used up through the process of depreciation.

(12) 13000 Capital Leases—Pilot Boats.

Record here capital lease assets for pilot boats under capital lease options.

(13) 13050 Accumulated Depreciation—Pilot Boats.

Record here the accumulated amount of expenses for the portion of capital leases for pilot boats which has expired for depreciation.

(14) 13100 Leased Automobiles.

Record here the capital lease assets for automobiles leased under capital lease options.

(15) 13150 Accumulated Depreciation—Leased Automobiles.

Record here the accumulated amount of expenses for the portion of capital leases for automobiles which has expired for depreciation.

(16) 13500 Leasehold Improvements.

Record here total cost to the Association incurred in connection with modification, conversion, or other improvements to leased property.

(17) 13550 Accumulated Depreciation—Leasehold Improvements.

Record here the accumulated amount of expenses for the portion of the acquisition costs of Leasehold Improvements which has been used up through the process of depreciation.

(d) *Deferred charges.*

(1) 14000 Long-Term Prepayments.

Record here prepayments of obligations applicable to periods extending beyond one year, such as payments on leased property and equipment, and advances for rents, rights or other privileges.

(2) 14300 Deferred Federal Income Tax.

Record here the difference between actual income taxes payable and income tax expenses for the accounting period. This deferred amount is due to timing differences. Thus this expense originates in one accounting period and reverses in future periods. Most timing differences reduce income taxes that would otherwise be payable currently (i.e., when accounting income is smaller than taxable income), but few timing differences increase the amount of income taxes payable during the current accounting period.

(3) 15000 Other Assets.

Record here assets which were not provided for in other accounts.

(e) *Current liabilities.*

(1) 20000 Accounts Payable—Trade.

Record here all accounts payable incurred in the normal course of business, which are due within one year.

(2) 20100 Notes Payable.

Record here the face value of all notes, drafts, or other similar evidence of indebtedness, payable on demand or within one year including the long-term debt due within one year of the balance sheet date.

(3) 20120 Current Portion—Capital Lease Obligations.

Record here Capital lease obligations due within one year.

(4) 20130 Current Portion—Other Long-Term Debts.

Record here the current portion of other long-term liabilities due within one year.

(5) 20140 Deferred Income Tax—Current Portion.

Record here accruals for currently payable federal income taxes.

(6) 20200 Interest Payable.

Record here interest payable that is due within one year.

(7) 20300 Due Pilots.

Record here any liabilities due pilots to be paid within one year.

(8) 20400 Due Employees.

Record here any amounts due employees to be paid within one year.

(9) 21000 Federal Income Tax.

Record here federal income tax withheld from employees wages and payable at the balance sheet date.

(10) 21100 State Income Tax.

Record here State income tax withheld from employees wages and payable at the balance sheet date.

(11) 21200 City Income Tax.

Record here city income tax withheld from employees wages and payable at the balance sheet date.

(12) 21300 FICA Tax Payable.

Record here social security taxes withheld from employees wages and accrued, payable at the balance sheet date.

(13) 21400 Federal Unemployment Tax.

Record here Federal unemployment tax (FUTA) accrued and payable at the balance sheet date.

(14) 21500 State Unemployment Tax.

Record here State unemployment tax (SUTA) accrued and payable at the balance sheet date.

(15) 22000 Accrued Payroll—Pilots.

Record here the accrued liabilities incurred for pilots payroll, but not yet paid at the balance sheet date.

(16) 23000 Accrued Payroll—Employees.

Record here accrued liabilities incurred for employees payroll, but not yet paid at the balance sheet date.

(17) 24000 Accrued Interest.

Record here accrued interest liabilities incurred but not yet paid at the balance sheet date.

(18) 24100 Accrued Taxes.

Record here accrued tax liabilities incurred but not yet paid at the balance sheet date.

(19) 24200 Accrued Vacation.

Record here accrued vacation liabilities incurred but not yet paid at the balance sheet date.

(20) 24210 Accrued Sick Leave.

Record here accrued sick leave liabilities incurred but not yet paid at the balance sheet date.

(21) 24300 Accrued Pension.

Record here accrued pension plan liabilities incurred but not yet paid at the balance sheet date.

(22) 24400 Accrued Workmen's Compensation.

Record here accrued workmen's compensation liabilities incurred but not yet paid at the balance sheet date.

(23) 24500 Advances from Affiliated Companies.

Record here loans, advances, and other obligations received from entities affiliated with the Association.

(24) 24600 Dividends.

Record here dividends declared by the Association's Board of Directors, but not yet paid.

(25) 24700 Other Current Liabilities.

Record here all other current liabilities which are not provided for in other accounts and are due within one year.

(f) *Non-current liabilities.*

(1) 26000 Long-Term Debt.

Record here the face value or principal amount of debt securities issued or assumed by the Association which have not been retired or cancelled and are not payable within 12 months of the balance sheet date.

(2) 26100 Capital Lease Obligations—Pilot Boats.

Record here long-term obligations from Pilot Boat Capital leases which are not payable within 12 months of the balance sheet date.

(3) 26400 Capital Lease Obligations—Automobiles.

Record here long-term obligations from automobile lease agreements not payable within 12 months.

(4) 26500 Capital Lease Obligations—Others.

Record here long-term obligations from other capital leases not provided for in accounts 26100 and 26400.

(5) 26600 Pension Liabilities.

Record here the Association's liabilities under the employee pension plan.

(6) 26700 Advances from Affiliated Companies.

Record here the net amount due affiliated companies for notes, loans and advances.

(7) 26800 Other Non-Current Liabilities.

Record here non-current liabilities not provided for in other accounts.

(8) 27000 Deferred Income Tax Liabilities.

Record here deferred income tax liabilities (i.e. the difference between actual income taxes payable and income tax expenses for the accounting period) not payable within 12 months.

(9) 27100 Deferred Gain On Sale of Assets.

Record here the total gain from sales of assets which will be amortized over a period of more than 12 months from the balance sheet date.

(10) 27200 Other Deferred Credits.

Record here credits not provided for elsewhere.

(g) *Capital and stockholders' equity.*

(1) 30000 Pilots' Capital (Partnership).

Record here the Association's capital contributions made by each individual partner (pilot). This is an equity account similar to shareholders' equity in a corporation. Accounting for partnerships should comply with the legal requirements as set forth by the Uniform Partnership Act (UPA) (e.g., liquidation payments to partnership creditors before any distribution to partners) or other applicable State and Federal laws and regulations, as well as complying with partnership agreements.

(2) 31000 Common Stock.

Record here the par or stated value of common stock purchased by stockholders (registered pilots only). Common stock represents the residual ownership interest in the Association. In addition to bearing the greatest risk it also carries voting rights, dividend rights, preemptive rights to purchase stock issued by the corporation and rights to share in the distribution of assets if the corporation is liquidated.

(3) 32000 Preferred Stock.

Record here the par or stated value of preferred stock purchased by stockholders (registered pilots only). Preferred stock carries certain preferences or priorities not found in common stock, such as to dividends at a stated percentage of par or stated value, and assets distribution in the event of liquidation. Shareholders of the corporation may redeem shares of preferred stock at their option, at a specific price per share.

(4) 33000 Paid-in Capital in Excess of Par-Common Stock.

Record here paid-in capital in excess of par or stated value of common stock.

(5) 34000 Paid-in Capital in Excess of Par-Preferred Stock.

Record here paid-in capital in excess of par or stated value of preferred stock.

(6) 36000 Treasury Stock.

Record here capital stock which has been legally issued, fully paid for, and subsequently acquired by the Association but not formally retired.

(7) 38000 Prior Year Adjustments.

Record here all adjustments relating to prior year's operations that have an effect on the current year's financial statements.

(8) 39000 Appropriations of Retained Earnings.

Record here retained earnings restricted by the Association's Board of Directors for contingencies and other special purposes.

(9) 39100 Unappropriated Retained Earnings.

Record here net income or loss from operations of the Association, dividends declared, and any other year-end adjustments.

Appendix B to Part 403—Profit and Loss

Chart of profit and loss accounts.

Revenues

Account No. and Title

40100 Pilotage—Designated Waters
40200 Pilotage—Undesignated Waters
40500 Docking/Undocking
40600 Movage
41000 Detention
41200 Cancellation
41300 Delay
42000 Winter Navigation
43000 Dispatching

44000 Pilot Boat Income
45000 Gain(Loss) on Sale of Assets
46000 Interest Income
47000 Other Income

Operating expenses

50100 Registered Pilots' Salaries
50110 Temporarily Registered Pilots' Salaries
50120 Applicant Pilots' Salaries
50200 Pilot Boat Salaries
50500 Dispatching Salaries
51300 Payroll Taxes
51310 FICA
51320 Federal Unemployment Tax
51330 State Unemployment Tax
51400 Retirement Plan Contribution
51500 Workmen's Compensation
50600 Insurance
52150 Depreciation—Buildings
52250 Depreciation—Machinery and Equipment
52450 Depreciation—Automobiles
53050 Depreciation—Pilot Boats
53550 Depreciation—Leasehold Improvements
54000 Travel—Pilots
55000 Fuel
55100 Repairs and Maintenance
56000 Winter Navigation
56100 Canadian Pilot Earnings
59000 Other Operating Expenses

General and Administrative Expenses

60100 Salaries and Wages—Employees
60200 Salaries and Wages—Officers
60300 Payroll Taxes
60310 FICA
60320 Federal Unemployment Tax
60330 State Unemployment Tax
60400 Retirement Plan Contributions
60500 Workmen's Compensation
60600 Insurance
61000 Legal Fees
61100 Accounting and Auditing Fees
61200 Other Professional Fees
62350 Depreciation—Furniture and Fixtures
62550 Depreciation—Computers and Software
63000 Office Rent
63100 Rent
63200 Interest
63300 Donations
63400 Bad Debts
63500 Meetings
64000 Repairs and Maintenance
64100 Medical Insurance
64200 Licenses and Dues
65000 Supplies
65100 Postage
65200 Telephone
65300 Travel
65400 Utilities
65500 Bank Service charges
69000 Miscellaneous

Appendix C to Part 403—Settlement Statement

(a) Monthly settlement statements of the following form are to be submitted by each Association sharing revenues and expenses with the Canadian Great Lakes Pilotage Authority:

Settlement Statement

REVENUE

[Dollars]

	Current month	Year to-date
40100–42000 Pilotage revenue:		
United States pilots		
Canadian pilots		
Total		
Operating Expenses		
54000 Subsistence and travel-pilots		
60100 Salaries and wages-employees		
63000 Rental-office space and equipment		
65400 Heat, light, and power		
65000 Office stationery and supplies		
64000 Repairs and Maintenance		
65300 Administrative travel		
65200 Telephone, telegraph, and teletype		
60600 Insurance and bonding		
65100 Postage and express		
65500 Bank service charges		
69000 Other		
63400 Bad debt		
Total		
Net operating income		
Less: Outstanding accounts receivable		
Amount available for distribution		

[Dollars]

	U.S.	Canada	Total
Total pilotage revenue billed			
Respective share of amount available			

STATEMENT OF ACCOUNT AS AT———(END OF MONTH)

[Dollars]

	U.S. share	Canada share	Total share
Share to date			
Boat and taxi charges paid			
Payments made to			

STATEMENT OF ACCOUNT AS AT———(END OF MONTH)—Continued

[Dollars]

	U.S. share	Canada share	Total share
(End of month)			
Distribution this period			
Undistributed balance			

(b) Under the Memorandum of Arrangements, the pilotage pool having the larger amount of cash available for distribution will make payment of the excess to the United States or Canadian counterpart pool in the currency of the nationality of the paying pilotage pool. The following statement will be submitted by the Associations making net balance payments.

Amount available for distribution—$_____

Less applied credit_____ (amount) at ____ (rate) ____

Remaining balance _____

(c) Associations making net balance payment will make the following accounting entry:

Account No.	Description of Account	Debit	Credit
24500	Advances from Affiliated Companies		
10220	Accounts Receivable—Other		
10100	Cash		

To record settlement of account with Canadian pool for month ended _____ (month) ____ (day) ____ ____ (year).

(d) Associations receiving net balance payment will make the following accounting entry:

Account No.	Description of Account	Debit	Credit
10100	Cash		
24500	Advances from Affiliated Companies		
10220	Accounts Receivable—Other		

To record receipt of settlement from Canadian pool for month ended _____ (month) ____ (day) ____ ____ (year).

Journal Entries

(a) Accounts 40100 through 42000, Pilotage Revenue, are to be supported by copies of invoices prepared by issuing offices.

(b) Account 54000, Subsistence and Travel-Pilots, are to be supported by listings giving the pilot's name and amount. The travel expenses recorded in this account are only those provided for under paragraph 4(c) of the United States-Canada MOA and which are recoverable from operators of vessels.

(c) Account 60100, Salaries and Wages-Employees, are to be supported by lists showing employees' name, title and salary. Only employees directly engaged in dispatching and accounting activities are included.

(d) Account 63000, Office Rent, are to include the agreed amount of rental for office space and necessary equipment.

(e) Account 65200, Telephone, are to be supported by listing of supplier and amounts.

(f) Accounts 65000, 64000, 65300, 60600, 65100, 65500, 69000, and 63400 do not require supporting data.

(g) Journal entries are to be made in corresponding accounts to record transactions from settlement statements, to record Association's share of revenue and expenses transferred from other Associations. The debits and credits will be determined by multiplying the current month totals shown on the settlement statement by the Association's pro-rata share and then in turn multiplying the result by the exchange rate.

4. Part 404 is revised to read as follows:

PART 404—GREAT LAKES PILOTAGE RATEMAKING

Sec.

Authority: 46 U.S.C. 2103, 9303, 9304; 49 CFR 1.46.

§ 404.1 General ratemaking provisions.

(a) The purpose of this part is to provide guidelines and procedures for Great Lakes pilotage ratemaking. Included in this part are explanations of the steps followed in developing a pilotage rate adjustment, the analysis used, and the guidelines followed in arriving at the pilotage rates contained in part 401 of this chapter.

(b) The Director determines the timing for reviews of Great Lakes pilotage rates. These reviews are conducted at his or her discretion and are intended to determine whether existing Great Lakes pilotage rates are fair and reasonable, or should be adjusted. An interested party or parties may also petition the Director for a review at any time. The petition must present a reasonable basis for concluding that a review may be warranted. If the Director determines, from the information contained in the petition, that the existing rates may no longer be reasonable, a full review of the pilotage rates will be conducted. If the full review shows that pilotage rates are within a reasonable range of their target, no adjustment to the rates will be initiated.

§ 404.5 Guidelines for the recognition of expenses.

(a) The following is a listing of the principal guidelines followed by the Director when determining whether expenses will be recognized in the ratemaking process:

(1) Each expense item included in the rate base is evaluated to determine if it is necessary for the provision of pilotage service, and if so, what dollar amount is reasonable for that expense item. Each Association is responsible for providing the Director with sufficient information to show the reasonableness of all expense items. The Director will give the Association the opportunity to defend any expenses which are questioned. However, subject to the terms and conditions contained in other provisions of this part, expense items which the Director determines are not reasonable and necessary for the provision of pilotage services will not be recognized for ratemaking purposes.

(2) In determining reasonableness, each expense item is measured against one or more of the following:

(i) Comparable or similar expenses paid by others in the maritime industry,

(ii) Comparable or similar expenses paid by other industries, or

(iii) U.S. Internal Revenue Service guidelines.

(3) Lease costs for both operating and capital leases are recognized for ratemaking purposes to the extent that they conform to

market rates. In the absence of a comparable market, lease costs are recognized for ratemaking purposes to the extent that they conform to depreciation plus an allowance for return on investment (computed as if the asset had been purchased with equity capital). Lease costs which exceed these standards are not recognized for ratemaking purposes.

(4) For each Association, a market-equivalent return-on-investment is allowed for the net capital invested in the Association by its members. Assets subject to return on investment provisions are subject to reasonableness provisions. If an asset or other investment is not necessary for the provision of pilotage services, the return element is not allowed for ratemaking purposes.

(5) For ratemaking purposes, the revenues and expenses generated from Association transactions which are not directly related to the provision of pilotage services are included in ratemaking calculations as long as the revenues exceed the expenses from these transactions. For non-pilotage transactions which result in a net financial loss for the Association, the amount of the loss is not recognized for ratemaking purposes. The Director reviews non-pilotage activities to determine if any adversely impact the provision of pilotage service, and may make ratemaking adjustments or take other steps to ensure the provision of pilotage service.

(6) Medical, pension, and other benefits paid to pilots, or for the benefit of pilots, by the Association are treated as pilot compensation. The amount recognized for each of these benefits is the cost of these benefits in the most recent union contract for first mates on Great Lakes vessels. Any expenses in excess of this amount are not recognized for ratemaking purposes.

(7) Expense items which are not reported to the Director by the Association are not considered by the Director in ratemaking calculations.

(8) Expenses are appropriate and allowable if they are reasonable, and directly related to pilotage. Each Association must substantiate its expenses, including legal expenses. In general, the following are not recognized as reasonable expenses for ratemaking purposes:

(i) Undocumented fees;

(ii) Fees for lobbying;

(iii) Fees for non-pilotage personal matters;

(iv) Fees which are not commensurate with the work performed; and

(v) Any other fees not directly related to pilotage.

(9) In any Great Lakes pilotage district where revenues and expenses from Canadian pilots are commingled with revenues and expenses from U.S. pilots, Canadian revenues and expenses are not included in the U.S. calculations for setting pilotage rates.

(10) Profit sharing expenses are not recognized for ratemaking purposes.

§ 404.10 Ratemaking procedures and guidelines.

(a) Appendix A to this part is a description of the types of analyses performed and the methodology followed in the development of Great Lakes pilotage rate adjustments. Ratemaking calculations in Appendix A of this part are made using the definitions and formulas contained in Appendix B of this part. Pilotage rates actually implemented may vary from the results of the calculations in Appendices A and B, because of agreements with Canada requiring identical rates, or because of other circumstances to be determined by the Director. Additional analysis may also be performed as circumstances require. The guidelines contained in § 404.05 are applied in the steps identified in Appendix A to this part.

(b) A separate ratemaking calculation is made for each of the following U.S. pilotage areas:

Area 1—the St. Lawrence River;
Area 2—Lake Ontario;
Area 4—Lake Erie;
Area 5—the navigable waters from South East Shoal to Port Huron, MI;
Area 6—Lakes Huron and Michigan;
Area 7—the St. Mary's River; and
Area 8—Lake Superior.

Appendix A to Part 404—Ratemaking Methodology

Step 1: Projection of Operating Expenses

(1) The first Step in the Great Lakes pilotage ratemaking methodology is to project the amount of fair and reasonable operating expenses that basic pilotage rates should recover, as determined by the Director. This step consists of the following phases: (a) Submission of financial information from each Association; (b) determination of recognizable expenses; (c) adjustment for ancillary revenues; (d) adjustment for inflation or deflation; and (e) final projection of operating expenses. Each of these phases is detailed below.

Step 1.A.—Submission of Finonciol Informotion

(1) Each Association is responsible for providing detailed financial information to the Director, in accordance with Part 403 of this chapter.

Step 1.B.—Determination of Recognizoble Expenses

(1) The Director determines which Association expenses will be recognized for ratemaking purposes, using the guidelines for the recognition of expenses contained in § 404.05 of this chapter. Each Association is responsible for providing sufficient data for the Director to make this determination.

Step 1.C.—Adjustment for Ancillary Revenues

(1) Several charges have traditionally been levied for pilotage services which are additional to basic pilotage service. These charges are termed "ancillary charges," and are defined as charges for docking, undocking, moveage, delay, cancellation, and lock transit. Revenues received from these ancillary charges will be offset against the operational expenses of the Associations. Rates for ancillary services will be set separately from basic pilotage rates. The method for setting ancillary rates is discussed in Step 7.D., below.

Step 1.D.—Adjustment for Inflation or Deflation

(1) In making projections of future expenses, expenses that are subject to inflationary or deflationary pressures are adjusted. Costs not subject to inflation or deflation (e.g., depreciation, long-term leases, pilot compensation, etc.) are not adjusted. The inclusion of an inflation or deflation adjustment does not imply that pilotage rates will be automatically adjusted each shipping season, without a pilotage rate review. The inflation or deflation adjustment is only made during the expense projection phase of a full-scale pilotage rate review.

Annual cost inflation or deflation rates will be projected to the succeeding navigation season, reflecting the gradual increase or decrease in cost throughout the year.

For ratemaking calculations begun after January 1, 1996, the actual annual experienced change in the average cost In non-pilot operational costs per pilot assignment for each pilotage area will be used to project the inflation or deflation adjustment. For ratemaking calculations begun prior to January 1, 1996, the inflation or deflation adjustment will be based on the preceding year's change in the North Central Region's Consumer Price Index as calculated by the U.S. Bureau of Labor Statistics.

Step 1.E.—Projection of Operating Expenses

(1) Once all adjustments are made to the recognized operating expenses, the Director projects these expenses for each pilotage district. In doing so, the Director takes into account foreseeable circumstances which could affect the accuracy of the projection. The Director will determine, as accurately as reasonably practicable, the "projection of operating expenses."

Step 2: Projection of Torget Pilot Compensotion

(1) The second Step in the Great Lakes pilotage ratemaking methodology is to project the amount of target pilot compensation that pilotage rates should provide in each area. This Step consists of the following phases: (a) Determination of target rate of compensation; (b) determination of number of pilots needed in each pilotage area; and (c) multiplication of the target compensation by the number of pilots needed to project target pilot compensation needed in each area. Each of these proposed phases is detailed below.

Step 2.A.—Determination of Torget Rate of Compensation

(1) Target pilot compensation for pilots providing services in undesignated waters is average annual compensation for first mates on U.S. Great Lakes vessels. The average annual compensation for first mates is determined based on the most current union contracts, and includes wages and benefits.

(2) Target pilot compensation for pilots providing services in designated waters approximates the average annual compensation for masters on U.S. Great Lakes vessels. It is calculated as 150% of the compensation earned by first mates on U.S. Great Lakes vessels.

Step 2.B.—Determination of Number of Pilots Needed

(1) The basis for the number of pilots needed in each area of designated waters is established by dividing the projected bridge hours for that area by 1,000. Bridge hours are the number of hours a pilot is aboard a vessel providing basic pilotage service.

(2) The basis for the number of pilots needed in each area of undesignated waters is established by dividing the projected bridge hours for that area by 1,800.

(3) In determining the number of pilots needed in each pilotage area, the Director is guided by the results of the calculations in steps 2.A. and 2.B. However, the Director may also find it necessary to make adjustments to these numbers in order to ensure uninterrupted pilotage service in each area, or for other reasonable circumstances which the Director determines are appropriate.

Step 2.C.—Projection of Target Pilot Compensation

(1) The "projection of target pilot compensation" is determined separately for each pilotage area by multiplying the number of pilots needed in that area by the target pilot compensation for pilots working in that area.

Step 3: Projection of Revenue

(1) The third step in the Great Lakes pilotage ratemaking methodology is to project the revenue that would be received in each pilotage area if existing rates were left unchanged. This step consists of two phases: (a) Projection of future vessel traffic and pilotage revenue; and (b) adjustment for ancillary revenues.

Step 3.A.—Projection of Revenue

(1) The Director generates the most accurate projections reasonably possible of the pilotage service that will be required by vessel traffic in each pilotage area. These projections are based on historical data and all other relevant data available. Projected demand for pilotage service is multiplied by the existing pilotage rates for that service, to arrive at the projection of all pilotage revenue.

Step 3.B.—Adjustment for Ancillary Revenues

(1) The projection of pilotage revenue from Step 3.A., above, is adjusted for ancillary revenues (i.e., revenue from docking, undocking, moveage, delay, cancellation, and lock transit). Ancillary revenues are subtracted from the projection of all pilotage revenue because the rates for ancillary services are set separately from the basic pilotage rates. The method for setting ancillary charges is discussed in Step 7.D., below.

(2) After adjustment for ancillary revenues, the result is the projection for revenues which would be generated by basic pilotage services if existing rates are left unchanged. The results of these calculations is defined as the "projection of revenue."

Step 4: Calculation of Investment Base

(1) The fourth step in the Great Lakes pilotage ratemaking methodology is the calculation of the investment base of each Association. The investment base is the recognized capital investment in the assets employed by each Association required to support pilotage operations. In general, it is the sum of available cash and the net value of real assets, less the value of land. The investment base will be established through the use of the balance sheet accounts, as amended by material supplied in the Notes to the Financial Statement. The formula used in calculating the investment base is detailed in Appendix B to this part.

Step 5: Determination of Target Rate of Return on Investment

(1) The fifth step in the Great Lakes pilotage ratemaking methodology is to determine the Target Rate of Return on Investment. For each Association, a market-equivalent return-on-investment (ROI) is allowed for the recognized net capital invested in the Association by its members.

(2) The allowed ROI is based on the rate of the most recent return on stockholder's equity for a representative cross section of transportation industry companies, including maritime companies, with a minimum rate equal to the interest rate incurred by the Associations for debt capital, and a maximum rate of 20 percent.

(3) Assets subject to return on investment provisions must be reasonable in both purpose and amount. If an asset or other investment is not necessary for the provision of pilotage services, that portion of the return element is not allowed for ratemaking purposes.

Step 6: Adjustment Determination

(1) The next step in the Great Lakes pilotage ratemaking methodology is to insert the results from steps 1, 2, 3, and 4 into a formula which is based on a standard utility rate structure, and comparing the results to step 5. This basic utility rate structure takes into account revenues, expenses and return on investment, and is of the following form:

Line	Ratemaking projections for basic pilotage
1.	+ Revenue (from step 3).
2.	− Operating Expenses (from step 1).
3.	− Pilot Compensation (from step 2).
4.	= Operating Profit/(Loss).
5.	− Interest Expense (from Audit reports).
6.	= Earnings Before Tax.
7.	− Federal Tax Allowance.
8.	= Net Income.
9.	Return Element (Net Income + Interest).
10.	+ Investment Base (from step 4)
11.	= Return on Investment.

(2) The Director will compare the projected return on investment (as calculated using the formula above) to the target return on investment (from step 5), to determine whether an adjustment to the basic pilotage rates is necessary. If the projected return on investment is significantly different from the target return on investment, the revenues which would be generated by the current pilotage rates are not equal to the revenues which would need to be recovered by the pilotage rates.

(3) The basic pilotage revenues that are needed are calculated by substituting in a figure for the projected revenue which will make the target return on investment equal to the projected return on investment. This "projection of revenue needed" is used in determining the basis for proposed adjustments to the basic pilotage rates. The mechanism for adjusting the basic pilotage rates is discussed in Step 7 below. The required return, tax, and interest elements may be considered additions to the operating expenses and pilot compensation components of the hourly charge for basic pilotage service, which is discussed in Step 7.A. below.

Step 7: Adjustment of Pilctage Rates

(1) The final step in the Great Lakes pilotage ratemaking methodology is to adjust Great Lakes pilotage rates if the calculations from Step 6 show that pilotage rates in a pilotage area should be adjusted, and if the Director determines that it is appropriate to go forward with a rate adjustment. Rate adjustments are calculated in accordance with the procedures found in this step. However, pilotage rates calculated in this step are subject to adjustment based on requirements of the Memorandum of Arrangements between the United States and Canada, and other supportable circumstances which may be appropriate. Pilotage rate adjustments consist of the following: (a) Calculation of the hourly pilotage charge; (b) calculation of pilotage charges for unspecified trips; (c) calculation of pilotage charges for specified trips; (d) calculation of pilotage charges for ancillary services; and (e) adjustment of pilotage charges for vessel size. Each of these is detailed below.

Step 7.A.—Calculation of Hourly Charge

(1) The Director determines a proposed hourly charge for basic pilotage service in each pilotage area. This hourly charge is used in the calculation of pilotage rates discussed in Steps 7.B., 7.C., and 7.D., below.

(2) The proposed total hourly charge for pilotage service in each pilotage area consists of two components, i.e., pilot compensation, and operating expenses.

(3) The pilot compensation component of the hourly charge is derived by dividing the projected target pilot compensation for each area, by the estimated pilotage hours (i.e., bridge hours) for that area. This calculation results in a pilot compensation charge for each hour of pilotage service in that pilotage area.

(4) The operating expense component of the hourly charge is derived by dividing the projected operating expenses for each pilotage district, including the constructed amount necessary to bring the Associations to the ROI standard, by the estimated pilotage hours (bridge hours). This calculation results in an operating expense charge for each hour of pilotage service in that pilotage district.

(5) The total hourly charge for basic pilotage service in each pilotage area is

derived by adding the pilot compensation charge for that area to the operating expense charge for the district in which that area is located. These calculations are adjusted for average ship size as discussed in Step 7.E., below.

Step 7.B.—Calculation of Charges for Unspecified Trips

(1) For transits which are not specified in § 401.405 and § 401.410 of this chapter, the Director bases basic pilotage rates on the hourly charge developed in Step 7.A., above. This hourly charge for basic pilotage service is assessed for each hour that a registered pilot is aboard a vessel, subject to a six-hour minimum each time a pilot is assigned, with three-hour increments thereafter.

Step 7.C.—Calculation of Charges for Specified Trips

(1) For transits which are specified in § 401.405 and § 401.410 of this chapter, the Director periodically reviews the average time for each individual transit, using the travel time in both directions. This review will be accomplished at least once every five years. The proposed basic pilotage fee listed for specified transits in § 401.405 and § 401.410 of this chapter is based on the result of multiplying the hourly basic pilotage fee by the average transit time calculated for that transit.

(2) During ratemaking proceedings which occur between periodic reviews of average vessel transit times, the rates for specified transits are adjusted as a group. The pilotage rate for specified transits in each area is adjusted by subtracting the "projection of revenue" from the "projection of revenue needed" and dividing by the "projection of revenue," with the resultant deficit or surplus expressed in percentage terms, rounded to the nearest whole number. The proposed basic pilotage rates for specified transits are determined by multiplying the existing rates by the resultant percentage.

Step 7.D.—Calculation of Charges for Ancillary Services

(1) Ancillary charges are equalized between districts. These charges need not be adjusted during every ratemaking. These charges are reviewed at intervals of not more than five years, during the periodic review of average vessel transit time for specified trips discussed in Step 7.C., above. Each of these charges is discussed below.

(A) *Docking, Undocking and Harbor Movement Charges*—For consistency, these charges are set at the same level in all districts. The charges are determined by the Director, subject to the requirements of the Memorandum of Arrangements between the United States and Canada.

(B) *Moveage*—The charge for moveage in a harbor for all three districts is twice the docking charge.

(C) *Delay Charges*—Delay charges, per hour, whether for trip interruption or departure or moveage delays, are set at the rate determined in the pilot compensation phase discussed in Step 2 above, as adjusted for ship size. The maximum delay charge for any 24-hour period is the per hour delay charge, as adjusted for ship size, times 16 hours.

(D) *Cancellation Charges*—Cancellation charges are set at the rate determined in the pilot compensation phase discussed in Step 2 above, and are not adjusted for ship size. If the cancellation occurs less than six hours after the pilot reports, the maximum charge is the basic pilot compensation charge for a six-hour period. If the cancellation occurs more than six hours after the pilot reports, the charge is the basic pilot compensation charge for each hour or fraction of an hour, to a maximum of 16 hours.

(E) *Lock Passage Charges*—For consistency, these charges are set at the same level in all districts. The level will be determined by the Director, subject to the requirements of the Memorandum of Arrangements between the United States and Canada.

Step 7.E.—Adjustment for Ship Size

(1) The hourly charge for basic pilotage services discussed in Step 7.A., above, is adjusted by dividing the basic charge by the average weighting factor of the preceding year, as determined from charges adjusted in accordance with § 401.400 of this chapter.

Appendix B to Part 404—Ratemaking Definitions and Formulas

The following definitions apply to the ratemaking formula contained in this appendix. The account numbers correspond to the account numbers in Appendix A to part 403 of this chapter.

(1) Operating Revenue—means the sum of all operating revenues received by the Association for pilotage services, less ancillary revenues that are offset against operating expenses.

(2) Operating Expense—means the sum of all operating expenses incurred by the Association for pilotage services, less the sum of disallowed expenses.

(3) Target Pilot Compensation—means the compensation that pilots are intended to receive for full time employment. For pilots providing services in undesignated waters, the target pilot compensation is the average annual compensation for first mates on U.S. Great Lakes vessels. For pilots providing services in designated waters, the target pilot compensation is 150% of the average annual compensation for first mates on U.S. Great Lakes vessels.

(4) Operating Profit/(Loss)—means Operating Revenue less Operating Expense and Target Pilot Compensation.

(5) Interest Expense—means the reported Association interest expense on operations, as adjusted to exclude any interest expense attributable to losses from non-pilotage operations.

(6) Earnings Before Tax—means Operating Profit/(Loss), less the Interest Expense.

(7) Federal Tax Allowance—means the Federal statutory tax on Earnings Before Tax, for those Associations subject to Federal tax.

(8) Net Income—means the Earnings Before Tax, less the Federal Tax Allowance.

(9) Return Element (Net Income plus Interest)—means the Net Income, plus Interest Expense. The return element can be considered the sum of the return to equity capital (the Net Income), and the return to debt (the Interest Expense).

(10) Investment Base (separately determined)—means the net recognized capital invested in the Association, including both equity and debt. Should capital be invested in other than pilotage operations, that capital is excluded from the rate base.

(11) Return on Investment—means the Return element, divided by the Investment Base, and expressed as a percent.

Investment base formula.

(1) Regulatory Investment (Investment Base) is the recognized capital investment in the useful assets employed by the pilot groups. In general, it is the sum of available cash and the net value of real assets, less the value of land. The investment base is established through the use of the balance sheet accounts, as amended by material supplied in the Notes to the Financial Statement.

(2) The Investment Base is calculated using data from the Uniform System of Accounts described in part 403, as audited and approved by the Director. Accounts, listed in the Investment Base formula below, which end in 999 are not separate accounts, but the summation of the accounts listed in each particular grouping. For instance, account no. 10999 is not a separate balance sheet account, it is the summation of all individual balance sheet accounts in the 10000 grouping. The Investment Base would be calculated as follows:

Account No.	Description
Recognized Assets:	
10999	+ Total Current Assets
29999	− Total Current Liabilities
20100	+ Current Notes Payable
13999	+ Total Property and Equipment (Net)
12000	− Land
15000	+ Total Other Assets
	= Total Recognized Assets
Non-Recognized Assets:	
11999	+ Total Investments and Special Funds
	= Total Non-Recognized Assets
Total Assets:	
	+ Total Recognized Assets
	+ Total Non-Recognized Assets
	= Total Assets
Recognized Sources of Funds:	
39999	+ Total Stockholders' Equity
26000	+ Long-Term Debt
20100	+ Current Notes Payable
24500	+ Advances from Affiliated Companies
26100–500	+ Long-Term Obligations-Capital Leases
	= Total Recognized Sources
Non-Recognized Sources of Funds:	
26600	+ Pension Liability
26800	+ Other Non-Current Liabilities
27000	+ Deferred Federal Income Taxes

Account No.	Description
27000	+ Deferred Federal Income Taxes
27200	+ Other Deferred Credits
	= Total Non-Recognized Sources
Total Sources of Funds:	
	+ Total Recognized Sources
	+ Total Non-Recognized Sources
	= Total Sources of Funds

(3) Using the figures developed above, the Investment Base is the Recognized Assets times the ratio of Recognized Sources of Funds to Total Sources of Funds.

Dated: April 1, 1994.

Robert T. Nelson,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80–9; Notice 9]

RIN 2127–AE86

Lamps, Reflective Devices and Associated Equipment; Denial of Petitions for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for reconsideration and rulemaking.

SUMMARY: This notice denies a petition for reconsideration of the trailer conspicuity requirements of Motor Vehicle Safety Standard No. 108, and a petition for rulemaking to amend these requirements.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Vehicle Safety Standards, NHTSA (202–366–6346).

SUPPLEMENTARY INFORMATION: On December 10, 1992, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 108 to establish a visibility enhancement scheme for large trailers (57 FR 58406). On October 6, 1993, the agency published a response to petitions for reconsideration of that scheme (58 FR 52021).

A. Petitions Relating to Mounting Height of Side Conspicuity Treatment

In the time between the two Federal Register notices, the Truck Trailer Manufacturers Association (TTMA) wrote NHTSA on August 25, 1993, asking that the mounting height specification for side conspicuity treatment be changed to allow a range of heights from 0.4m to 2.1m. It observed that the agency had proposed a lower mounting height of 0.4m though it had adopted a height of 1.25m. TTMA observed that Standard No. 108 permits reflex reflectors to be mounted within 0.4m of the ground, which is 34 inches below 1.25m, and "it seems reasonable that the upper location be 34 inches above" 1.25m, i.e., 2.1m. It also observed that the only vertical surface of some trailers may be at a height even greater than 2.1m. This observation was reiterated in a petition for reconsideration of the 1.525m maximum adopted on October 6, 1993, and submitted by Terminal Service Company ("Terminal"). It asked for a mounting height maximum of 2.28m for cargo tanks, expressing its concern "that enforcement personnel will not consider a 508mm (20 inches) to 762mm (30 inches) height above the 1525mm (60 inches) requirement practicable."

At the time that NHTSA received TTMA's letter, it was evaluating petitions for reconsideration of the final rule mounting height of "as close to 1.25m as practicable". Ultimately, it granted those petitions and, on October 6, 1993, adopted a revised mounting height of "as close as practicable to not less than 375mm and not more than 1525mm" above the road surface. This amendment effectively granted TTMA's petition to allow a lower mounting height than the one originally adopted. It also responded in part to TTMA's request for a higher mounting height, by allowing a maximum height of "as close as practicable to * * * not more than" 1.525m, although not as high as the 2.1m requested. However, TTMA presented no rationale other than symmetry to justify an increase in mounting height from 1.52m to 2.1m. The agency finds this an inadequate basis upon which to grant TTMA's petition for rulemaking.

Terminal's rationale is based upon a fear that the mounting height chosen by a manufacturer for application of conspicuity treatment on cargo tanks will be so much higher than 1525mm that the agency will not deem it "practicable" and that Federal Highway Administration inspectors will not understand the practicability exception to the height requirement. NHTSA understands this view and wishes to assure Terminal that it regards this concern as unfounded. As the agency has advised many times in the past in its interpretations of the practicability requirements of Standard No. 108, the determination of what is "practicable" is initially to be made by the manufacturer, whose certification of compliance covers its determinations of practicability. NHTSA will not question a manufacturer's determination unless it appears clearly erroneous. In this instance, NHTSA interprets the conspicuity mounting height specification as allowing mounting heights higher than 1525mm if the trailer manufacturer does not find it practicable to place the conspicuity treatment at or below 1525mm.

Terminal's trailer case provides a good example. Since the conspicuity material cannot provide the required brightness when the trailer is at an angle to traffic unless it is mounted in a nearly vertical plane, practicability dictates that the material be moved to the height where the trailer provides a suitable, vertical mounting surface.

Because the agency has determined that no regulatory action is required to give the relief which the petitioner seeks, the petition by Terminal Service Company for reconsideration of the maximum mounting height requirement is denied.

B. Petition Relating to Adoption of Geometric Visibility Specification

Paragraph S5.7.1.4.2(a) of Standard No. 108 specifies that, at the location chosen for conspicuity treatment, "the strip shall not be obscured in whole or in part by other motor vehicle equipment or trailer cargo." TTMA asked that the words "trailer cargo" be deleted and that obscuration of the strip be determined "when viewed within +/−30 degrees horizontally or perpendicular to the sheeting 15m (50 feet) away and at a height of 1.25m." In justification of its petition, it argued that trailer manufacturers should not be responsible for the possible obscuring of sheeting by cargo, and that "[t]here is not a similar prohibition of obscuring lamps by cargo in FMVSS 108." TTMA supplemented its August 1993 letter on September 24 with the example of a container chassis whose gooseneck connector to a tractor trailer is obscured when an intermodal container is secured to it.

Although paragraph S5.3.1.1 of Standard No. 108 requires that lamps and reflectors be mounted on a vehicle so that they are visible at the test points specified in the SAE Standards and Recommended Practices, this section does not apply to conspicuity sheeting because no SAE standards regarding conspicuity sheeting materials are incorporated in Standard No. 108. Furthermore, it would be undesirable to impose geometric visibility requirements on conspicuity sheeting or reflectors because the practicability constraints on long strips of conspicuity

material and reflectors used in lieu thereof are different than those on lamps and reflectors. While it is possible to move lamps and reflectors to locations that achieve geometric visibility, the locations available for conspicuity materials on some trailers, such as the container chassis, may be too limited to permit optimization.

With respect to obscuration of conspicuity materials, NHTSA considers that strips or reflectors are obscured by cargo or equipment only if they are not visible when viewed perpendicular to the conspicuity material.

The potential for obscuration by cargo should not be difficult to foresee. NHTSA considers that trailer manufacturers are in a reasonable position to anticipate where cargo will be placed in or on their trailers because they have designed the trailers to accommodate specific cargo types and loading techniques. For example, with respect to the container chassis cited in TTMA's supplementary letter of September 24, the manufacturer of a container chassis knows that the gooseneck connector will be obscured when the load is in place, and may apply conspicuity treatment that allows for the load. Assuming an overall chassis length of 53 feet, the manufacturer is required to mark at least half of that (26.5 feet) with conspicuity marking. Assuming a gooseneck length of 9 feet, Standard No. 108 thus requires that the minimum of 26.5 feet of conspicuity material be applied in the 44 feet of trailer length that is behind the gooseneck. The manufacturer is not prohibited from affixing the material to the gooseneck as well if it chooses, but in such a location this material is considered surplus and, because it will be obscured when the load is in place, cannot be included in the manufacturer's 50 percent determination.

C. Denial of TTMA Petition

The agency has completed its technical review of the TTMA petition for rulemaking under 49 CFR part 552, and has determined that there is not a reasonable possibility that the amendments requested in the petition will be issued at the conclusion of a rulemaking proceeding. Therefore, the petition by TTMA is denied in its entirety.

Authority: 15 U.S.C. 1410a; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 6, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

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49 CFR Part 571

Lamps, Reflective Devices and Associated Equipment; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking by Metalcore, Ltd., to amend the trailer conspicuity requirements of Federal Motor Vehicle Safety Standard No. 108 as they apply to the rear of van trailers. The reason for the denial is the importance of maintaining a common image of rear conspicuity while ensuring the availability of appropriate cues to drivers following large trailers.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Vehicle Safety Standards, NHTSA (202–366–6346).

SUPPLEMENTARY INFORMATION: Metalcore Ltd. is a Canadian company that manufactures aftermarket door seals for van trailers. It sells a model which includes ½-inch wide conspicuity tape on the rigid channel which supports the seal. The installed seals create a conspicuity tape pattern equivalent to outlining each rear van door with ½-inch wide conspicuity tape. In response to the final rule of December 10, 1992, adopting trailer conspicuity requirements (57 FR 58406), Metalcore submitted a "petition for reconsideration" on November 5, 1993, in which it asked for the adoption of an alternative rear conspicuity treatment in which outlining the doors of a van in ½-inch wide white material would replace the 2-inch wide red/white stripe across the rear of the body and the 2-inch wide white upper corner markings. However, because the petition was not filed within 30 days of the final rule, it has been considered as a petition for rulemaking in accordance with NHTSA regulations (49 CFR 553.35).

Metalcore serves the trailer repair industry, and its products are used mainly on older trailers which are not subject to Federal requirements for conspicuity systems, and, to a lesser extent, on trailers which were equipped upon manufacture with conspicuity tape. Metalcore anticipates that fleets wishing to add conspicuity material voluntarily to older trailers will prefer to do so in a way that they can claim meets the standards for new vehicles. The requested amendment would allow Metalcore to make the sales claim that the use of its door seals would permit trailer owners to retrofit a conforming conspicuity system using about 12 feet less tape than the minimum 63 feet necessary for compliance on a typical 45-foot van trailer. The conspicuity rule does not prohibit the use of Metalcore's product as an auxiliary reflector on any trailer, and the ultimate value to customers of the Metalcore door seal resides in its qualities as a door seal rather than in the reflective tape attached to it.

NHTSA considered that two issues to be important in the consideration of this petition for an alternative conspicuity system. The first issue was whether it is desirable to have any alternatives to the required conspicuity configuration, and the second issue was the merit of the proposed alternative.

Desirability of Alternative Conspicuity Systems

The notice proposing the conspicuity rule (56 FR 63474) presented alternative treatments but made clear the agency's desire to achieve a common conspicuity configuration. NHTSA said: "While the agency is proposing two specific configurations of conspicuity treatment, it * * * anticipates that the final rule would specify only one pattern, and not allow alternative treatments." The NPRM specifically asked for comments "on the desirability of standardizing to the maximum extent possible the treatment for all trailers," and it introduced for comment the possibility of exempting certain types of trailers if a standard treatment proved impractical for them.

Most comments to the docket urged a conspicuity system with sufficient flexibility for universal application without the need for exceptions. The University of Michigan Transportation Research Institute (UMTRI) study (see 57 FR 58409 et seq.), completed during the comment period, concluded that a conspicuity system using the most universally applicable elements of alternative 2 of the proposed rule would meet the minimum needs for safety in terms of an unambiguous reflective image with adequate sight distance and closing speed cues. In the final rule preamble, NHTSA noted that one of the attributes of alternative 2 was that it "promoted uniformity of appearance," and the agency adopted the modifications recommended by UMTRI to establish a universal treatment without the need for exceptions for difficult to treat trailers.

Van trailers have more surface available for conspicuity treatment than other trailers, but NHTSA did not adopt requirements that appeared unsuitable for other types of trailers. Part of the value of the uniform conspicuity treatment is that it is expected to maximize the conspicuity of the least conspicuous trailers, such as platform trailers, by giving them a familiar night image. While the agency does not discourage the use of auxiliary material on trailers with large amounts of surface area, it believes that maximizing the number of common elements between trailer treatments aids in their recognition. NHTSA, therefore, is disinclined to allow alternative conspicuity treatments in general because the final rule was designed to make them unnecessary. Standard No. 108 specifies a minimum amount of reflective material to achieve the safety purpose, and at minimum cost.

Attributes of the Metalcore Alternative

Metalcore has suggested the alternative of substituting ½-inch wide white reflective tape stripes outlining the doors of a van trailer for the required 2-inch wide white upper corner stripes and 2-inch wide red/white stripe across the full width of the trailer near the bottom of the doors. It claims that the alternative projects approximately the same reflective area as the requirement of Standard No. 108 and that the total light return of the alternative is greater because only white material would be used. It further claims that its alternative of outlining in white has been shown to be superior to the requirements of Standard No. 108 by Carlton University's report (Tansley and Petrusic) to Transport Canada.

Tansley and Petrusic discounted the value of the U.S. red/white pattern in connoting a hazard and suggested that detection distance should be the principal measure of safety in evaluating conspicuity schemes. According to the petitioner, Tansley and Petrusic predicted a detection distance of 819 m for the white outline treatment recommended by Carlton University as compared with a predicted detection distance of 450 m for Standard No. 108.

In the notice responding to petitions for reconsideration on October 6, 1993 (58 FR 52021, at 52023), the agency discussed its disagreement with the decision sight distance criterion recommended by Carlton University and the reasons for NHTSA's use of the stopping sight distance criterion recommended by UMTRI. The agency believes that Standard No. 108 is more cost effective than the Carlton University recommendations while providing a detection distance adequate for safety and superior recognition and hazard awareness cues. Standard No. 108 also addresses the practicability problems of trailers other than vans that were not considered in the Carlton University recommendations. NHTSA also notes that in a demonstration test reported by Transport Canada in its Technical Memorandum TME 9301, the detection distances found for the Carlton and U.S. rear van treatments were 993 m and 902 m, respectively, with even less difference in recognition distance.

It is true that compliance with Standard No. 108 and the Metalcore alternative can be achieved with equivalent amounts of reflective material and that an all white treatment returns more light than a red/white treatment of equal area (although the petitioner has underestimated the relative brightness of the red material). However, the petitioner's claims of greater sight distance based on Tansley and Petrusic are in error.

The white outlining scheme of Tansley and Petrusic uses 2-inch wide reflective material as does Standard No. 108. The stripes are perceived at a distance as a line of point sources of light, and the sight distance of a point source depends on its total light return rather than its luminance per unit area. The sight distance of a ½-inch wide stripe will be less than that of a 2-inch stripe of the same material because it will be perceived as a line of point sources each having only one fourth the light return. Therefore, the sight distance of the Metalcore alternative will be inferior to the Tansley and Petrusic scheme cited by the petitioner and to at least the white components of Standard No. 108.

The UMTRI report discusses the data of previous researchers concerning the width of conspicuity stripes, and remarked that "the luminance of a one-inch treatment must be about double that of a two-inch treatment to achieve equal conspicuity." The point source model for visibility distance discussed in the previous paragraph is consistent with data for conspicuity stripes narrower than 4 inches.

Decision

The agency has conducted a technical review of the petition and determined that there is not a reasonable possibility that the amendment requested in the petition will be issued at the end of a rulemaking proceeding. Therefore, the petition is denied.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 6, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–8626 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–59–P

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49 CFR Part 571

[Docket No. 92–29; Notice 4]

RIN 2127–AA00

Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This notice proposes to modify the implementation schedule for and certain requirements in the agency's September 1993 notice proposing to improve the stability and control of medium and heavy vehicles during braking. In response to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the agency proposed in the September notice that medium and heavy vehicles be equipped with an antilock brake system (ABS) and be able to comply with a 30 mph braking-in-a-curve test on a low coefficient of friction surface using a full brake application.

In this supplemental notice, NHTSA is proposing to amend the implementation schedule for the rule and to require independent wheel control on at least one axle. The agency's decision to issue this notice was prompted by comments on the NPRM favoring such changes.

DATES: Comments on this notice must be received on or before May 12, 1994.

ADDRESSES: All comments on this notice should refer to the docket and notice number and be submitted to the following: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (Docket hours 9:30 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366–5892.

SUPPLEMENTARY INFORMATION: On September 28, 1993, NHTSA published a notice of proposed rulemaking (NPRM) in which the agency proposed amending Standard No. 105, *Hydraulic Brake Systems* and Standard No. 121, *Air Brake Systems*, to require medium

and heavy vehicles [1] to be equipped with an antilock brake system (ABS) to improve the lateral stability and control of these vehicles during braking. (58 FR 50739). The NPRM proposed supplementing the ABS requirement by including a 30 mph braking-in-a-curve test on a low coefficient of friction surface using a full brake application. The agency believed that the proposed requirements would improve heavy vehicle stability and control during braking and thus significantly reduce the deaths and injuries caused when these vehicles jackknife or otherwise lose control. The notice also proposed requiring an in-cab ABS malfunction lamp and, during a transition period of eight years, an external trailer lamp to warn drivers of non-ABS tractors of trailer ABS malfunction. The agency believed that the proposed malfunction indicators would provide valuable information about ABS malfunctioning to the driver and to maintenance and inspection personnel. The proposal was based on comments received in response to an advance notice of proposed rulemaking (ANPRM) published on June 8, 1992 and other available information (57 FR 24212).

NHTSA received over 50 comments in response to the NPRM. These commenters included heavy vehicle manufacturers, brake manufacturers, safety advocacy groups, heavy vehicle users, trade associations, State entities, and other individuals. The majority of commenters agreed that the agency should take measures to improve the stability and control of heavy vehicles during braking to reduce the number of loss-of-control crashes. Commenters addressed specific issues raised in the NPRM, including the decision proposing to require vehicles to be equipped with ABS, the type of ABS, the braking-in-a-curve test procedure, the implementation schedule for the requirements, the malfunction indicator requirement, the power requirement, and the rulemaking's cost.

This SNPRM focuses on two issues raised in the NPRM and addressed by the commenters: (1) The implementation schedule and (2) the wheels to be controlled by an antilock brake system.

Implementation Schedule

In the NPRM, NHTSA stated that its goal is to achieve significant improvements in braking performance at a reasonable cost to manufacturers and consumers. Based on the available information, NHTSA decided to propose the following implementation schedule:

Truck Tractors...2 years after final rule (1996)
Trailers, including converter dollies.....3 years after final rule (1997)
Single unit trucks.....4 years after final rule (1998)
Buses.....5 years after final rule (1999)

NHTSA believed that this implementation schedule is appropriate given the current state of ABS technology. The agency believed that it would provide the industry, ABS manufacturers, and maintenance personnel sufficient leadtime to prepare for the changes that will be required to accommodate the new technology.

With respect to truck tractors, NHTSA stated that it was confident that ABS for this type of vehicle would be fully developed, performance tested, and field tested within two years after the final rule since ABS manufacturers have focused their initial efforts on developing ABS for truck tractors. The agency noted that ABS for truck tractors is currently available on a commercial basis in this country and throughout Europe. Nevertheless, a two year leadtime appeared to be necessary to ensure a smooth transition before the agency mandated this technology given the technical complexities and costs associated with ABS.

With respect to trailers, NHTSA noted that ABS manufacturers are currently marketing ABS for these vehicles. NHTSA stated that it expected its fleet evaluation on 50 ABS-equipped trailers to be completed in 1993. (This evaluation, titled "An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems (ABSs) for Semitrailers" has been completed and is available for review in the agency's public docket room. The agency welcomes comments about the report.)

With respect to single-unit trucks and buses, NHTSA proposed leadtime of four years and five years, respectively, after the final rule's publication, resulting in an effective date in 1998 and 1999. NHTSA proposed effective dates that it believed would give the industry sufficient leadtime to develop, field test, and performance test ABS on straight trucks and buses. The agency also explained that ABS for such vehicles is still being developed, so these leadtimes appeared to be necessary to ensure that the technology would be reliable when it is required.

The American Automobile Manufacturers Association (AAMA), which represents the eight major domestic truck manufacturers,[2] recommended that the effective dates for the proposed heavy vehicle stability and control requirements and the previously proposed stopping distance requirements be "synchronized for the various vehicle types." (58 FR 11009, February 23, 1993).[3]

AAMA recommended that the agency adopt the following effective dates for both the stability and control requirements and the stopping distance requirements, assuming that the two rules are issued before September 1994:

Truck tractors....2 years after final rule (1996)
Trailers, including converter dollies.....3 years after final rule (1997)
Air-braked single unit trucks and buses.....3 years after final rule (1997)
Hydraulic-braked single unit trucks and buses.....4 years after final rule (1998)

Similarly, manufacturers of brake components and antilock brake systems recommended that the implementation schedule for the lateral stability and control requirements be accelerated. Rockwell requested that the leadtime for air-braked single unit trucks and buses be shortened to three years after the final rule. The Heavy Duty Brake Manufacturers Council requested that the effective dates of the stopping distance rulemaking and the stability rulemaking be "made coincident to allow the industry to maximize its efforts by effectively utilizing its limited resources."

The American Trucking Association (ATA) recommended effective dates of December 31, 1999 for tractors and December 31, 2001 for trailers, claiming that this schedule would permit each fleet, through its own tests, to determine which ABS is best suited to its operations and to phase ABS in accordingly. In contrast, Advocates for Highway Safety (Advocates) favored the proposed implementation schedule and opposed any schedule that moved the compliance calendar to the next century. It believed that a delayed schedule would unreasonably postpone safety benefits for the public because ABS technology is both reliable and available.

After reviewing the comments, NHTSA has tentatively determined that it may be appropriate to make the effective dates for the heavy vehicle stability and control requirements concurrent with the stopping distance requirements. This could facilitate a more orderly implementation process.

[1] Such vehicles will be referred to as "heavy vehicles" throughout the remainder of this notice.

[2] Chrysler, Ford, Freightliner, General Motors, Mack, Navistar, PACCAR, and Volvo-GM.

[3] The February NPRM proposed that the stopping distance requirements take effect two years after the final rule for all applicable vehicles.

avoid the need for manufacturers to redesign the brakes on individual vehicles twice, and reduce the development and compliance costs that manufacturers would face as a result of these regulations. Specifically, the agency is considering to adopt the following implementation schedule for both sets of requirements:

Truck tractors ... 2 years after final rule (1996)
Trailers ..... 3 years after final rule (1997)
Air-braked single unit trucks and buses ..... 3 years after final rule (1997)
Hydraulic-braked single unit trucks and buses .... 4 years after final rule (1998)

This proposed implementation schedule, which would accelerate compliance for air-braked single unit trucks and buses and hydraulic-braked buses, is consistent with the recommendation of the heavy vehicle manufacturers, brake manufacturers, and the safety advocacy groups. The agency agrees with the manufacturers that reliable antilock systems can be developed within this time-frame. NHTSA tentatively concludes that the implementation schedule recommended by ATA is too protracted, especially in light of the widespread use of ABS in Europe, increased use of ABS in this country, and the comments by the brake and vehicle manufacturers.

NHTSA requests comments about the implementation schedule being proposed in this supplemental notice. Specifically, commenters should respond to the following questions:

1. Is it appropriate to make the effective dates concurrent for the stopping distance and stability requirements for heavy vehicles?

2. Is it appropriate to accelerate the stability and control effective dates for air braked trucks and buses and hydraulic braked buses, and to delay the effective date for the proposed stopping distance requirements for some classes of vehicles?

3. Since hydraulic braked trucks and buses would have to be equipped with ABS one year later than air braked trucks and buses, would truck and bus fleets specify hydraulic brake systems for their new vehicles for that one year to avoid the additional cost of ABS on air braked trucks and buses?

4. The agency received comments to the stability and control NPRM from only one bus manufacturer. Do bus manufacturers have any specific concerns about the revised implementation dates proposed in this notice?

5. Do the heavy vehicle ABS suppliers have the manufacturing capacity to meet the demand for air braked antilock systems in 1996 and 1997?

Antilock Brake System Wheel Control

In the NPRM, NHTSA proposed to require that the antilock brake system monitor and control the wheels of the front axle and of at least one rear axle. NHTSA believed that this would ensure that the wheels on the steering axle are directly controlled by the antilock braking device. By "directly controlled," the agency meant that the signal provided at the wheel or on the axle of the wheel directly modulates the braking forces of that wheel. The agency tentatively concluded that it is necessary to specify that the ABS directly control the steering axle because some ABS control only a vehicle's drive-axle, a situation which could result in the loss of steering control if the front wheels locked during braking.

Several commenters addressed the need for front wheel control. ATA strongly opposed mandating ABS for the steering axle of single-unit trucks and suggested the agency reconsider mandating them on all tractors. In contrast, Rockwell, WABCO, Freightliner, AAMA, Advocates, and the Insurance Institute for Highway Safety (IIHS) favored requiring that ABS be equipped on front axles. AAMA favored equipping each vehicle with ABS that has at least one independent channel of control for the wheels on a front axle and at least one independent channel of control for the wheels on a rear axle, but objected to mandating more than two independent channels of control. Because Rockwell, Freightliner, Advocates, and the Insurance Institute for Highway Safety (IIHS) were concerned that the current proposal would allow "select low" [4] antilock systems on any axle, they recommended that the equipment requirement include language that would require "independent control of each wheel" of the axles that are required to be ABS-controlled. They believed such a requirement would prevent significant degradation in the stopping performance, particularly on a split mu surface.[5] Rockwell WABCO recommended a minimum standard of at least one rear axle having independent wheel brake control. It opposed allowing select low ABS which it believed would experience significantly longer stopping distances on split mu surfaces. Allied Signal recommended requiring independent control of the brakes on the steering axle. Bosch recommended a minimum requirement of a 4S/3M ABS. Freightliner favored requiring at least four independent channels of control, two for each axle, allowing independent control of each wheel on the forward and rear axle. Similarly, IIHS favored requiring that the brakes/wheels of the front axle be independently controlled by an antilock system and that the brakes/wheels of at least one rear axle have similar independent antilock control. Advocates recommended that ABS be functional on all axles, not just one axle in each multiple axle set on a heavy vehicle. Because commenters differed on which axle the antilock system should provide independent wheel control, NHTSA has decided to propose requiring that the wheels on at least one axle be independently controlled, without specifying the axle on which it should be installed. This would allow manufacturers the flexibility to determine on which axle the wheels would be independently controlled by the antilock system.

After reviewing the comments, NHTSA has decided to propose modifications to the proposal to require heavy vehicles to be equipped with systems that independently control each wheel on at least one axle of a truck, a truck tractor, or a bus. Based on the comments and other available information, the agency believes that a minimum requirement that includes an antilock braking system that controls the wheels on at least one front and one rear axle where the wheels on at least one of these axles are independently controlled would provide an acceptable level of stopping distance performance on low mu and split mu surfaces. In addition to the data provided by Freightliner and Rockwell WABCO, the agency's ABS heavy vehicle testing showed that independent wheel control by an ABS enables a vehicle to stop in a shorter distance compared with either a vehicle equipped with an axle-by-axle control antilock system, or with a non-ABS equipped vehicle using a driver best-effort brake application. ("Improved Brake Systems for Commercial Vehicles," DOT HS 807 706, Final Report, April 1991)

NHTSA is also proposing to prohibit tandem control by an antilock system, by requiring that no more than two

[4] While some ABS are equipped with modulators that independently control each wheel, a select low ABS controls both wheels on each axle with one modulator while having a wheel speed sensor at each wheel location. As such, both brakes on the controlled axle are applied and released simultaneously by the ABS. Such a system affords vehicle and directional stability, and shorter stopping distances on surfaces with uniform friction, but increases stopping distances if road-surface friction on one side of the vehicle differs from that on the other.

[5] With such a surface, the road is split along its length so that the wheels on one side of the vehicle are on a high friction surface and the wheels on the other side are on a low friction surface; the term "mu" concerns the surface's coefficient of friction.

wheels be controlled by one modulator valve. As part of its performance test program, the agency tested four different ABS configurations: individual wheel control, side-by-side control, axle-by-axle control, and tandem control. The agency found that the tandem control system produced stopping distances that were significantly longer than those of axle-by-axle control or side-by-side control, particularly on split coefficient of friction surfaces. These test results are documented in the report, "Improved Brake Systems for Commercial Vehicles." The agency is aware that the proposed requirements would allow a 6 x 4 truck or truck tractor to be equipped with a 4S/3M antilock system, i.e., independent control of each front wheel, select low control on one rear axle, and no ABS control on the other rear axle. The agency's testing has found that vehicle stability is not significantly degraded if two wheels on a tandem are locked during braking. Accordingly, the agency has used this concept in developing the limited lockup requirements for the stopping distance rulemaking where one wheel per axle or two wheels per tandem are allowed to lock above 20 mph during the stopping distance test.

The agency requests comments to the following questions about independent control of each wheel on at least one axle and about prohibiting tandem control by an antilock system:

1. Is it appropriate to require independent control of each wheel on at least one axle?

2. Would it be appropriate to adopt the alternative recommendations presented by Rockwell, Freightliner, or Advocates? Would these alternative recommendations provide significantly greater benefits? Would they prevent unreasonably long stopping distances on split mu surfaces?

3. Compared to the original proposal that would allow select low systems, what would be the additional marginal benefits and cost of the requirement proposed in this SNPRM? Of the requirements recommended by Rockwell, Freightliner, or Advocates?

4. Is it appropriate to prohibit tandem control by an antilock system?

5. How much stability degradation has testing showed with a vehicle where one axle of a tandem was not controlled by ABS? Are there other concerns (e.g., tire flat spotting) about an uncontrolled axle on a tandem?

6. Would fleet operators be willing to spend an additional $300 per vehicle to upgrade a 4S/3M system to a 4S/4M system with side-by-side control or axle-by-axle control with in-axle sensors?

Comments on this notice must be received no later than 30 days after its publication in the **Federal Register**. While NHTSA typically provides a comment period of 60 days, the agency has determined that it is in the public interest to limit the comment period to 30 days since the agency is statutorily required to finish rulemaking in mid-1994. In addition, the agency previously provided an opportunity in the September 1993 NPRM to comment on these and other issues in this rulemaking. This notice proposes relatively limited modifications in the agency's tentative position regarding two of those issues.

Rulemaking Analyses

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice is "significant" within the meaning of Executive Order 12866. Further, NHTSA has analyzed this supplemental proposal and determined that it is also significant within the meaning of the Department of Transportation regulatory policies and procedures. The agency believes that the proposal to make the lateral stability and control requirements concurrent with the stopping distance requirements would reduce the rulemaking's costs, based on comments by the manufacturers. The agency further believes that the proposal related to wheel control would reduce cost. The agency's expectations upon issuing the NPRM were that the ABS on trucks, truck tractors, and buses would provide individual wheel control on at least one axle. As such, the safety benefits and cost analyses documented in the Preliminary Regulatory Impact Analysis were performed assuming that to be the case. Therefore, the agency believes that no additional impact would result from the changes proposed in this notice.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the discussion in the immediately preceding paragraph, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 12612. NHTSA has determined that the proposed rule would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, NHTSA has considered the environmental impacts of this proposed rule. The agency has determined that this proposed rule, if adopted as a final rule, would not have any adverse impact on the quality of the human environment.

VII. Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket at the above address. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and NHTSA recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency proposes to amend Standard No. 105, *Hydraulic Brake Systems* and Standard No. 121, *Air Brake Systems,* in title 49 of the Code of Federal Regulations at part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. Section 571.105 would be amended by amending S4 by adding the following definitions, revising S5.5, and by adding S5.5.1 and S5.5.2. The revised and amended paragraphs would read as follows:

§ 571.105 Standard No. 105; Hydraulic brake systems.

* * * * *

S4 *Definitions*

* * * * *

Directly controlled wheel means the wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to a controlling device that adjusts the brake actuating forces at that wheel. The control device may also adjust the brake actuating forces at other wheels in response to those signals.

* * * * *

Independently controlled wheel means a wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to one controlling device that adjusts the brake actuating forces only at that wheel in response to those signals.

* * * * *

S5.5. *Antilock and variable proportioning brake systems.*

S5.5.1 Each vehicle with a GVWR greater than 10,000 pounds, except for any vehicle that has a speed attainable in 2 miles of not more than 33 mph, shall be equipped with an antilock braking system that directly controls the wheels of at least one front axle and the wheels of at least one rear axle of the vehicle, with no more than two wheels being controlled by one controlling output device. The wheels of at least one axle shall be independently controlled.

S5.5.2 In the event of any failure (structural or functional) in an antilock or variable proportioning brake system, the vehicle shall be capable of meeting the stopping distance requirements specified in S5.1.2 for service brake system partial failure.

* * * * *

3. Section 571.121 would be amended by amending S4 to add the following definitions, revising S5.1.6, and by adding S5.1.6.1, S5.2.3. and S5.2.3.1. The revised and added paragraphs would read as follows:

§ 571.121 Standard No. 121; Air brake systems.

* * * * *

S4. *Definitions.*

* * * * *

Directly controlled wheel means the wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to a controlling device that adjusts the brake actuating forces at that wheel. The control device may also adjust the brake actuating forces at other wheels in response to those signals.

* * * * *

Full trailer means a trailer, except a pole trailer, that is equipped with two or more axles that support the entire weight of the trailers.

* * * * *

Independently controlled wheel means a wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to one controlling device that adjusts the brake actuating forces only at that wheel in response to those signals.

* * * * *

S5.1.6 *Antilock brake system.*

S5.1.6.1 Each vehicle shall be equipped with an antilock braking system that directly controls the wheels of at least one front axle and the wheels of at least one rear axle of the vehicle, with no more than two wheels being controlled by one controlling output device. The wheels of at least one axle shall be independently controlled.

* * * * *

S5.2.3 *Antilock brake system.*

S5.2.3.1(a) Each single axle trailer (including a trailer converter dolly) shall be equipped with an antilock braking system that directly controls the wheels of the axle of the vehicle.

(b) Each trailer with two or more rear axles (including a trailer converter dolly) shall be equipped with an antilock braking system that directly controls the wheels on at least 50 percent of the axles of the vehicle, with no more than two wheels being controlled by one controlling output device.

(c) Each full trailer shall be equipped with an antilock braking system that directly controls the wheels of at least one front axle of the vehicle and at least 50 percent of the rear axles of the vehicle, with no more than two wheels being controlled by one controlling output device.

Issued on April 7, 1994.

Barry Felrice,

Associate Administrator for Rulemaking

[FR Doc. 94–8753 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 59, No. 70
Tuesday, April 12, 1994

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

Animal and Plant Health Inspection Service

[Docket No. 94–013–1]

Availability of Environmental Assessment, Finding of No Significant Impact, and Record of Decision for the Asian Gypsy Moth Eradication Project

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has adopted and is making available an environmental assessment prepared by the North Carolina Department of Agriculture, with substantial assistance from APHIS, for the Asian gypsy moth eradication project in North Carolina. We are also making available APHIS' own finding of no significant impact and record of decision for the Asian gypsy moth eradication project in North Carolina. The environmental assessment provides a basis for the conclusion that the methods employed to eradicate the plant pest will not have a significant impact on the environment.

ADDRESSES: Copies of the environmental assessment and APHIS' finding of no significant impact and record of decision are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies of the environmental assessment and APHIS' finding of no significant impact and record of decision may be obtained upon request from:

(1) Charles L. Divan, Project Leader—Asian Gypsy Moth, Environmental Protection Officer, EAD, BBEP, APHIS, USDA, room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8565;

(2) Director, Southeastern Regional Office, PPQ, APHIS, USDA, 3503 25th Avenue, Building 1, Gulfport, MS 39501, (601) 863–1813; or

(3) William Dickerson, North Carolina Department of Agriculture, Plant Pest Division, P.O. Box 27647, Raleigh, NC 27611, (919) 733–6930.

FOR FURTHER INFORMATION CONTACT: Mr. Terry McGovern, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 7 U.S.C. 147a, 148, and 450, the Secretary of Agriculture is authorized to cooperate with the States and certain other organizations and individuals to control and eradicate plant pests.

The Asian gypsy moth, which is present in the State of North Carolina, is a destructive pest of plants, especially trees.

The U.S. Department of Agriculture (USDA), in cooperation with the North Carolina Department of Agriculture (NCDA), has initiated a project to eradicate the Asian gypsy moth in North Carolina.

NCDA, with substantial assistance from USDA's Animal and Plant Health Inspection Service (APHIS), has prepared an environmental assessment (EA) to evaluate the effects of this eradication project on the environment. Based on the EA and APHIS' own analysis, the Agency has determined that the eradication project in the State of North Carolina will not have a significant impact on the environment. APHIS has reviewed and adopted the EA that was prepared by NCDA with substantial assistance from APHIS. The EA for this cooperative Asian gypsy moth eradication project is supported by and tiered to the Gypsy Moth Suppression and Eradication Projects, Final Environmental Impact Statement (FEIS) as Supplemented, 1985.

The environmental assessment, finding of no significant impact, and record of decision have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 6th day of April 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–8726 Filed 4–11–94; 8:45 am]
BILLING CODE 3410–34–P

Agricultural Research Service

Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Rohm and Haas Company of Philadelphia, Pennsylvania, an exclusive, worldwide license for U.S. Patent No. 4,820,307 issued April 11, 1989, (S.N. 07/207,461); U.S. Patent No. 4,936,865 issued June 26, 1990, (S.N. 07/335,346); and U.S. Patent No. 4,975,209 issued December 4, 1990, (S.N. 07/518,382), all entitled "Catalysts and Processes for Formaldehyde-Free Durable Press Finishing of Cotton Textiles, with Polycarboxylic Acids," and U.S. Patent No. 5,221,285 issued June 22, 1993, (S.N. 07/570,489), entitled "Catalysts and Processes for Formaldehyde-Free Durable Press Finishing of Cotton Textiles with Polycarboxylic Acids, and Textiles Made Therewith." Notice of Availability for U.S. Patent No. 4,820,307 was published in the Federal Register on September 22, 1988. U.S. Patent Nos. 4,936,865 and 4,975,209 are divisions of 4,820,307, and 5,221,285 is a continuation-in-part of 4,975,209.

DATES: Comments must be received within 60 calendar days of the date of publication of this Notice in the Federal Register.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, room 401, Building 005, BARC-West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as said company has submitted a complete and sufficient application for a license, promising therein to bring the benefits of these inventions to the U.S. public. The prospective exclusive field of use license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

W. H. Tallent,

Assistant Administrator.

[FR Doc. 94–8671 Filed 4–11–94; 8:45 am]

BILLING CODE 3410–03–M

Farmers Home Administration

Implementation of the Rural Rental Housing Diversity Demonstration Program (RRHDDP)

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: On October 1, 1993, the Farmers Home Administration (FmHA) announced its intent to establish the Rural Rental Housing Diversity Demonstration Program (RRHDDP) for Fiscal Year (FY) 1994, in the Federal Register (58 FR 51312). This notice is being published to provide more detailed guidance on loan requests under the program. The intended outcome is to make the public aware of the program and that funding is available.

EFFECTIVE DATE: April 12, 1994.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese-Foxworth, Loan Specialist, Multi-Family Housing Processing Division, USDA–FmHA, South Agriculture Building, 14th and Independence Ave., SW., Washington, DC 20250–0700, telephone (202) 720–1608 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Numbers 10.415, "Rural Rental Housing Loans" and 10.427, "Rural Rental Assistance Payments".

Discussion of Notice

7 CFR part 1940, subpart L contains the "Methodology and Formulas for Allocation of Loan and Grant Program Funds." Similar guidance was published in the Federal Register on November 15, 1993 (58 FR 60165), which included a set-aside of funds for this program. This notice provides the public with further guidance on accessing this set-aside.

Program Description

I. Objectives

A. To encourage applicants of limited gross incomes which have little or no participation in the section 515 Program.

B. To provide housing in unserved areas.

C. To provide an economic stimulus to the local economy by encouraging procurement of labor, goods, and services from the local community.

II. Background

In accordance with section 506 (b) of the Housing Act of 1949, as amended, the Secretary is authorized and directed to conduct research, technical studies, and demonstrations relating to the mission and programs of FmHA and the national housing goals defined in section 2 of this Act. In connection with such activities, the Secretary shall seek to promote the construction of adequate farm and other rural housing. The Secretary shall conduct such activities for the purposes of stimulating construction and improving the architectural design and utility of dwellings and buildings. In furtherance of this goal, the Rural Rental Housing Diversity Demonstration Program (RRHDDP) is implemented. An appropriate amount of section 521 new construction rental assistance (RA) is set aside for use with section 515 loan funds.

III. RRHDDP

A. *Amount of Set Aside.* Set asides for RRHDDP from the current FY allocations are listed at the end of this notice.

B. *Selection of States.* All States were considered using the following criteria:

1. Highest percentage of poverty;
2. Highest percentage of substandard housing;
3. Highest unemployment rates;
4. Lowest rural median income; and
5. Number of places with population of 2,500 or less.

Each State selected for RRHDDP had to be in the top 10 of at least 3 of 5 criteria. Data from the 1990 Census was used for all criteria. Seven States were selected and are listed at the end of this notice.

C. *State RRHDDP Levels.* See the list at the end of this notice.

D. *Use of Funds.* To ensure the success of RRHDDP, the State Director may leverage funds from the RRHDDP with allocated funds from the Section 515 and 521 allocations held in the State Office reserve. The State Director has the discretion to determine the most effective delivery of RRHDDP funds; however, the intent and scope of the program should be ever present in the implementation and application processes.

E. *National Office RRHDDP Reserve.* There is no RRHDDP reserve available when the State is unable to fund a request from its regular or RRHDDP allocation.

F. *Pooling.* Unused RRHDDP funds and RA will be pooled. Pooling dates and any pertinent information are listed at the end of this notice. Pooled funds will be available on a first-come, first-served basis to all eligible States. Pooled RRHDDP funds will remain available until the year-end pooling date.

IV. *Eligibility.* Applicants and proposals will need to meet the following requirements, in addition to those found in 7 CFR part 1944, subpart E:

A. The applicant must have had an interest (including family members) in no more than one section 515 loan over the past 3 years. For entity applicants, this restriction applies to all general partners and their family members. For the purposes of this program, interest means a section 515 loan which has been approved and funds obligated.

B. The applicant must have had a gross aggregate income from business and personal operations of less than $500,000 in the previous calendar year. For entity applicants, the aggregate income of all general partners will be considered. American Indian tribes and tribal housing authorities are exempt from these income requirements.

C. At least 51 percent of the labor, goods, and services to develop the proposed housing must come from the market area as described in paragraph V B of this notice.

D. The housing must be constructed in a market area without similar

subsidized housing. Market area is defined in Exhibit A–8 of 7 CFR part 1944, subpart E. Similar subsidized housing is defined in § 1944.213(f) of 7 CFR part 1944, subpart E.

E. The proposed complex must contain no more than 50 percent of the average number of units of the average size Section 515 complex in the State based on the previous FY average.

V. Processing Preapplications

A. *Requirements.* To be eligible for participation in this demonstration program, applicants must ensure that the preapplication meets all requirements set forth in 7 CFR part 1944, subpart E and this notice.

1. All complete preapplications must be received in the place designated by the State Director by May 2, 1994. Incomplete preapplications will not be considered. A complete preapplication consists of all items specified in Exhibit A–7 of 7 CFR part 1944, subpart E.

2. Based upon projected demand for the RRHDDP, the State Director will select the manner in which preapplications will be rated prior to implementation and/or announcement of the program to ensure the public is aware of how requests will be prioritized. The State Director may elect one of the following systems to prioritize and select proposals for further processing:

a. The priority point system contained in § 1944.231(d) of 7 CFR part 1944, subpart E; or

b. The following priority point scoring system;

(i) Interest in Section 515 loans over the past 3 fiscal years as specified in paragraph IV A of this notice.

No Interest—5 points
Interest in 1 project—2 points

(ii) Gross incomes as defined in paragraph IV B of this Notice.

Income:
$400,001–499,999—1 point
$300,000–400,000—2 points
$299,999 or less—3 points
American Indian Tribes/Tribal Housing Authorities—3 points

(iii) Percent of the labor, goods, and services must come from the local market described in paragraph V B of this notice.

100% from local market—5 points
90–99% from local market—4 points
80–89% from local market—3 points
70–79% from local market—2 points
51–69% from local market—1 point

(iv) Size of proposed complex compared to average size complex obligated in previous FY.

40–50% average size—3 points
30–39% average size—4 points
Less than 30%—5 points

c. A combination of the points received in paragraphs V A 2 a and b of this notice.

3. In the event of a tie, the proposal with the earliest date of complete preapplication will take preference.

B. *Procurement of labor, goods, and services.* One of the intents of the RRHDDP is to stimulate the local economy by encouraging procurement of labor, goods, and services from the local area. FmHA recognizes that defining a local trade area in which to procure the labor, goods, and services to build an apartment complex is difficult in rural America. To be responsive to the application procedures, applicants must procure labor, goods, and services from Level One of this paragraph. If labor, goods, and services are not available in Level One of this paragraph, the applicant may use the trade area defined in Level Two of this paragraph. Documentation as to why the labor, goods, and services are not available in Level One of this paragraph must be included in the case file. The applicant may propose to secure labor, goods, and services from Levels Three or Four of this paragraph; however, documentation as to why same is not available in all of the previous levels must be included in the case file.

1. *Level One:* Labor, goods, and services must be procured within 15 miles of the proposed site of the apartments.

2. *Level Two:* Labor, goods, and services must be procured within the County where the proposed apartments will be located.

3. *Level Three:* Labor, goods, and services must be procured within the lesser of 50 miles from the site of the proposed complex OR the boundaries of any adjacent County (regardless of State boundary).

4. *Level Four:* Labor, goods, and services must be procured within 100 miles of the proposed site (regardless of State boundary).

C. *Outreach.* Outreach efforts publicizing the availability of loan funds for the eligible RRHDDP States will be aggressively carried out. Each affected State Director will develop an outreach plan which includes such techniques as news releases, community meetings, coordination with other Federal, State, and local government organizations, to promote full utilization of these funds by all qualified applicants regardless of race, color, religion, national origin, marital status, age, and sex. In addition to the above outreach efforts, States with eligible colonias and/or Tribal lands should establish liaison with community groups in order to leverage support and assistance provided to residents of colonias and Tribal lands.

D. *Monitoring performance.* 1. *National Office:* The National Office will track the use of targeted funds on a regular basis throughout the FY and take necessary follow-up actions to facilitate the delivery of the program.

2. *State Office:* The State Director will designate a staff member to coordinate all efforts under RRHDDP.

E. *Issuance of Form AD–622, "Notice of Preapplication Review Action", inviting a formal application.* 1. The State Director may issue AD–622s up to 100 percent of the amount shown at the end of this notice and any funds made available from the State Office reserve.

2. All AD–622s issued for applicants under this demonstration program will be annotated, in Item 7 of the form, under "Other Remarks," with the following: "Issuance of this AD–622 is contingent upon receiving funds from the Rural Rental Housing Diversity Demonstration Program (RRHDDP)." Should RRHDDP funds be unavailable or the program discontinued, this AD–622 will no longer be valid. In these cases, the request for assistance will need to compete with other preapplications based upon its priority point score established in accordance with § 1944.231 of 7 CFR part 1944, subpart E.

VI. Exception Authority

The Administrator, or his/her designee, may, in individual cases, make an exception to any requirements of this Notice which are not inconsistent with the authorizing statute, if he/she finds that application of such requirement would adversely affect the interest of the Government. The Administrator, or his/her designee, may exercise this authority upon the request of the State Director, Assistant Administrator for Housing, or Director of the Multi-Family Housing Processing Division (MFHPD). The request must be supported by information that demonstrates the adverse impact or effect on the program. The Administrator, or his/her designee, also reserves the right to change the pooling date, establish/change minimum and maximum fund usage from set asides and/or the reserve, or restrict participation in set asides and/or reserves.

The following is a list of States selected to participate in the RRHDDP and other pertinent information:

MULTI-FAMILY HOUSING SECTION 515 RURAL RENTAL HOUSING DIVERSITY DEMONSTRATION PROGRAM—FY 1994

Selected states	Demonstration loan allocation	Demonstration RA allocation
Arkansas	$1,000,000	27
Kentucky	1,000,000	27
Louisiana	1,000,000	27
Mississippi	1,000,000	27
New Mexico	1,000,000	27
Puerto Rico	1,000,000	27
West Virginia	1,000,000	27
	7,000,000	189

Unused RRHDDP funds and RA will be pooled at close of business (COB) on July 15, 1994. Pooled funds will be available on a first-come, first-served basis to the above mentioned States. Pooled RRHDDP funds will remain available until the year-end pooling tentatively scheduled for August 15, 1994.

Dated: March 25, 1994.

Michael V. Dunn,

Administrator, Farmers Home Administration.

[FR Doc. 94–8674 Filed 4–11–94; 8:45 am]

BILLING CODE 3410–07–U

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 5 p.m. on Wednesday, May 4, 1994, at the Ramada Hotel Convention Center, 160 Union Avenue in Memphis, Tennessee 38113. The purpose of the meeting is: (1) To discuss civil rights progress and/or problems in the State; (2) to discuss the status of the Commission; (3) to discuss and review the draft report for the project, "Racial Tensions in Tennessee"; and (4) discuss plans for the SAC's next proposed project on the enforcement of Title VI in Tennessee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office 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, April 4, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–8618 Filed 4–11–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will be held on Saturday, April 30, 1994, from 10:30 a.m. to 1 p.m. at the Foster's Country Corner Inn, P.O. Box 580, Laramie, Wyoming 82070. The purpose of the meeting is to brief members on Commission and regional activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oralia G. Mercado or William F. Muldrow, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office 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, April 4, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–8617 Filed 4–11–94; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation – 1992 Panel Waves 9 and 10.

Form Number(s): SIPP–12900.

Agency Approval Number: 0607–0723.

Type of Request: Revision of a currently approved collection.

Burden: 42,000 hours.

Number of Respondents: 42,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Survey of Income and Program Participation (SIPP) is a longitudinal, demographic, household survey in which the Census Bureau interviews sample households in waves occurring every 4 months over a 2½ year period. The survey is molded around a central "core" of labor force and income questions that remain fixed during each wave of a panel. The core is periodically supplemented with questions designed to answer specific needs. These supplemental questions are referred to as "topical modules." As part of our transition plans for SIPP from paper to an automated questionnaire, the Census Bureau is requesting an extension of the 1992 Panel in order to conduct 2 additional waves of interviews. The topical modules for Wave 9 include the following: 1) Work Schedule, 2) Child Care, 3) Child Support Agreements, 4) Support for Nonhousehold Members, 5) Functional Limitations and Disabilities–Adults, 6) Utilization of Health Care Services–Adults, 7) Functional Limitations and Disabilities–Children, 8) Utilization of Health Care Services–Children, and 9) Children's Well–Being. Wave 9 interviews will be conducted from October 1994 through January 1995. Wave 10 interviews will have no topical modules and will be conducted from February 1995 through May 1995.

Affected Public: Individuals or households.

Frequency: Waves 9 and 10 will be conducted once during the panel.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 7, 1994.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–8772 Filed 4–11–94; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation – 1993 Panel Wave 6.

Form Number(s): SIPP–13600.

Agency Approval Number: 0607–0759.

Type of Request: Revision of a currently approved collection.

Burden: 63,000 hours.

Number of Respondents: 42,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Survey of Income and Program Participation (SIPP) is a longitudinal, demographic, household survey in which the Census Bureau interviews sample households in waves occurring every 4 months over a 2 1/2 year period. The survey is molded around a central "core" of labor force and income questions that remain fixed during each wave of a panel. The core is periodically supplemented with questions designed to answer specific needs. These supplemental questions are referred to as "topical modules." The topical modules for Wave 6 include the following: 1) Work Schedule, 2) Child Care, 3) Child Support Agreements, 4) Support for Nonhousehold Members, 5) Functional Limitations and Disabilities–Adults, 6) Utilization of Health Care Services–Adults, 7) Functional Limitations and Disabilities–Children, 8) Utilization of Health Care Services–Children, and 9) Children's Well–Being. Wave 6 interviews will be conducted from October 1994 through January 1995.

Affected Public: Individuals or households.

Frequency: Once during the panel.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 7, 1994.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–8773 Filed 4–11–94; 8:45 am]

BILLING CODE 3510–07–F

Bureau of Export Administration

Initiation of National Security Investigation of Imports of Crude Oil and Petroleum Products

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of national security investigation and request for public comments.

SUMMARY: This notice is to advise the public that an investigation is being initiated under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of crude oil and petroleum products. Interested parties are invited to submit written comments, opinions, data, information, or advice relative to the investigation to the Strategic Analysis Division, Office of Industrial Resource Administration, U.S. Department of Commerce.

DATES: Comments must be received by May 12, 1994.

ADDRESSES: Written comments (ten copies) should be sent to Brad Botwin, Director, Strategic Analysis Division, Office of Industrial Resource Administration, Department of Commerce, room 3878, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Bernie Kritzer, Senior Policy Advisor, Office of Foreign Availability, Telephone: (202) 482–5305.

Karen Swasey, Section 232 Program Manager, Strategic Analysis Division, Office of Industrial Resource Administration, Telephone: (202) 482–3795.

SUPPLEMENTARY INFORMATION:

Background

In a petition submitted by the Independent Petroleum Association of America, on March 11, 1994, the Department of Commerce was requested to initiate an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of crude oil and petroleum products.

On April 5, 1994, the Department of Commerce formally accepted the application and initiated an investigation. The findings and recommendations of the investigation are to be reported by the Secretary of Commerce to the President no later than December 31, 1994 (i.e., within 270 days).

The items to be investigated have distinct Harmonized Tariff System (HTS) tariff classification numbers. They include the following HTS numbers and earlier TSUS numbers:

Name	TSUS	HTS
Crude oil, under 25 degrees API	475.05	27100005—0
Crude oil, 25 degrees API or more	475.10	27100010—0
Motor fuel, including gas, leaded and unleaded; naphtha-type jet fuel and kerosene-type jet fuel	475.25	27100015—0
Kerosene derived from petroleum, shale oil, or both, except motor fuel	475.30	27100020—0
Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof, except motor oil	475.35	27100025—0
		36061000—1
Mineral oil of medicinal grade derived from petroleum, shale oil, or both	475.40	27100045—2
Lubricating oils and greases, derived from petroleum, shale oil, or both, with or without additives	475.45	27100030—0
		34031110—3
		34031150—3
		34031910—0
	475.55	34031110—3
		34031150—3
		34031950—1
	475.60	27100040—0
		34031110—3
		34031150—3
		34031950—1

Name	TSUS	HTS
Mixtures of hydrocarbons not specially provided for, derived wholly from petroleum, shale oil, natural gas, or combinations thereof, which contain by weight not over 50% of any single hydrocarbon compound	475.65	27100045—2
	475.70	27121000—0
		27132000—0
		27139000—0
Paraffin and other petroleum waxes	494.22	27122000—0
		27129020—0
		34049050—0
Petroleum coke	517.5120	27040000—2
		27131200—0
Asphaltum, bitumen, & limestone-rock asphalt	517.11	38011050—0

This investigation is being undertaken in accordance with Part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (the "regulations"). Interested parties are invited to submit written comments, opinions, data, information, or advice relevant to this investigation to the Office of Industrial Resource Administration, U.S. Department of Commerce, no later than May 12, 1994.

The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the regulations as they affect national security, including the following:

(a) Quantity of the circumstances related to the importation of the articles subject to the investigation;

(b) Domestic production and productive capacity needed for these articles to meet projected national defense requirements;

(c) Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce these items;

(d) Growth requirements of domestic industries to meet national defense requirements and/or requirements to assure such growth;

(e) The impact of foreign competition on the economic welfare of the domestic industry; and

(f) The displacement of any domestic products causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects.

All materials should be submitted with 10 copies. Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified information or business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations (15 CFR 705.6). Anyone submitting business confidential information should clearly identify the business confidential portion of the submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential submission which can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Records Inspection Facility, room 4525, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–5653. The records in this facility may be inspected and copied in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*). Information about the inspection and copying of records at the facility may be obtained from Ms. Margaret Cornejo, the Bureau of Export Administration's Freedom of Information Officer, at the above address and telephone number.

Dated: April 8, 1994.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 94–8827 Filed 4–11–94; 8:45 am]

BILLING CODE 3510–DT–P

National Institute of Standards and Technology

[Docket No. 940386–4086]

RIN 0693–AB22

Proposed Revision of Federal Information Processing Standard (FIPS) 172, VHSIC Hardware Description Language (VHDL)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: This proposed revision of Federal Information Processing Standard (FIPS) 172, VHSIC Hardware Description Language (VHDL), will adopt the standard hardware description language of the ANSI/IEEE 1076–1993, IEEE Standard VHDL Language Reference Manual. This proposed revision is for use by computing professionals involved in high level digital hardware specification, development and implementation.

Prior to submission of this proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and state and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the technical specifications (ANSI/IEEE 1076–1993) from the IEEE Service Center, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331, telephone 1–800–678–4333.

DATES: Comments on this proposed FIPS must be received on or before July 11, 1994.

ADDRESSES: Written comments concerning the proposed FIPS should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed FIPS 172–1, VHDL, Technology Building, room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dr. William H. Dashiell, National Institute of Standards and Technology,

Gaithersburg, MD 20899, (301) 975–2490.

Dated: April 6, 1994.

Samuel Kramer,

Associate Director.

Proposed Federal Information Processing Standards Publication 172–1 (date) Announcing the Standards for VHSIC Hardware Description Language (VHDL)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. Name of Standard. VHSIC Hardware Description Language (VHDL) (FIPS PUB 172–1).

2. Category of Standard. Software Standard, Hardware Description Language.

3. Explanation. This publication is a revision of FIPS PUB 172 and supersedes that document in its entirety.

This publication announces the adoption of the Federal Information Processing Standard (FIPS) for VHDL. This FIPS adopts American National Standard Hardware Description Language VHDL (ANSI/IEEE 1076–1993) as stipulated in the Specifications Section. The American National Standard specifies the form and establishes the interpretation of programs expressed in VHDL. The purpose of the standard is to promote portability of VHDL programs for use on a variety of data processing systems. The standard is used by implementors as the reference authority in developing compilers, interpreters, analyzers, simulators or other forms of high level language processors, and is used by digital hardware designers, and by other computer professionals who need to know the precise syntactic and semantic rules of the standard and who need to provide specifications for digital hardware descriptions.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory (CSL).

6. Cross Index. ANSI/IEEE 1076–1993, IEEE Standard VHDL Language Reference Manual.

7. Related Documents.

a. Federal Information Resources Management Regulations (FIRMR) subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

b. Federal ADP and Telecommunications Standards Index, U.S. General Services Administration, Information Resources Management Service, April 1993 (updated periodically).

c. NIST, Validated Products List, NISTIR 5354 (republished quarterly). Available by subscription from the National Technical Information Service (NTIS).

d. FIPS PUB 29–2, Interpretation Procedures for FIPS Software, 14 September 1987.

8. Objectives. Federal standards for high level digital design information and documentation languages permit Federal departments and agencies to exercise more effective control over the design, production, management, and maintenance of digital electronic systems. The primary objectives of this Federal hardware description language standard are:

—To encourage more effective utilization of design personnel by ensuring that design skills acquired under one job are transportable to other jobs, thereby reducing the cost of programmer retraining;

—To reduce the cost of design by achieving increased designer productivity and design accuracy through the use of formal languages;

—To reduce the overall life cycle cost for digital systems by establishing a common documentation language for the transfer of digital design information across organizational boundaries;

—To protect the immense investment of digital hardware from obsolescence by insuring to the maximal feasible extent that Federal hardware description language standards are technically sound and that subsequent revisions are compatible with the installed base.

—To reduce Federal inventory of electronic digital replacement parts.

—To increase the sources of supplies which can satisfy government requirements for mission specific electronic digital components.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. Applicability.

a. Federal standards for hardware description languages are applicable for the design and documentation of digital systems developed for government use. This standard is suitable for use in the following digital system applications:

—Primary design and documentation of digital systems, subsystems, assemblies, hybrid components, and components;

—Formal specifications of digital systems throughout the procurement, contracting and development process;

—Test generation for digital systems, subsystems, assemblies, hybrid components, and components;

—Re-procurement and redesign of digital systems, subsystems, assemblies, hybrid components, and components.

b. The use of FIPS hardware description languages applies when one or more of the following situations exist:

—When using a formal language for specifying a formal design specification for a complex digital system.

—The digital system is under constant revision during the development process.

—It is desired to have the design understood by multiple groups, or organizations.

—The system under development is to be designed by multiple groups, or organizations.

—Accurate unambiguous specifications are required in the bid and contracting process.

10. Specifications. The specifications for this standard are the language specifications contained in ANSI/IEEE 1076–1993, IEEE Standard VHDL Language Reference Manual.

This FIPS does not allow conforming implementations to extend the language. A conforming implementation is one that does not allow inclusion of substitute or additional language elements in order to accomplish a feature of the language as specified in the language standard. A conforming implementation is one which adheres to and implements all of the language specifications contained in ANSI/IEEE 1076–1993 except where the language standard permits deviations and which specifies conspicuously in a separate section in the conforming implementation documentation all such permitted variations. Also, such conformance shall be with default language processor system option settings.

The ANSI/IEEE 1076–1993 document does not specify limits on the size or complexity of programs, the results when the rules of the standard fail to establish an interpretation, the means of supervisory control programs, or the means of transforming programs for processing.

11. Implementation. The implementation of this standard

involves three areas of consideration: acquisition of VHDL processors, interpretation of FIPS VHDL, and validation of VHDL processors.

11.1. Effective Date. This revised standard becomes effective three (3) months after the publication in the **Federal Register** announcing approval by the Secretary of Commerce. Prior to that date the requirements of FIPS PUB 172 apply to Federal VHDL procurements. This delayed effective date is intended to provide sufficient time for implementors of FIPS PUB 172 to make enhancements necessary for conformance of products to FIPS PUB 172–1. No further transitional period is necessary.

11.2. Acquisition of Ada Processors. Conformance to FIPS VHDL should be considered whether VHDL processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for hardware description services. Recommended terminology for procurement of FIPS Ada is contained in the U.S. General Services Administration publication Federal ADP & Telecommunications Standards Index, chapter 4 part 1.

11.3. Interpretation of FIPS VHDL. The National Institute of Standards and Technology provides for the resolution of questions regarding the specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of this standard should be addressed to: Director, Computer Systems Laboratory, ATTN: FIPS VHDL Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899, Voice: 301–975–2490, FAX: 301–948–6213.

11.4. Validation of VHDL Processors: The validation of VHDL processors for conformance to this standard applies when NIST VHDL validation procedures are available. At the present time NIST does not have procedures for validating VHDL processors. NIST is currently investigating methods which may be considered for validating processors for conformance to this standard.

For further information contact: Director, Computer Systems Laboratory, Attn: FIPS VHDL Validation, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975–2490.

12. Waivers.

Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive classified portions clearly identified, shall be sent to: National Institute of Standards and Technology, ATTN: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, telephone (703) 487–4650. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 172–1 (FIPSPUB172–1), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 94–8688 Filed 4–11–94; 8:45 am]
BILLING CODE 3510–CN–M

[Docket No.: 940365–4065]

Termination of Selected National Voluntary Laboratory Accreditation Program (NVLAP) Services

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice to terminate specific programs within the National Voluntary Laboratory Accreditation Program (NVLAP).

SUMMARY: Under the NVLAP Procedures (15 CFR part 7), the Director of NIST may terminate a field of testing or a LAP when the Director NIST determines that a need no longer exists to accredit laboratories for the services covered under the scope of a LAP.

The National Institute of Standards and Technology (NIST) requests comments on proposed termination of selected fields of testing in the Computer/Electronics and Product Testing Laboratory Accreditation Programs offered by NVLAP, and announces a 60 day comment period for that purpose. The fields of testing proposed for termination are High Level Protocols, DDN X.25/Blacker Host, Plastics, Seals and Sealants, and Solid Fuel Room Heaters.

A review of all NVLAP programs revealed that these particular fields of testing had very small and/or declining laboratory enrollments which makes their continuance impractical. NVLAP operates solely on a fee reimbursable basis and it was determined that fees from laboratories in these fields of testing could not support the costs required to maintain the programs.

After a comment period, the Director of NIST shall determine if public support exists for the continuation of the fields of testing. If public comments support the continuation of the fields of testing, the Director of NIST shall publish a **Federal Register** Notice announcing their continuation. If public support does not exist for continuation, the fields of testing will be terminated effective 90 days after the date of this notice of intent to terminate the fields of testing.

Persons interested in commenting on the proposed terminations should submit their comments in writing to the address below. All comments received in response to this notice will become part of the public record and will be available for inspection and copying at the NIST Records Inspection Facility.

DATES: Comments on the proposed terminations must be received no later than June 13, 1994.

ADDRESSES: Comments on the proposed terminations must be submitted to: Albert D. Tholen, Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, Building 411, room A162, Gaithersburg, MD 20899, telephone number (301) 975–4016.

FOR FURTHER INFORMATION CONTACT: Albert D. Tholen, Chief, National Voluntary Laboratory Accreditation Program, (301) 975–4016.

SUPPLEMENTARY INFORMATION:

Background

The National Institute of Standards and Technology administers the National Voluntary Laboratory Accreditation Program under regulations as found in part 7 of title 15 of the Code of Federal Regulations. NVLAP provides an unbiased third party evaluation and recognition of laboratory performance, as well as expert technical assistance to upgrade that performance by accrediting calibration and testing laboratories found competent to perform specific tests or calibrations.

NVLAP accreditation is available to commercial laboratories, manufacturer's in-house laboratories, and federal, state and local government laboratories. Foreign-based laboratories may also be accredited if they meet the same requirements as domestic laboratories.

NVLAP is comprised of a series of Laboratory Accreditation Programs (LAPS) which are established on the basis of requests and demonstrated need. Each LAP includes specific test and/or calibration standards and related methods and protocols assembled to satisfy the unique needs for accreditation in a field of testing, field of calibration, product of service.

Dated: April 4, 1994.

Samuel Kramer,

Associate Director.

[FR Doc. 94–8689 Filed 4–11–94; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Deduction of Import Charges for Certain Wool Textile Products Assembled in the Dominican Republic

April 6, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs deducting charges.

EFFECTIVE DATE: April 13, 1994.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

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).

CITA has agreed to issue visa waivers for certain textile products in Category 433 which were cut in the Virgin Islands and assembled in the Dominican Republic and exported to the United States. In the letter published below, the Chairman of CITA directs the Commissioner of Customs to deduct 953 dozen from the import charges made to the current limit for Category 433. Additional deductions will be made at a later date.

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 58 FR 62645, published on November 29, 1993). Also see 58 FR 67397, published on December 21, 1993.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 6, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated June 11, 1992 and September 23, 1992, between the Governments of the United States and the Dominican Republic, I request that, effective on April 13, 1994, you deduct 953 dozen from the charges made to Category 433 for the period which began on January 1, 1994 and extends through December 31, 1994 (see directive dated December 15, 1993).

This letter will be published in the **Federal Register.**

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–8774 Filed 4–11–94; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Commission Agendas and Priorities; Public Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Commission will conduct a public hearing to receive views from all interested parties about its agenda and priorities for Commission attention during fiscal year 1996, which begins October 1, 1995. Participation by members of the public is invited. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal year 1996 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on May 12, 1994. Written comments will be accepted until May 5, 1994. Requests from members of the public desiring to make oral presentations must be received by the Office of the Secretary not later than April 28, 1994. Persons desiring to make oral presentations at this hearing must submit a written text of their presentations not later than May 5, 1994.

ADDRESSES: The hearing will be in room 420 of the East-West Towers Building, 4330 East West Highway, Bethesda, Maryland. Written comments, requests to make oral presentations, and texts of oral presentations should be captioned "Agenda and Priorities" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the hearing or to request an opportunity to make an oral presentation, call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800; telefax (301) 504–0127.

SUPPLEMENTARY INFORMATION: Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws it administers, and priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities for action, the Commission shall conduct a public hearing and provide an opportunity for the submission of comments.

Selection of priorities from the Commission's agenda of projects and

programs is a crucial step in the development of the Commission's budget for each fiscal year. The Office of Management and Budget requires all Federal agencies to submit their budget requests 13 months before the beginning of each fiscal year. The Commission is beginning the process of formulating its budget request for fiscal year 1996, which begins on October 1, 1995.

For this reason, the Commission will conduct a public hearing on May 12, 1994, to receive comments from the public concerning its agenda and priorities for fiscal year 1996. The Commissioners desire to obtain the views of a wide range of interested persons including consumers; manufacturers, importers, distributors, and retailers of consumer products; members of the academic community; consumer advocates; and health and safety officers of state and local governments.

The Commission is charged by Congress with protection of the public from unreasonable risks of injury associated with consumer products. The Commission enforces and administers the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*); the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*); the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*); and the Refrigerator Safety Act (15 U.S.C. 1211 *et seq.*). Standards and regulations issued under provisions of those statutes are codified in the Code of Federal Regulations, title 16, chapter II.

While the Commission has broad jurisdiction over products used by consumers in or around their homes, in schools, in recreation, and other settings, its staff and budget are limited. Section 4(j) of the CPSA expresses Congressional direction to the Commission to establish an agenda for action each fiscal year and to select from that agenda a limited number of projects for priority attention.

Commission priorities are selected in accordance with the Commission statement of policy governing establishment of priorities codified at 16 CFR 1009.8. That policy statement includes the following factors to be considered by the Commission when selecting its priorities:

- Frequency and severity of injuries.
- Causality of injuries.
- Chronic illness and future injuries.
- Costs and benefits of Commission action.
- Unforeseen nature of a risk of injury.
- Vulnerability of the population at risk.
- Probability of exposure to hazard.

The order of listing of these criteria does not indicate their relative importance. The Commission will consider these criteria to the extent feasible and as interactively as possible when evaluating each candidate project in the selection of its priorities for fiscal year 1996.

Persons who desire to make oral presentations at the hearing on May 12, 1994, should call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, telefax (301) 504–0127, not later than April 28, 1994.

Presentations should be limited to approximately ten minutes. Persons desiring to make presentations must submit the written text of their presentations to the Office of the Secretary not later than May 5, 1994. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. The hearing will begin at 10 a.m. on May 12, 1994, and will conclude the same day.

Written comments on the Commission's agenda and priorities for fiscal year 1996, should be received in the Office of the Secretary not later than May 5, 1994.

Dated: April 5, 1994.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 94–8613 Filed 4–11–94; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Medical and Dental Reimbursements Rates for Period April 1, 1994 through September 30, 1994 (Fiscal Year 1994)

Notice is hereby given that the Deputy Chief Financial Officer of the Department of Defense, in a memorandum of March 10, 1994, established the following reimbursement rates for inpatient and outpatient medical and dental care to be provided during the period of April 1, 1994 through September 30, 1994.

Inpatient, Outpatient and Other Rates and Charges

I.—Inpatient and Outpatient Rates

[Notes to appear at end of document]

Per inpatient day	International military education and training (IMET)	Interagency other federal agency sponsored patients	Other
A. Burn center	$1,735	$2,795	$2,975
B. Inpatient other than burn center [1]			
Medical care services	329	737	783
Surgical care services	457	1,025	1,082
Obstetrical and gynecological care	430	965	1,020
Pediatric care	330	740	785
Orthopedic care	412	924	977
Psychiatric care and substance abuse	198	444	479
Medical intensive care and coronary care	724	1,623	1,703
Surgical intensive care	789	1,769	1,855
Neonatal intensive care	459	1,029	1,087
Organ and bone marrow transplant	651	1,460	1,533
Same day surgery	179	401	426

(See section II, item H, which outlines the types of services/care provided within each inpatient area.)

II. Per Outpatient Visit:			
A. Medical treatment facilities	$47	[2] $95	$101
B. PRIMUS/NAVCARE	N/A	N/A	[3] 61

I.—Inpatient and Outpatient Rates—Continued

[Notes to appear at end of document]

Per inpatient day	International military education and training (IMET)	Interagency other federal agency sponsored patients	Other
III. Other Rates and Charges:.			
A. Hyperbaric Services:			
1–60 minutes	$83	$167	$177
61–120 minutes	161	325	345
121–180 minutes	239	482	512
181–240 minutes	317	639	679
(NOTE: Charges may be prorated based on usage)			
B. Military Dependents	.....	9.30	.....
C. Per FAA Air Traffic Controller Examination	N/A	96	N/A

D. High Cost Medications Requested by External Providers[3]

[Notes to appear at end of document]

Generic (trade) name	Strength	Total dispensed quantity[4]	Standard cost
Acyclovir (Zovirax)	800mg	100	$286
Acyclovir oint	15g	6 Tubes	161
Aminoglutethamide (Cytadren)	250mg	360	376
Amiodarone (Cardarone)	200mg	180	218
Amlodipine (Norvasc)	2.5mg	270	248
Amlodipine (Norvasc)	5mg	270	252
Astemizole (Hismanal)	50mg	90	109
Auranofin (Ridaura)	3mg	180	153
Betoxolol (Betoptic)	.25%	3 bottles	114
Bromocriptine	2.5mg	270	454
Buspirone (Buspar)	5mg	270	121
Buspirone (Buspar)	10mg	270	208
Calcitonin (Calcimar)	200 IU	8 vials	179
Captopril (Capoten)	25mg	270	134
Captopril (Capoten)	50mg	270	221
Captopril (Capoten)	100mg	270	333
Carbenicillin	382mg	40	103
Caridopa/Levodopa CR (Sinemet CR)	.....	270	291
Caridopa/Levodopa (Sinemet 25/100)	25/100	360	184
Caridopa/Levodopa (Sinemet 25/250)	25/250	360	235
Chemstrip BG II	.....	360	271
Cholestyramine powder	.....	6 cans	151
Cholestyramine powder light	.....	6 cans	129
Cimetidine	400mg	180	146
Cimetidine	300mg	360	164
Cimetidine syrup	.....	3 bottles	150
Clemastine (Tavist)	2.68mg	270	183
Clomipramine (Anafranil)	50mg	360	292
Clomipramine (Anafranil)	25mg	360	210
Colestipol	5mg packets	360 pkt	274
Cromolyn inhaler	.....	4 bottles	183
Cromolyn soln (nebulizer)	.....	360 amp	204
Cyclophosphamide	25mg	360	360
Cyclophosphamide	50mg	360	681
Cyclosporine	100mg	60	257
Cyclosporine	100mg/ml sol	3 bottles	639
Danazol (Danocrine)	200mg	180	320
Demeclocycline	150mg	60	145
Desmopressin nasal soln (DDAVP)	.....	20 ml	367
Desmopressin nasal spray	.....	20 ml	328
Diclofenac (Voltaren)	75mg	180	150
Diclofenac (Voltaren)	50mg	270	187
Didanosine	150mg	180	357
Didanosine (Videx)	25mg	360	124
Didanosine (Videx)	100mg	360	475
Diflucan	100mg	30	182
Diflucan	200mg	30	298
Diflunisal (Dolobid)	500mg	180	173
Diltiazem 60mg (Cardizem)	60mg	270	130
Diltiazem CD (Cardizem CD)	240mg	90	135
Diltiazem CD (Cardizem CD)	300mg	90	174

D. High Cost Medications Requested by External Providers [3]—Continued

[Notes to appear at end of document]

Generic (trade) name	Strength	Total dispensed quantity [4]	Standard cost
Diltiazem SR	120mg	180	144
Dilttiazem SR	60mg	180	111
Diltiazem (Cardizem)	120mg	360	315
Divalproax (Depakote)	250mg	360	146
Elase ointment		6 tubes	157
Enalapril	5mg	180	127
Enalapril	20mg	180	190
Enalapril	10mg	180	134
Epoetin Alfa 2000		24	478
Epoetin Alfa 3000		24	727
Epoetin Alfa 4000		24	979
Estramustine (Emcyt)	150mg	150	361
Ethambutol	400mg	180	177
Ethosuximide	250mg	360	167
Etidronate Disodium	400mg	90	164
Etidronate Disodium (Didronel)	200mg	270	492
Etoposide (VePesid)	50mg	25	619
Exactech		90 days	450
Famotidine (Pepcid)	20mg	180	152
Fentanyl patch	100mcg	10	245
Fentanyl patch	75mcg	10	203
Fluconazole (Diflucan)	200mg	30	298
Fluconazole (Diflucan)	100mg	30	182
Fluconazole (Diflucan)	50mg	30	116
Fluoxetine (Prozac)	20mg	60	102
Flurbiprofen (Ansaid)	100mg	90	150
Flutamide (Eulexin)	125mg	540	597
Gemfibrozil (Lopid)	600mg	180	160
Glipizide	10mg	180	177
Hemofil M		30 days	6,816
Hydroxychloroquine	200mg	180	178
Hydroxyurea (Hydrea)	500mg	270	308
Interferon (Intron A)	3mu	12	287
Isotretinoin (Accutane)	10mg	60	133
Isotretinoin (Accutane)	20mg	60	158
Isotretinoin (Accutane)	40mg	60	182
Itraconazole (Sporonox)	10mg	30	127
Leucovorin	5mg	100	166
Leuprolide (Lupron)	7.5mg	1	387
Leuprolide (Lupron)	3.75mg	1	278
Lisinopril	10mg	180	112
Lisinopril (Prinivil)	5mg	180	112
Lomustine	40mg	20	182
Lomustine	100mg	20	400
Lovastatin (Mevacor)	20mg	180	265
Lovastatin (Mevacor)	40mg	180	492
Loxapine (Loxitane)	50mg	180	138
Lypressin spray (Diapid)		4 bottles	116
Megestrol (Megace)	20mg	360	120
Megestrol (Megace)	40mg	360	228
Melphalan (Alkeran)	2mg	350	410
Mesalamine enema (Rowasa)	500mg	90	158
Metaproterenol neb soln	0.6%	100	105
Methazolamide	50mg	270	166
Methotrexate	2.5mg	180	170
Methysergide Maleate	2mg	180	182
Mexiletine (Mexitil)	200mg	270	156
Mexiletine (Mexitil)	250mg	270	185
Mexiletine (Mexitil)	150mg	270	131
Misoprostol	200mcg	360	197
Naproxen	500mg	180	176
Naproxen	375mg	270	216
Naproxen	250mg	270	168
Nicotine Transdermal System	21mg	30	100
Nifedipine	60mg XL	90	151
Nifedipine	90mg XL	90	181
Nortriptyline HCL	25mg	90	107
Olsalazine (Dipentim)	250mg	360	149
Omperazole (Prilosec)	20mg	90	268
One Touch Test Strips		360	171

D. High Cost Medications Requested by External Providers [3]—Continued

[Notes to appear at end of document]

Generic (trade) name	Strength	Total dispensed quantity [4]	Standard cost
Pancrelipase MT16		540	313
Pancrelipase (Pancrease)		540	119
Penicillamine	250mg	360	260
Perphenazine	2mg	360	111
Pravastin Sodium (Pravachol)	10mg	90	125
Pravastin Sodium (Pravachol)	20mg	90	132
Probucol (Lorelco)	250mg	360	184
Procarbazine (Matulane)	50mg	360	204
Procyclidine (Kemadrin)	5mg	360	113
Pyrazinamide	500mg	360	430
Ranitidine	150mg	180	152
Rifampin with INH		180	493
Selegeline (Eldepryl)	5mg	180	416
Somatrem (Protropin)	5mg	4	770
Somatropin (Humatrope)		6 Vials	1,126
Sucalfate (Carafate)	1GM	360	183
Sulindac	150mg	360	112
Sulindac	200mg	360*	139
Tamoxifen (Nolvadex)	10mg	180	207
Terfenadine (Seldane)		180	124
Ticlopidine (Ticlid)	250mg	180	219
Tocainide (Tonocard)	400mg	270	181
Tocainide (Tonocard)	600mg	270	231
Tracer BG Strips		360	252
Ursidiol (Actigall)	300mg	90	145
Verapamil SR 240 (Calan SR)		180	100
Zalcitabine (Hivid)	.75mg	270	542
Zidovudine (Retrovir)	100mg	450	598

E. High Cost Services Requested by External Providers [3]

[Notes to appear at end of document]

Service provided	Cost of service
X-Ray Ribs (all), per side	$114
X-Ray Hips, Bilateral	116
Upper Gastrointestinal (G.I.) study with contrast	146
Hysterosalpingogram	128
Mammogram, Bilateral or with localization	131
Ultrasound, per study	117
Ultrasound—complete abdomen,or with biopsy	203
Computerized Axial Tomography (CAT) scan head/brain without contrast	198
Computerized Axial Tomography (CAT) scan head/brain with contrast	223
Computerized Axial Tomography (CAT) scan head/brain with and without contrast, or post fossa and IAM/IACS	315
Computerized Axial Tomography (CAT) scan chest	348
Computerized Axial Tomography (CAT) scan abdomen, per study	172
Computerized Axial Tomography (CAT) scan extremity without contrast	201
Computerized Axial Tomography (CAT) scan extremity with contrast	232
Computerized Axial Tomography (CAT) scan extremity with and without contrast	306
Magnetic Resonance Imaging (MRI) without contrast	287
Magnetic Resonance Imaging (MRI) with contrast brain	495
Magnetic Resonance Imaging (MRI) spine (all) chest and abdomen without contrast	235
Magnetic Resonance Imaging (MRI) spine (all) with contrast	523
Magnetic Resonance Imaging (MRI) extremities without contrast	370
Magnetic Resonance Imaging (MRI) extremities with and without contrast	287

F. Elective Cosmetic Surgery Procedures and Rates

[Notes to appear at end of document]

Cosmetic surgery procedure	International classification diseases (ICD–9)	Common procedure terminology (CPT) [5]	Fiscal year 1994 charge [6]	Full reimbursement
Mammaplasty	85.50	19325	Surgical care services	$1,082
	85.32	19324	or	
	85.31	19318	Same day surgery	426
Mastopexy	85.60	19316	Surgical care services	1,082

F. Elective Cosmetic Surgery Procedures and Rates—Continued

[Notes to appear at end of document]

Cosmetic surgery procedure	International classification diseases (ICD–9)	Common procedure terminology (CPT)[5]	Fiscal year 1994 charge[6]	Full reimbursement
			or	
			Same day surgery	426
Facial rhytidectomy	86.82	15824	Surgical care services	1,082
	86.22		or	
			Same day surgery	426
Blepharoplasty	08.70	15820	Surgical care services	1,082
	08.44	15821	or	
		15822	Same day surgery	426
		15823		
Mentoplasty (augumentation reduction)	76.68	21208	Surgical care services	1,082
	76.67	21209	or	
			Same day surgery	426
Abdominoplasty	86.83	15831	Surgical care services	1,082
			or	
			Same day surgery	426
Lipectomy, suction per region[7]	86.83	15876	Surgical care services	1,082
		15877	or	
		15878	Same day surgery	426
		15879		
Rhinoplasty	21.87	30400	Surgical care services	1,082
	21.86	30410	or	
			same day surgery	426
Scar revisions beyong CHAMPUS	86.84	1578	Surgical care services	1082
			or	
			Same day surgery	426
Mandibular or maxillary repositioning	76.41	21194	Surgical care services	1082
			or	
			Same day surgery	426
Minor skin lesions[6]	86.30	1578	Surgical care services	1082
			or	
			Same day surgery	426
Dermabrasion	86.25	15780	Surgical care services	1082
			or	
			Same day surgery	426
Hair restoration	86.64	15775	Surgical care services	1082
			or	
			Same day surgery	426
Removing tatoos	86.25	15780	Surgical care services	1082
			or	
			Same day surgery	426
Chemical peel	86.24	15790	Surgical care services	1082
			or	
			Same day surgery	426
Arm/thigh dermolipectomy	86.83	1583—	Surgical care services	1082
			or	
			Same day surgery	426
Brow lift	86.3	15839	Surgical care services	1082
			or	
			Same day surgery	426

G. Immunizations—$18

H. Clinical Services By Type of Service/Care Provided

Inpatient rate	Items included
Medical Care Services	Internal Medicine, Cardiology, Dermathology, Endocrinology, Gastroenterology, Hematology, Nephrology, Neurology, Oncology, Pulmonary and Upper Respiratory Disease, Rheumatology, Physical Medicine, Clinical Immunology, HIV–III Acquired Immune Deficiency Syndrome (AIDS), Infectious Disease, Allergy, and Medical Care not elsewhere classified. Includes Family Practice Medical Care.
Surgical Care Services	General Surgery, Cardiovascular and Thoracic Surgery, Neurosurgery, Ophthalmology, Oral Surgery, Otorhinolaryngology, Pediatric Surgery, Plastic Surgery, Proctology, Urology, Peripheral Vascular Surgery, Trauma Center, Head and Neck Surgery, and Surgical Care not elsewhere classified. Includes Family Practice Surgical Care.
Obstetrical and Gynecological Care.	Includes Family Practice, Obstetrics and Gynecology.

H. CLINICAL SERVICES BY TYPE OF SERVICE/CARE PROVIDED—Continued

Inpatient rate	Items included
Pediatric Care	Pediatrics, Nursery, Adolescent Pediatrics and Pediatric Care not elsewhere classified. Includes Family Practice Pediatric and Nursery Care.
Orthopedic Care	Orthopedics, Podiatry and Hand Surgery. Includes Family Practice Orthopedic Care.
Psychiatric Care and Substance Abuse Rehabilitation.	Includes Family Practice Psychiatric Care.
Medical Intensive Care/Coronary Care.	Self-Explanatory.
Surgical Intensive Care	Self-Explanatory.
Neonatal Intensive	Self-Explanatory.
Organ and Bone Marrow Transplants.	Self-Explanatory.
Same Day Surgery	Self-Explanatory.

Notes on Reimbursable Rates

[1] Daily percentages are applied to both inpatient and outpatient services provided when billing third party payers (such as insurance companies). Pursuant to the provisions of 10 U.S.C. 1095, the inpatient daily percentages are 55 percent hospital, 5 percent physician, 40 percent ancillary. The outpatient daily percentages are 57 percent hospital, 10 percent physicians and 33 percent ancillary.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

[3] Charges for PRIMUS/NAVCARE and high cost medications/services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for high cost services in those instances in which non-active duty eligible beneficiaries have medical insurance and are seen by providers external to a Military Medical Treatment Facility (MTF) and obtain the prescribed service or medication from an MTF. Eligible beneficiaries are not personally liable for this cost and shall not be billed by the MTF. The standard cost of high cost medications includes the cost of the drugs and dispensing services.

[4] All quantities shown are tablets unless otherwise stated. The third party charge is only for the strengths and the dosage cited. Charges will vary if the strengths and dosage are changed. The method of computing standards costs to be charged for high cost medications is actual cost to the pharmacy, plus a 30 percent dispensing fee. Only medications listed in this schedule may be billed. If a different dose is issued for a medication that is listed, only bill if the cost is $100 or more.

[5] The attending physician is to complete the common procedure terminology code to indicate the appropriate procedure followed during cosmetic surgery.

[6] Cosmetic surgery rates will be charged for dependents of active duty members, retirees, and their dependents and survivors. The patient shall be charged the rate as specified in the FY 1994 reimbursable rates for an episode of care. The charges for elective cosmetic surgery are at the full reimbursement rate (designated as the Other rate—in Section I, "Inpatient and Outpatient Rates" and Section II, "Per Outpatient Visit"). The patient will be responsible for both the cost of the implant(s) and prescribed rates.

Note: The implants and procedures used for the augmentation mammoplasty are in compliance with Federal Drug Administration guidelines.

[7] Each regional lipectomy will carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[8] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges are for the entire treatment regardless of the number of visits required.

Dated: April 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–8728 Filed 4–11–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 27 April 1994.

Time of Meeting: 1200–1500 (classified).

Place: Pentagon, Washington, DC.

Agenda: The Threat Team III of the Army Science Board's 1994 Summer Study on "Capabilities Needed to Counter Current and Evolving Threat" will meet to receive an Analytical Efforts Status Report. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The unclassified and classified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–8708 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Availability of DoD 5025.1–I, "DoD Directives System Annual Index"

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: This document is to inform the public and Government Agencies of the availability of DoD 5025.1–I "DoD Directives System Annual Index," dated January 1994. It is available, to authorized users only, from the Defense Technical Information Center (DTIC), Building 5, Cameron Station, Alexandria, VA 22304–6145, telephone (703) 274–7633. The DTIC accession number for the Index is ADA–277087. It is also available, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650. The NTIS accession number for the Index is PB94–959512.

FOR FURTHER INFORMATION CONTACT:

Ms. P. Toppings, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, telephone (703) 697–4111.

Dated: April 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–8727 Filed 4–11–94 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Supplemental Record of Decision (ROD) for the Disposal and Reuse of Norton Air Force Base (AFB), CA

On March 30, 1994, the Air Force signed the Supplemental ROD for the Disposal and Reuse of Norton AFB. The decisions included in this Supplemental ROD have been made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) filed with the Environmental Protection Agency on June 4, 1993.

Norton AFB will close on March 31, 1994, pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (BCRA) (Pub. L. 100–526) and recommendations of the Defense Secretary's Commission on Base Realignment and Closure. This Supplemental ROD documents certain disposal decisions which this office previously deferred, and modifies certain previous decisions made in the December 15, 1993, Partial ROD supplemented on January 14, 1994. The decisions in this document, coupled with those in the previous ROD, complete the disposal decisions for Norton AFB.

The decision conveyed by the Partial ROD was to dispose of Norton AFB in a manner that enabled the development of a regional airport with the capacity for commercial and industrial development. This allowed for the central theme of the proposed future land use plans discussed in the FEIS to be fully implemented. The environmental findings and mitigation measures contained in the initial ROD remain fully applicable.

Approximately 109 acres within three (3) noncontiguous parcels are retained within the Department of Defense for continued military use. This Supplemental ROD contains minor boundary realignments of some parcels previously addressed. Two (2) parcels comprising approximately 24.9 acres were declared access and are reserved for transfer to the U.S. Department of Agriculture Forest Service. In total, approximately 1,942 acres are surplus to the needs of he Federal Government. The base has been divided into twenty-four (24) parcels of land, roadways and utilities. Five (5) airfield parcels were previously conveyed for public benefit (airport purposes), and three (3) parcels were previously made available for negotiated sale to eligible public bodies or public sale. Two (2) parcels will be assigned to the Secretary of the Interior for further disposal as a public benefit conveyance for recreation purposes, two (2) parcels will be assigned to the Department of Education for further disposal as a public benefit conveyance for health purposes, and two (2) parcels will be assigned to the Department of Health and Human Services (HHS) for further disposal as a public benefit conveyance for homeless assistance. Eight (8) parcels will be conveyed by negotiated sale. The road network is an integral part of all parcels. Primary roads may be conveyed by negotiated sale to an eligible public body. Secondary roadways that fall within a parcel completely will be included as part of the parcel. The utility systems are totally integrated systems, prohibiting their separation among the various parcels. Therefore, disposal of the utility systems will include conditions under which the recipients must provide service to all parcels. Utility easements will be granted as appropriate. The gas and electric systems with appropriate easements for maintenance and repair will be conveyed through negotiated sale to utility purveyors, or eligible public bodies. Water and wastewater are required to support redevelopment efforts and are contingent on the recipient continuing to provide the necessary service to all parcels. Water and wastewater systems will be assigned to HHS contingent upon formal request for conveyance for use in the protection of public health.

The implementation of the closure and reuse action and associated mitigation measures will proceed with minimal adverse impact to the environment. This action conforms with applicable Federal, State and local statutes and regulations, and all reasonable and practical efforts have been incorporated to minimize harm to the local public and environment.

Any questions regarding this matter should be directed to Mr. John E.B. Smith or Ms. De Carlo Ciccel at (703) 696–5534. Correspondence should be sent to: AFBCA/SP, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2809.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 94–8616 Filed 4–11–94; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

AMCCOM Acquisition Information System (AAIS)

AGENCY: U.S. Army Armament, Munitions and Chemical Command, DOD.

ACTION: Notice.

SUMMARY: The AAIS is a locally designed system to provide acquisition information on a fair and equal basis and within the context of procurement integrity. Access to the system may be accomplished through a modem with speeds up to 9600 baud to phone number (309) 782–7648, which will establish a connection to 1 of 12 access lines. Depress the "enter" key until the "Login:" prompt appears on the screen, enter "aais". At the "Password" prompt, depress the "enter" key and the main menu will appear. Simply follow the menu instructions for access to the information desired. In addition, four direct terminals have been placed in the reception area located on the 2nd floor, southeast corner of building 350 at the Rock Island Arsenal.

The system is available 24 hours a day, seven days a week. Occasionally, there might be some down time for system maintenance.

While the information in the system is the most accurate available at this time, updates will be performed without prior notice. Please note that the use of this system is at the customer's own risk and is for informational purposes only.

EFFECTIVE DATE: April 12, 1994.

ADDRESSES: Commander, HQ, AMCCOM, ATTN: AMSMC–ABS–P, Rock Island, IL 61299–6000.

FOR FURTHER INFORMATION CONTACT: Ms. Darcie Dellitt, (309) 782–6194/6198 or DSN 793–6194/6198.

SUPPLEMENTARY INFORMATION: Suggested software settings for modems are:

Parity: None
Data bits: 8
Stop bits: 1
Terminal emulation: VT100
Duplex: Full

The seven menu options on the system are:

The option to download the following information from the AAIS is available for all selections.

1. Advanced Planning Briefings for Industry (APBI): APBI provides 5-year projected requirements for AMCCOM ammunition, weapons, and chemical items, as well as 1-year projected requirements for AMCCOM spare parts. In addition, the system contains a listing of upcoming conferences which industry may attend, and various publications which are available for information purposes.

2. Performance Incentive Contracting (PIC): PIC is designed to obtain the best purchase value for the Government after considering price and contractor performance history. The Government recognizes that even among responsible

contractors there are different degrees of performance risk. The Government, under this program, is willing to pay higher prices to lower risk contractors to obtain on-time delivery of quality products. The PIC program works under the premise that award to a contractor with a good delivery and quality record for the Federal Stock Class (FSC) in question will improve the chances of the Government receiving a quality product on time. Under the PIC program, an award may be made to other than the low-price offeror. The on-line system provides the policy, definitions, applicability, procedures, and clauses/provisions.

3. Procurement History: The history provided is pertinent to HQ, AMCCOM (R) procurement only. The contractor is prompted to enter the NIIN (last nine positions of the NSN). If record is found, the latest unit price, award date and contractor is provided. A former restriction on the number of history requests that the Central Processing Point allowed per day has been eliminated for those contractors who utilize this system.

4. Solicitation Information: The program provides daily information on solicitations issued from HQ, AMCCOM. The data displayed is the same type of information currently provided in the lobby area of HQ, AMCCOM. Daily synopses that are published in the Commerce Business Daily (CBD) are available to view or search on a particular keyboard. Cancelled and not issued status is provided by entering a solicitation number. A hard copy of the solicitation and the technical data package (TDP) can be requested electronically. Requests are accepted whether you have a Federal Supply Code for Manufacturers (FSCM) code or not. Viewing the contents of solicitations issued by HQ, AMCCOM can be performed on-line or downloaded to a personal computer (PC) for further review.

5. Industrial Committee of Ammunition Procedures (ICAP): The program provides the minutes from recent ICAP meetings. These minutes are provided in order to make industry more aware of information being discussed by the committee. The program also contains a forecast of agenda topics and the current roster of the ICAP members identified by the segment of industry each member represents. The minutes are prepared by industry and are included in the system through the office of the AMCCOM Command Ombudsman.

6. Excess Production Equipment: Provides information on Government-owned excess production equipment. Three menu selections provide: (1) Location and amount of excess production equipment; (2) details on sales of production equipment; (3) listing of production equipment that is identified for excess/redistribution. This allows the user to search by manufacturer name or key word in the description.

7. Contractor Performance Certification Program (CP) 2: Provides answers to commonly asked questions concerning the program and provides a list of who is certified.

8. Demilitarization Inventory: Data concerning the Army's Demilitarization Inventory (also known as the B5A and the RRDA (Resource Recovery Disposition Account). This data is intended to provide up-to-date and accurate data for use in demil workload planning by AMCCOM contractors and installation workload personnel. The Benchmark Prices database is also available. The data base listing provides the average cost for a particular nomenclature at a specific location.

9. SMCA Industrial Base Task Force Minutes: Provides the open public release of information from meetings between the Single Manager for Conventional Ammunition Industrial Base Task Force and the private Munitions Industrial Base Task Force.

10. Armament Retooling and Manufacturing Support (ARMS) Initiative: Information letters and Public/Private Task Force (PPTF) Meeting notes for the ARMS Act of 1992. Detailed information is also provided on the ARMS Act.

11. Let us Know & General Information: Instructions for access to the AAIS, synopsis of the system, questionnaire, and points of contact.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–8757 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (DSEIS) for the Red River Chloride Control Project, Texas and Oklahoma

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

ACTION: Notice of intent.

SUMMARY: The purpose of the DSEIS is to address changes in "without project" conditions since filing of the final Environmental Impact Statement on 27 May 1977.

ADDRESSES: Tulsa District Corps of Engineers, P.O. Box 61, Tulsa, Oklahoma 74121–0061.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Mace, Chief, Environmental Analysis and Support Branch, (918) 669–7188.

SUPPLEMENTARY INFORMATION: The overall project was authorized for water quality control by the Flood Control Act of 1966, Public Law 89–789; as modified by the Flood Control Act approved 31 December 1970, Public Law 91–611; and as amended by the Water Resources Development Acts of 1974 and 1976. A final environmental impact statement for the project dated July 1976 was filed and published in the **Federal Register** on 27 May 1977. Facilities already constructed include a ring dike at Estelline Springs (Area V), the Bateman low-flow collection dam on the South Fork of the Wichita River (Area VIII) and Truscott Brine Lake which is located on Bluff Creek, a tributary of the North Fork of the Wichita River near Truscott, Texas. The Lowrance (Area X) low-flow collection facility, which will pump into Truscott, is currently under construction.

Funds have been appropriated to begin completion of design and construction of the remaining authorized facilities at Areas VI, VII, IX, Crowell Brine Lake, XIII, and XIV, Oklahoma and Texas. Significant issues to be addressed in the DSEIS include changes in the pool size of the Crowell Brine Lake, changes in methods of collection and disposal (Deep Well Injection) at Areas XIII and XIV, and possible changes in location and types of collection facilities and disposal at Area VI.

Reasonable Alternatives to be Considered Include: No action, deep well injection, and relocation of the Area VI Brine Storage Lake.

Significant Issues to be Addressed in the DSEIS Include: The potential impact of decreased chloride concentrations in the Red River Basin on primary production and sport fish abundance in Lake Texoma, impacts on Federally listed threatened and/or endangered species, changes in land use at the Area VI disposal site, and any changes in fish and wildlife mitigation requirements resulting from the noted changes.

A scoping meeting is not planned, however, a news release informing the public and local, state, and Federal agencies of the proposed action will be published in local newspapers. Comments received as a result of this notice and the news release will be used to assist the Tulsa District in identifying potential impacts to the quality of the

human or natural environments. Affected Federal, state, or local agencies, affected Indian tribes, and other interested private organizations and parties may participate in the scoping process by forwarding written comments to the above noted address.

The DSEIS is expected to be available for public review and comment by June 1994. Any comments and suggestions should be forwarded to the above noted address no later than 1 May 1994 to be considered in the DSEIS.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–8758 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–39–M

Final Procedures Implementing Changes/Revision to the Total Quality Assurance Program (TQAP), DOD 4500.34R, Personal Property Traffic Management Regulation (PPTMR)

AGENCY: Military Traffic Management Command, DOD.

ACTION: Final notice.

SUMMARY: The following are final revisions pertaining to procedures in the TQAP, PPTMR, and the CONUS Automated Rates System (CARTS) pamphlet. The program objectives are to reduce the administrative workload for both the PPSOs and the carriers, and provide a better quality assurance program for the movement of personal property within the Department of Defense. TQAP wording has not been officially incorporated into the update of the PPTMR.

EFFECTIVE DATES: 16 July 1994 for the International Program, and 16 August 1994 for the Domestic Program.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTOP–QEC, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Ms. Betty Wells at (703) 756–1585, HQMTMC, ATTN: MTOP–QEC, 5611 Columbia Pike, Falls Church, VA 22041–5050.

SUPPLEMENTARY INFORMATION: For reasons set forth in the summary and under the authority of DOD Directives 5126.9 and 4500.34 this revision will supersede in part the current procedures published in DOD 4500.34–R, Chapter 2, Personal Property Traffic Management Regulation; the TQAP pamphlet, dated February 1992; and the CONUS Automated Rates System pamphlet, dated 1 May 1991. The proposed revisions were initially published for comments in the **Federal Register**, Volume 58, Number 196, Wednesday, October 13, 1993, and Volume 58, Number 174, Friday, September 10, 1993. Comments were received in writing and telephonically during the review of the program, September 1993 through January 1994. There were 12 individual letter responses to the September 1993 **Federal Register**. This includes letters from carrier associations and bureaus. Sixteen letter responses were received with respect to the October 13th **Federal Register** item. This also included letters from carrier association/bureau. Some changes were made to the proposed revisions based on the comments received. The significant changes contained in the revision are as follows and will apply in lieu of cited TQAP pamphlet, DOD 4500.34R, and CARTS paragraphs:

A. Carriers will provide a copy of the DD Form 1840, Joint Statement of Loss or Damage at Delivery, to the origin PPSO within 75 calendar days of delivery of the shipment. The PPSO will sign and return by mail a receipt if a self addressed stamped card or letter of transmittal is included by the carrier. (Reference TQAP, page 24, paragraph C.4.c.(8) and DOD 4500.34R, page A–23, para 52.e.)

Comments: The majority of freight forwarders oppose this change, while the van line carriers prefer to send the form to origin or have no preference. Most of the carriers commented that they believe the service member should be responsible for returning the form to a PPSO. The DOD strongly believes it is necessary to cut out the middle-man in the processing of the DD Form 1840. This will lighten the administrative burden on the PPSOs and the carrier industry as well. In addition to cutting out the middle man, the time for returning the form has been expanded to accommodate overseas mail. Other paperwork must be returned to the carrier to show proof of delivery or to ensure payment to the carrier.

B. All shipments will be scored within 12 months of pickup date. If no destination information is known, the origin PPSO will contact the destination PPSO to confirm the status of the shipment and request feedback on carrier performance at time of delivery. This will also ensure that if the shipment is still in SIT points will not be taken away from the carrier for not providing a DD Form 1840. Unless there is evidence in the file to show otherwise, these types of shipments will usually score at 100. In addition, shipments noted as still in SIT 12 months after pickup will be flagged to prevent them from being scored again in future cycles. (Reference TQAP, page 21, paragraphs C.3.e. and f.)

Comments: Carriers against the proposal suggested the origin PPSO not make any contact with the destination PPSO for status on shipments. They would like an automatic score of 100. Again, the DOD believes communication between the origin and destination PPSO is vital to ensure shipments are scored properly..

C. If the carrier discovers a shipment the PPSO failed to score 12 months after pickup, the carrier must identify the shipment during the appeal cycle of the DD Form 2497. The shipment will then be scored within 45 days and batch mailed according to TQAP procedures. This will allow the carrier an opportunity to appeal if necessary. The score will reflect on the carrier's next semiannual score. (Reference TQAP, page 21, paragraph C.3.g. and page 26, paragraph C.6.e.)

Comments: Comments received on this proposal noted the time period allowed to identify these shipments (during the appeal cycle of the semiannual evaluation) was one of the busiest times for carriers. It was suggested carriers by allowed to identify these shipments any time up until the next semiannual performance evaluation and possibly up to 12 months longer. It was also suggested the score should apply to the most recent semiannual score. The DOD believes few shipments will fall into this category, as carriers have the option of requesting a score 120 days after delivery. The carrier must have an opportunity to appeal. Consideration was given to allowing only the 100 scores apply to the present cycle as it is unlikely those scores will have an appeal. However, there may be circumstances where it may benefit the carrier for the newly scored shipment to go into the next performance cycle. In the interest of fairness to all, each shipment will retain the right to appeal, and the score applied to the next performance cycle.

D. A PPSO has up to 12 months from pickup to score shipments. However, a carrier may request a shipment score 120 days after delivery when proof of delivery is provided. A completed DD Form 1840/1840R will be the only acceptable proof of delivery. Origin PPSOs will not be limited to using only origin data for scoring, but must ensure they have received feedback from destination. (Reference TQAP, pages 20–21, paragraphs C.3.c. through f.)

Comment: Those submitting negative comments on this issue suggested there was not need for the origin PPSO to contact the destination PPSO. The DOD

believes it is necessary for PPSOs to communicate shipment information prior to scoring to ensure each carrier is given the score it earned.

E. Unless a shipment is still in SIT, shipments may be scored under 12 months of the pickup date (see note (3) below) if all of the following criteria exists:

(1) A completed DD Form 1780 (may be electronic data) or destination feedback from the destination PPSO.

(2) The DD Form 1840 is present and signed by the member and the carrier representative.

(3) Shipments that have been converted to nontemporary storage (NTS) or commercial storage will not require a DD Form 1840 for scoring. The destination PPSO should annotate the DD Form 1780 at the time the shipment is converted and return the form to origin. (Reference TQAP, page 24, paragraph C.5.b.)

Comments: Comments against the proposal stated if shipments have not been scored within a year, the origin PPSO should not contact the destination PPSO to get the status of the shipment and the carrier should receive a score of 100. The DOD is making every attempt to ensure shipments are properly scored. By making it necessary for the origin and destination PPSOs to communicate there is less chance for an error when scoring a shipment. The DOD has no intention of giving scores of 100 that may not have been earned. This would not be fair to those carriers who do earn them.

F. Carriers will not be required to respond to letters of warning, unless the PPSO specifically requests a written response. However, if the violations continue the carrier is subject to suspension. (Reference TQAP, pages 6–7, paragraph B.3.)

Comments: Comments indicated the PPSOs should ensure carriers are sending the letters of warning by certified mail. TQAP already requires DD Forms 1814, Letters of Warning, be sent certified mail, return receipt requested.

G. Facsimiles will be permitted to meet the deadline for submitting the DD Form 1840. (Reference TQAP, page 24, paragraph C.4.c.(8))

Comments: Carriers were pleased the requirement for a hard copy to follow facsimiles was cancelled as announced at the September 1993, Military Symposium.

H. On long delivery out of SIT shipments, the carrier will return the completed DD Form 619 to the PPSO that authorized the services. (Reference TQAP, page 33, paragraph C.10.d.)

Comments: No significant comments. This change will ensure services authorized are confirmed by the proper authority.

I. When a carrier is suspended for a volume move, it is suspended for the same type service (e.g., All domestic HHGs), for all shipments out of that activity. The CONUS Automated Rate System (CARTS) pamphlet will be changed. (Reference CARTS Instruction Pamphlet, Page 28, paragraph 6008.c.)

Comments: No significant comments. This is to bring the CARTS pamphlet in line with the TQAP.

J. Shipments turned back by the carrier, or pulled back by the PPSO due to the carrier's inability to perform, will be uniformly scored at 40 points. This includes shipments that have been packed and/or picked up by the local agent. The carrier will continue to be charged administrative weight on the TDR if the shipment is turned back or pulled back seven days or less before the established pickup date or any time after the shipment has been packed and/or picked up. (Reference TQAP page 32, paragraph C.9.)

Comments: No significant comments. In the interest of uniformity and to alleviate confusion in scoring pull back/turn back shipments, it is believed all such shipments should be scored the same. Shipments pulled back/turned back within 7 days of pickup, must be retendered and often reinventoried, causing more delay in the movement at origin. Therefore, all these kinds of shipments will be scored the same.

K. Previous proposal to no longer require a 20-day grace period prior to a regular suspension is being withdrawn at this time for further review within the DOD.

L. Previous proposal allowing destination PPSOs to take action against a carrier, that has a Letter of Intent on file at the destination installation for outbound service, for inbound/destination performance failures, has been withdrawn by the DOD.

MTMC considered all comments carefully and has decided to implement changes to the quality assurance program as described above. The DOD considers the changes necessary to ensure quality assurance standards are applied through better communication and streamlined procedures.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–8756 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 3 and 4 May 1994.

Time of Meeting: 0800–1700.

Place: Ft. Sill, OK (3 May 94); Ft. Hood, TX (4 May 94).

Agenda: The Army Science Board's Analysis, Test and Evaluation Issue Group will meet to discuss the future roles and missions of the Operational Test and Evaluation Command. At Ft. Sill they will look into the OPTEC role in evaluation to support the Battle Lab effort. At Ft. Hood the Issue Group will be briefed on the instrumentation status, involvement with DIS, and support of Battle Lab requirements. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–8720 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 3 May 1994.

Time of Meeting: 0830–1100 (classified).

Place: McLean, VA.

Agenda: The Threat Team of the Army Science Board's 1994 Summer Study on "Capabilities Needed to Counter Current and Evolving Threat" will meet to receive an Intelligence Support Status Report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The unclassified and classified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–8721 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 4 May 1994.

Time of Meeting: 1200–1500 (classified).

Place: Pentagon, Washington, DC.

Agenda: The Threat Team III of the Army Science Board's 1994 Summer Study on "Capabilities Needed to Counter Current and Evolving Threat" will meet to receive an Analytical Efforts Status Report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The unclassified and classified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–8722 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 12 May 1994.

Time of Meeting: 1200–1500 (classified).

Place: Pentagon, Washington, DC.

Agenda: The Threat Team III of the Army Science Board's 1994 Summer Study on "Capabilities Needed to Counter Current and Evolving Threat" will meet to receive an Analytical Efforts Status Report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The unclassified and classified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 94–8723 Filed 4–11–94; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for Disposal and Reuse of the Naval Base Charleston, SC

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of disposal and reuse of the Naval Base Charleston, South Carolina. This action is being conducted in accordance with the Defense Base Realignment and Closure Act of 1990 (Pub. L. 101–510).

Closure of Naval Base Charleston was recommended by the 1993 Defense Base Realignment and Closure Commission to eliminate excess naval base berthing capacity while maintaining the overall military value of the remaining bases. The proposed action to be evaluated in the EIS involves the disposal of land, buildings, and infrastructure of Naval Base Charleston for subsequent reuse.

The Navy intends to analyze the environmental effects of the disposal of Naval Base Charleston based on the reasonably foreseeable reuse of the property, taking into account uses to be identified by the reuse committee—Building Economic Solutions Together (BEST). In coordination with the BEST Committee's reuse plan, other federal agencies may offer uses for the property. The EIS will evaluate alternative reuse concepts of the property, including the "no action" alternative, which would be retention of the property by the Navy in caretaker status. However, due to provisions found in the Base Realignment and Closure Act, selection of the "no action" alternative would be considered impractical for the Navy to implement.

The EIS will evaluate the impacts of reuse of Naval Base Charleston on the natural environment such as wetlands and wildlife habitat and on the socioeconomic environment which includes potential impacts to the regional economy, housing market, public schools, and tax base. The Navy will conduct a cultural resource survey to determine whether any sensitive archaeological resources exist within the property. Additionally, the Navy is conducting an Environmental Baseline Survey to determine if any areas of environmental contamination exist.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this action. The Navy will hold public scoping meetings at four different locations as follows: Wednesday, April 27, 1994, beginning at 7 p.m. at the Chicora Neighborhood Center at 2012 Success Street, North Charleston, South Carolina; Wednesday, April 27, 1994, beginning at 7 p.m. at the North Charleston City Hall, 4900 LaCross Road, North Charleston, South Carolina; Thursday, April 28, 1994, beginning at 7 p.m. at the Berkeley County Office Building, 223 North Live Oak Drive, Moncks Corner, South Carolina; and Thursday, April 28, 1994, beginning at 7 p.m. at the District 2 Administrative Office Building at 102 Greenwave Boulevard, Summerville, South Carolina. These meetings will also be advertised in local and regional newspapers.

A brief presentation will precede requests for public comment and identification of additional scoping items. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that federal, state, and local agencies and interested persons take this opportunity to identify environmental concerns that should be addressed during preparation of the EIS. In the interest of maximizing the use of available time, each speaker will be asked to limit his/her oral comments to five minutes.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and/or questions regarding the scoping process should be mailed no later than May 27, 1994, to: Commander, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, Attn: William Sloger, (803) 743–0797.

Dated: April 7, 1994.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–8741 Filed 4–11–94; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Naval Research and

Development will meet on April 18, 19, and 20, 1994. The meeting will be held at the Office of Naval Research, 800 North Quincy Street, Ballston Center Tower One, room 915, Arlington, Virginia. The first session will commence at 8:30 a.m. and terminate at 5 p.m. on April 18; the second session will commence at 8:30 a.m. and terminate at 5 p.m. on April 19; and the third session will commence at 8 a.m. and terminate at 5 p.m. on April 20, 1994. All sessions of the meeting will be open to the public.

The purpose of the meeting is to provide the Department of the Navy with an assessment of the missions, functions, processes, and core competencies of the Naval Research and Development (R&D) infrastructure, applying the following criteria: relevance to the Naval customer; criticality to the Department of the Navy (critical technology interests); integration of R&D; interaction with industry/academia; in-house cost and efficiency vs. out-of-house; and ability to meet Naval needs of the twenty-first century.

The meeting will include briefings and discussions relating to historical perspectives on R&D, laboratory consolidation, Naval science and technology, and R&D perspectives from the Department of Defense, U.S. Marine Corps, R&D from a medical perspective, and R&D for command, control and communications.

This Notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the **Federal Register** at least 15 days before the date of the meeting.

For further information concerning this meeting contact: Commander R. C. Lewis, USN, Office of Naval Research, Ballston Center Tower One, 800 North Quincy Street, Arlington, VA 22217-5660, Telephone Number: (703) 696-4870.

Dated: April 6, 1994

Michael P. Rummel

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 94–8680 Filed 4–11–94 8:45am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of an altered system of records; deletion of existing systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education publishes this notice of an altered system of records that consolidates ten existing systems of records maintained under the student financial assistance programs authorized by title IV, the Higher Education Act, 1965, amended, (HEA). The notice is also expanded to cover the new Federal Direct Student Loan programs authorized under title IV, HEA. The programs involved in this consolidation include the Federal Direct Student Loan, Federal Insured Student Loan, Federal Family Education Loan, and Federal Perkins Loan programs. This system will also maintain records under the Federal Supplemental Educational Opportunity Grant and Federal Pell Grant programs that are necessary in the collection of overpayments. Because this system is being expanded to cover one new program, the Department seeks comments on all of the routine uses contained in this notice. The name and number of the single consolidated system of records is the Title IV Program File (18–40–0024).

DATES: Comments on the proposed routine uses for this system of records must be submitted by May 12, 1994. The Department filed a report of the altered system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) on April 6, 1994. This system of records will become effective after a 40-day period for OMB review of the system expires on May 16, 1994, unless OMB gives specific notice within the 40 days that the system is not approved for implementation or requests additional time for its review. The Department will publish any changes to the routine uses that are required as a result of the comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer, Information Resource Management Service, Information Management and Compliance Division, U.S. Department of Education, 400 Maryland Avenue, SW., room 5624, GSA Regional Office Building 3, Washington, DC 20202–4651. All comments submitted in response to this notice will be available for public inspection, during and after the comment period in Room 5624, GSA Regional Office Building 3, 7th & D Streets, SW., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Ragon, Program Specialist, Federal Direct Student Loan Branch, Division of Policy Development, Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–5449. Telephone Number: (202) 708–8242. Individuals who use a telecommunications device (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Department of Education consolidates into a single system of records ten existing systems that are currently maintained regarding information authorized to be collected under title IV of the Higher Education Act of 1965 (title IV, HEA), as amended. In addition, the system is expanded to include the Federal Direct Student Loan Program, authorized to be collected under Part D of the Higher Education Amendments of 1992.

Currently, ten separate systems of records notices notify the public about the existence of data collected under title IV, HEA. The consolidation of these systems of records will enable the Department to improve the efficiency of data maintenance by eliminating the administrative burden and duplication associated with the use of separate systems.

The programs involved in this consolidation include the Federal Direct Student Loan Program; the Federal Family Education Loan (formerly Guaranteed Student Loan) Program, which includes the: Federal Stafford Loan, Federal Unsubsidized Stafford Loan, Federal SLS, Federal PLUS, and Federal Consolidation Loan Programs; the Federal Insured Student Loan (FISL) Program; and the Federal Perkins Loan Program (formerly the National Direct Student Loan Program). This system will also maintain records regarding individuals participating in the Federal Supplemental Educational Opportunity Grant Program and Federal Pell Grant Program that are necessary for the collection of overpayments.

This **Federal Register** notice deletes the names and system numbers of ten existing systems of records and consolidates those files into a single system of records known as "Title IV Program File" 18–40–0024. The ten systems to be deleted are:

- Defaulted Guaranteed Loans Submitted to the Department of Justice (18–40–0023).

- Guaranteed Loan Program—Loan Application File (18–40–0024).
- NDSL Student Loan Files (18–40–0025).
- Guaranteed Loan Program—Paid Claims File (18–40–0026).
- Guaranteed Loan Program—Claims and Collections Master File (18–40–0027).
- Guaranteed Loan Program—Collection Letters (18–40–0028).
- Guaranteed Loan Program—Inactive Loan Control Master File (18–40–0029).
- Guaranteed Loan Program—Loan Control Master File (18–40–0030).
- Guaranteed Loan Program—Pre Claims Assistance (18–40–0031).
- Guaranteed Loan Program—Insurance Claim File (18–40–0044).

Routine uses. The routine uses included in this consolidated notice appeared in at least one of the ten separate system notices. Most of the routine uses in this consolidated notice appeared in all of the system notices that are being consolidated. Because the System notice is being expanded to cover the new Federal Direct Student Loan Program, the Department asks for comment on all of the routine uses.

Categories of individuals. The categories of individuals for whom records are maintained under this consolidated system notice will include: Borrowers who apply for loans under the Federal Direct Student Loan program; borrowers who applied for loans under the FISL Program; borrowers whose loans defaulted or the borrower died, became totally and permanently disabled, or had a loan discharged in bankruptcy under the FISL Program and on which ED paid a claim to the holder of the loan; borrowers whose loans were guaranteed by a guaranty agency and who defaulted under the FFEL Program, if those loans were assigned by the guaranty agency to ED; FFEL borrowers whose lenders have reported them delinquent or reported their locations as unknown; FFEL borrowers whose loans were cancelled due to borrower's death or total and permanent disability, or whose loans were discharged in bankruptcy under the FFEL Program; FFEL borrowers whose loans have been assigned to ED due to false loan certification; borrowers under the Federal Perkins Loan Program whose loans have been assigned to ED because of default, and borrowers under the Federal Perkins Loan Program or under the FFEL Program whose loans have been assigned to ED due to school closing; borrowers whose loans were served by guaranty agencies for which ED has assumed management responsibility; and Federal Pell and Federal Supplemental Educational Opportunity Grants on which overpayments are collected by ED.

The overall set of individuals who apply for assistance will increase due to the addition of the Federal Direct Student Loan Program to this system of records notice.

Purpose of the system. The Department needs to maintain records regarding certain individuals who have received title IV student financial assistance for the following purposes: (1) To verify their identity; (2) to determine program eligibility and benefits; (3) to permit servicing and collecting of the loan or grant; (4) to locate a delinquent or defaulted debtor or to locate a recipient owing an overpayment on a grant; (5) to counsel the individual in repayment efforts; (6) to investigate possible fraud; (7) to verify an individual's, or institution or other entity's compliance with program regulations; and (8) to initiate legal action against an individual, institution, or other entity involved in program fraud or abuse.

This system of records contains numerous technical revisions to the current notice, including one which adds a purpose clause to the notice to comply with the Office of the Federal Register guidelines. The purpose clause notifies individuals of the intended use of the information collected in the system.

Direct access is restricted to authorized contract and agency personnel in the performance of their official duties. Due to the restructuring of the system notice, it is being published in its entirety.

Dated: April 6, 1994.

David Longanecker,

Assistant Secretary for Postsecondary Education.

The Assistant Secretary for Postsecondary Education deletes the notices for the systems of records with the following numbers: 18–40–0023, 18–40–0025, 18–40–0026, 18–40–0027, 18–40–0028, 18–40–0029, 18–40–0031, 18–40–0039, 18–40–0044 and revises the notice of a system of records for system 18–40–0024 to read as follows:

18–40–0024

SYSTEM NAME:

Title IV Program Files

SECURITY CLASSSIFICATION:

None.

SYSTEM LOCATION:

U.S. Department of Education, Office of Postsecondary Education (OPE), Program Systems Support, Student Financial Assistance Programs, 7th and D Streets, SW., GSA Regional Office Building 3, room 4640, Washington, DC 20202–5258. The National Computer Systems, 2510 North Dodge Street, Iowa City, Iowa; the Atlanta Regional Office, PO Box 1692, Atlanta, Georgia; the Chicago Regional Office, 401 South State Street, room 700–D, Chicago, Illinois 60605; and the San Francisco Regional Office, 50 United Nations Plaza, room 250, San Francisco, California 94102–4987.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals for whom records are maintained under this consolidated system notice will include: Borrowers who apply for loans under the Federal Direct Student Loan Program; borrowers who applied for loans under the Federal Insured Student Loan (FISL) Program; borrowers whose loans defaulted or the borrower died, became disabled or had a loan discharged in bankruptcy under the FISL Program and on which ED paid a claim to the holder of the loan; borrowers whose loans were guaranteed by a guaranty agency and who defaulted under the Federal Family Education Loan (FFEL) Program if those loans were assigned by the guaranty agency to ED; FFEL borrowers whose lenders have reported them delinquent or reported their locations as unknown; FFEL borrowers whose loans were cancelled due to borrower's death or total and permanent disability, or whose loans were discharged in bankruptcy under the FFEL Program; FFEL borrowers whose loans have been assigned to ED due to false loan certification; borrowers under the Federal Perkins Loan Program whose loans have been assigned to ED because of default, and borrowers under the Federal Perkins Loan Program or under the FFEL Program whose loans have been assigned to ED due to school closing; borrowers whose loans were served by guaranty agencies for which ED has assumed management responsibility; and Federal Pell and Federal Supplemental Educational Opportunity Grants on which overpayments are collected by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records regarding an applicant's demographic background, loan, and educational status; family income; social security number; address and telephone number; and employment information on borrowers and co-signers; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment history;

information pertaining to the amount of the loan and repayment obligation; forbearance; cancellation; disability; and deferment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, titles IV–A, IV–B, IV–D, and IV–E, as amended, (20 U.S.C. 1070–1070a–6, 1070b–1070b–3, 1071–1087–2, 1087a, 1087aa–hh).

PURPOSE(S):

The information contained in the records maintained in this system is used for the purposes of determining program eligibility and benefits, verifying the identity of the individual, enforcing the conditions and terms of the loan or grant, permitting the servicing and collecting of the loan or grant, counseling the individual in repayment efforts, investigating possible fraud and verifying compliance with program regulations, locating a delinquent or defaulted debtor or locating a recipient owing an overpayment on a grant, initiating legal action against an individual involved in program fraud, abuse, or noncompliance, and enforcing Title IV requirements against schools, lenders, and guaranty agencies.

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

The Department of Education (ED) may disclose information contained in a record in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

(a) *Program purposes.* (1) The information may be disclosed for the following program purposes to the persons listed in (a)(2): To verify the identity of the applicant, to determine program eligibility and benefits, to facilitate default reduction efforts by program participants, to enforce the conditions or terms of the loan, to permit servicing, collecting, or accepting the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, to locate a delinquent or defaulted borrower, to issue collection letters, to locate a missing borrower, to collect in-file history information to determine assets and ability to pay, to determine last known address, to conduct a salary offset hearing under 34 CFR part 31, to prepare for litigation or to litigate collection service and audit, to initiate a limitation, suspension, and termination (LS&T) or debarment or suspension action, to ensure title IV requirements are met by schools, lenders, and guaranty agencies, to verify death, to conduct credit checks, and to investigate complaints, update files, and correct errors.

(2) The information may be provided to the following recipients: Federal, State, or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, guaranty agencies, educational and financial agencies or institutions, consumer reporting agencies, contractors and hearing officials.

(b) *Feasibility study disclosure.* Any information from this system of records may be disclosed to other Federal agencies and to guaranty agencies to determine whether computer matching programs should be conducted by the Department regarding an individual's application for participation in any grant or loan program administered by ED. Purposes of these disclosures may be to determine program eligibility and benefits, facilitate default reduction efforts, enforce the conditions and terms of a loan or grant, permit the servicing and collecting of the loan or grant, enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(c) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto if the information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(d) *Subpoena disclosure.* Where Federal agencies having the power to subpoena other Federal agencies' records, such as Internal Revenue Service or Civil Rights Commission, issue a subpoena to ED for records in this system of records, the Department may make such records available (provided the disclosure is consistent with the purposes for which the records were collected).

(e) *Litigation disclosure.* (1) Disclosure to the Department of Justice. If ED determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) ED, or any component of the Department; or

(ii) Any ED employee in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department of Justice has agreed to provide or arrange for representation for the employee; or

(iv) Any employee of ED in his or her individual capacity where the agency has agreed to represent the employer; or

(v) The United States where ED determines that the litigation is likely to affect the Department or any of its components.

(2) *Other disclosures.* If ED determines that disclosure of certain records to a court, adjudicative body before which ED is authorized to appear, individual or entity designated by ED or otherwise empowered to resolve disputes, counsel, or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the court, adjudicative body, individual or entity, counsel or other representative, or witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) ED or any component of the Department; or

(ii) Any ED employee in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States, where ED determines that litigation is likely to affect the Department or any of its components.

(f) *Employment, benefit, and contracting disclosure.* (1) For Decisions by ED. ED may disclose a record from this system of records as a routine use to a Federal, State, or local agency

maintaining civil, criminal, or other relevant enforcement or other pertinent records, such as current licenses, if the disclosure is necessary to obtain a record ED believes may be relevant to an ED decision concerning the hiring, retention of, or any personnel action concerning an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(2) *For decisions by other public agencies and professional licensing organizations.* ED may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency or other public authority or professional licensing organization, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit.

(g) *Employee grievance, complaint or conduct disclosure.* If a record maintained in this system of records is relevant to an employee grievance or complaint or employee discipline or competence determination proceedings of another party of the Federal Government, ED may disclose the record as a routine use in the course of the proceedings.

(h) *Labor organization disclosure.* Where a contract between a component of ED and a labor organization recognized under Chapter 71, U.S.C. Title V provides that the Department will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed as a routine use to such an organization.

(i) *Contract disclosure.* When ED contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records or performing any other function with respect to the records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act Safeguards with respect to such records.

(j) *Disclosure to the Department of Justice.* ED may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an audit, inspection, or other inquiry related to the Department's responsibilities under Title IV of the Higher Education Act of 1965.

(k) *Research disclosure.* When the appropriate official of ED determines that an individual or organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act Safeguards with respect to such records.

(l) *Computer matching disclosure.* Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application for, or participation in, any grant or loan program administered by ED. The purposes of these disclosures may be to determine program eligibility and benefits, enforce the condition and terms of a loan or grant, permit the servicing and collecting of the loan or grant, prosecute or enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

Among other disclosures, this routine use authorizes disclosure to any other Federal agency, including the Defense Manpower Data Center, Department of Defense, for the purposes of identifying and locating individuals who are delinquent in their repayment of debts owed to the U.S. Government under title IV, HEA programs of ED, in order to collect the debts under the provisions of the Debt Collection Act of 1982 (including 31 U.S.C. Chapter 37 and 5 U.S.C. 5514) and 31 CFR part 31 by voluntary repayment or by administrative or salary offset.

(m) *FOIA advice disclosure.* In the event that ED deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(n) *Congressional member disclosure.* ED may disclose information from this system of records to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual; however, the Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): ED may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, address, social security number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

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

STORAGE:

The records are maintained in either hard copy, microfilm, magnetic tape, or other electronic media.

RETRIEVABILITY:

The file is indexed by social security number or name. Data for loans made under the Federal Direct Student Loan Program, FISL Program, Federal Perkins Loan (formerly National Direct Student Loan) Program, Federal Pell Grant Program, and some FFELs are retrievable by social security number.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual loans may be destroyed five years after cancellation, forgiveness or final repayment of the

loan. Records of Federal Supplemental Educational Opportunity Grant recipients may be destroyed five years after the fiscal operations report is filed. Records of Federal Pell Grant recipients may be destroyed five years after the initial award year has ended, as set forth in appropriate record retention schedules.

SYSTEM MANAGERS AND ADDRESSES:

The System Manager for the title IV program file is the Director, Program Systems Support, Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 4640, GSA Regional Office Building 3, Washington, DC 20202–5258.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in the system of records, the individual should provide to the system manager his or her name, date of birth, social security number, and the name of the school or lender from which the loan or grant was obtained. Requests for notification about whether the system of records contains information about an individual must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described in the notification procedure, identify the specific items to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from reports from borrowers and their families, lenders, schools, examining or treating physicians, employers, credit agencies, Federal and State governmental agencies, and State or private nonprofit guaranty agencies. However, lenders and guaranty agencies are not a source of information for participants in the Federal Direct Student Loan Program, since the Department maintains individual records of borrowers for this program.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 94–8679 Filed 4–11–94; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL94–1–000, et al.]

Intercoast Power Marketing Co., et al., Electric Rate and Corporate Regulation Filings

April 4, 1994.

Take notice that the following filings have been made with the Commission:

1. Intercoast Power Marketing Co.

[Docket No. EL94–1–000]

Take notice that on March 16, 1994, Intercoast Power Marketing Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 18, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Co. of Colorado

[Docket No. ER94–1077–000]

Take notice that on March 22, 1994, Public Service Company of Colorado (Public Service) tendered for filing two proposed amendments to its Power Purchase Agreement with WestPlains Energy, as contained in Rate Schedule FERC No. 59. Under the first proposed amendment Public Service is modifying Service Schedule C of the Power Purchase Agreement. This schedule sets forth requirements for system regulation between Public Service and WestPlains Energy. Under the second proposed amendment Public Service is changing delivery points for service taken under the Power Purchase Agreement as contained in Rate Schedule FERC No. 59. Neither of these proposed changes will have any impact on rates or revenues collected for service under this agreement.

Public Service requests an effective date of April 1, 1994, for the proposed amendments, and as such requests waiver of the Commission's prior notice requirements.

Copies of the filing were served upon WestPlains Energy and state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado Office of Consumer Counsel.

Comment date: April 18, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Boston Edison Co.

[Docket No. ER94–1072–000]

Take notice that on March 21, 1994, Boston Edison Company (Boston) tendered for filing Notices of Cancellation of FERC Rate Schedule Nos. 132 and 166.

Comment date: April 18, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. The Toledo Edison Co.

[Docket No. ER94–567–000]

Take notice that on March 28, 1994, The Toledo Edison Company (Toledo Edison) tendered for filing a revision to the Cost of Service information in support of Service Schedule C Transmission Service to the Interconnection and Service Agreement between Toledo Edison and American Municipal Power—Ohio, Inc. ("AMP-Ohio"), which was effective for service rendered by Toledo Edison to AMP-Ohio from December 1, 1989. The revision to the cost support is in direct response to the Commission's letter of February 25, 1994.

Comment date: April 18, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Co.

[Docket No. ER94–1004–000]

Take notice that New England Power Company (NEP) on March 29, 1994, amended its filing submitted on February 28, 1994 in this docket by requesting a waiver of the 60-day notice requirement which would otherwise prohibit transactions under Certificate of Concurrence with Central Vermont Public Service, Green Mountain Power Company and The United Illuminating Company prior to April 29, 1994 under NEP's FERC Electric Tariff, Original Volume No. 6. NEP requests an effective date of April 1, 1994 for the Certificates of Concurrence.

As good cause for NEP's request, NEP states that Green Mountain Power Company has requested service under the Certificates of Concurrence commencing April 4, 1994. Absent waiver, NEP will be unable to provide the requested service to Green Mountain Power Company.

Comment date: April 18, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-8669 Filed 4-11-94; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. ER94-581-000, et al.]

Minnesota Power & Light Co., et al.; Electric Rate and Corporate Regulation Filings

April 5, 1994.

Take notice that the following filings have been made with the Commission:

1. Minnesota Power & Light Co.

[Docket No. ER94-581-000]

Take notice that on March 28, 1994, Minnesota Power & Light Company (Minnesota) tendered for filing certain clarifications requested by the Commission Staff with respect to an Operating Reserve Agreement between Minnesota Power and Northern States Power Company (NSP), under which Minnesota Power requests an effective date of September 15, 1993. Copies of this filing have been served upon the Minnesota Public Utilities Commission and Northern States Power Company.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Concord Electric Co.

[Docket No. ER94-692-000]

Take notice that on March 28, 1994, Concord Electric Company (Concord) filed additional information in regard to its December 30, 1993, filing of FERC Electric Tariff, Orig. Vol. No. 1 in this docket. The additional information is in response to Staff's February 25, 1994 letter. Concord renews its request for an effective date of March 1, 1994, as requested in the December 30, 1993, filing and accordingly, seeks waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon those entities who received a copy of the December 30, filing or who filed a pleading in this proceeding.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Pennsylvania Power & Light Co.

[Docket No. ER94-945-000]

Take notice that on March 28, 1994, Pennsylvania Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Oklahoma Gas & Electric Co.

[Docket No. ER94-1091-000]

Take notice that on March 28, 1994, Oklahoma Gas & Electric Company (OG&E) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 94.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Co.

[Docket No. ER94-1092-000]

Take notice that on March 28, 1994, Commonwealth Edison Company (Edison) submitted two Agreements, dated March 15, 1994, establishing Wisconsin Electric Power Company, (Wisconsin Electric) and Wisconsin Power & Light Company (Wisconsin Power) as customers under the terms of Edison's Transmission Service Tariff TS-1 ("TS-1 Tariff").

Edison requests an effective date of March 15, 1994, and accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Wisconsin Electric, Wisconsin Power, the Public Service Commission of Wisconsin and the Illinois Commerce Commission.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Public Service Co.

[Docket No. ER94-1093-000]

Take notice that Southwestern Public Service Company (Southwestern) on March 28, 1994, tendered for filing a proposed rate schedule for economy service with Enron Power Marketing, Inc. (EPMI).

The rate schedule provides for the sale of economy electric capacity and energy from Southwestern to EPMI. Southwestern proposes to price the economy service to EPMI at 50/50 split of energy savings or incremental cost plus up to 14.29 mills per Kwh to cover capacity costs associated with the plant that the sales are most likely to originate.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Northern States Power Co. (Minnesota Company)

[Docket No. ER94-1096-000]

Take notice that on March 29, 1994, Northern States Power Company (Minnesota) (NSP) tendered for filing Supplement No. 4 to the Transmission Service Agreement between NSP and the State of South Dakota (Customer). NSP presently provides certain On Line transmission services to the Customer pursuant to the Transmission Service Agreement dated September 20, 1977, as amended, prior to putting Supplement No. 4 into effect. NSP Rate Schedule FERC No. 385. Supplement No. 4 will replace the transmission service portion of the Transmission Service Agreement, and sets forth the terms and conditions and rates for service to the Customer through December 31, 2012.

NSP requests that Supplement No. 4 to the Transmission Service Agreement be accepted for filing effective June 20, 1994.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER94-1113-000]

Take notice that on March 31, 1994, Northern States Power Company-Minnesota and Northern States Power Company-Wisconsin (NSP) filed a Transmission Services Tariff making available Reserved, Limited and Interruptible Services on the combined NSP-Minnesota and NSP-Wisconsin transmission system. The filing also changes the rates of existing transmission municipal and utility customers. The changes would increase revenues from jurisdictional sales and service by $999,148, based on the 12 month period ending December 31, 1992. The purpose of the change is to allow NSP to offer short and long term wholesale transmission services. NSP requests an effective date of June 1, 1994.

Comment date: April 19, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8670 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–324–000, et al.]

Columbia Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

April 4, 1994.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corp.

[Docket No. CP94–324–000]

Take notice that on March 31, 1994, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP94–324–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate twenty-one new points of delivery under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia proposes to construct and operate the facilities necessary to establish twenty-one new points of delivery for firm transportation service within certificated entitlements, as follows:

Customer	Residential	Commercial	Estimated design day quantity (dth)	Estimated annual quantity (dth)
Columbia Gas of Ohio, Inc	2	1	11.0	1,100
Mountaineer Gas Company	18	.....	27.0	2,700

Comment date: May 19, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Southern Natural Gas Co.

[Docket No. CP94–314–000]

Take notice that on March 29, 1994, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563 filed in Docket No. CP94–314–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act for authorization to abandon measurement facilities at certain farm tap locations, under its blanket certificate issued in Docket No. CP82–406–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern states that it has provided natural gas service to right-of-way grantors and other rural residences, designated as farm taps, at various locations throughout its transmission system. Southern indicates that it seeks to abandon eleven of these farm tap facilities by transfer to certain local distribution companies that currently receive transportation service from Southern. According to Southern, effective November 1, 1993, these local distribution companies began service to the right-of-way owners at the farm taps that Southern seeks to abandon and Southern cancelled its existing sales agreements with the right-of-way owners. Southern states that such cancellation was necessary as part of Southern's abandonment of its traditional merchant sales service pursuant to the terms of Order No. 636.

Comment date: May 19, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. Koch Gateway Pipeline Co.

[Docket No. CP94–327–000]

Take notice that on April 1, 1994, Koch Gateway Pipeline Company (Koch Gateway), 600 Travis Street, P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP94–327–000 an application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity to establish Rate Schedule PS, which would create 10 paper pooling points along Koch Gateway's system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Koch Gateway included in its filing *pro forma* tariff sheets which would implement Rate Schedule PS (Pooling Service). Koch Gateway proposes to create 10 paper pooling points across its system. It is indicated that the pooling proposal would be subject to the following: (1) Section 20 of the General Terms and Conditions of Koch Gateway's tariff, and (2) the Imbalance Resolution Procedures of Koch Gateway's tariff. It is also indicated that any transaction using the pooling proposal would be treated like any other transportation contract under Section 20 and that a customer's use of this service would be completely voluntary.

Comment date: April 25, 1994, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8668 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP93–3–008]

Arkla Energy Resources Co.; Report of Refunds

April 6, 1994.

Take notice that on November 23, 1993, Arkla Energy Resources Company (AER) tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made to comply with the Commission's order dated September 23, 1993 in Docket No. RP93–3–000.

AER states that the report shows that AER refunded $12,291,921.39, including interest, to its jurisdictional sales and transportation customers for the period April 1, 1993 through August 31, 1993.

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 April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8642 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–3–31–000]

Arkla Energy Resources Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Arkla Energy Resources Company (AER) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, effective May 1, 1994:

Fifth Revised Sheet No. 4, Fifth Revised Sheet No. 4.1.

AER states that these revised tariff sheets are filed to adjust AER's fuel percentage tracker pursuant to the Stipulation and Agreement approved in Docket No. RP93–3–000 on September 23, 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 rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8664 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–5–48–000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994 ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, the tariff sheets which ANR proposes to be effective May 1, 1994:

Second Revised Volume No. 1
3rd Revised Second Revised Sheet No. 17
Original Volume No. 2
3rd Revised Twenty-Third Revised Sheet No. 16
3rd Revised Twenty-Third Revised Sheet No. 17
3rd Revised Twenty-Third Revised Sheet No. 18
3rd Revised Twenty-Third Revised Sheet No. 19
3rd Revised Twenty-Fifth Revised Sheet No. 20
3rd Revised Twenty-Fourth Revised Sheet No. 21
3rd Revised Twenty-Second Revised Sheet No. 22

ANR states that the referenced tariff sheets are being submitted as required in Section 26.4 and 27.3 of ANR's FERC Gas Tariff Second Revised Volume No. 1 to adjust the Volumetric Buyout Buydown Surcharge and Upstream Pipeline Surcharge, commencing May 1, 1994.

ANR states that each of its Volume Nos. 1 and 2 customers and interested State Commissions has been apprised of this filing via U.S. Mail

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8667 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–2–63–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Carnegie Natural Gas Company (Carnegie) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of May 1, 1994:

Fourth Revised Sheet No. 7

Carnegie states that it is filing the above tariff sheet as a limited application under Section 4 of the Natural Gas Act pursuant to Section 32.2 of the General Terms and Conditions of Carnegie's tariff. The filing seeks to recover, through a monthly demand surcharge on Rate Schedule FTS service, $1.6537/Dth for the unrecovered costs of 12,222 Dth/d of unassigned upstream capacity. Carnegie proposes an effective date of May 1, 1994.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[Docket No. TM94–4–22–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 30, 1994, CNG Transmission Corporation (CNG) filed pursuant to section 4 of the Natural Gas Act, part 154 of the Commission's Regulations, and § 12.9 of the General Terms and Conditions of CNG's FERC Gas Tariff, the following revised tariff sheet for inclusion in Second Revised Volume No. 1 of its FERC Gas Tariff:

First Revised Sheet No. 44

CNG requests an effective date for this proposed tariff sheet of April 30, 1994. CNG states that the purpose of this filing is to flow through to its customers, on an as-billed basis, $318,833 of additional take-or-pay costs that have been allocated to CNG by Tennessee Gas Pipeline Company in Docket No. RP94–69–000.

CNG states that copies of the filing were served upon CNG's jurisdictional customers and interested state commissions. Copies of the filing are also available during regular business hours at CNG's principal offices in Clarksburg, West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8665 Filed 4–11–94 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–198–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994 Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective May 1, 1994:

First Revised Sheet No. 2, Original Sheet Nos. 649–656, Original Sheet No. 657, Original Sheet No. 658, Original Sheet No. 659, Original Sheet No. 660, Original Sheet No. 661, Original Sheet No. 662, Original Sheet No. 663, Original Sheet No. 664, Original Sheet No. 665, Original Sheet No. 666.

Columbia states that the listed tariff sheets set forth the revised Index of Entitlements and are filed pursuant to 281.204(b)(2) of the Commission's Regulations and § 32.1(f) of the General Terms and Conditions of Columbia's FERC Gas Tariff, Second Revised Volume No. 1.

Columbia states that copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 12, 1994. 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 in accordance with the Commission's rules. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8654 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–217–000]

Commonwealth Electric Co.; Notice of Filing

April 5, 1994.

Take notice that on April 1, 1994 Commonwealth Electric Company tendered for filing an amendment in the above-referenced docket reflecting a change in the capacity charge ceiling rate under its System Power Agreements with Unitil Power Corp. and Chicopee Municipal Lighting Plant.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8656 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ94–5–23–000 and TM94–9–23–000]

Eastern Shore Natural Gas Co.; Proposed Changes In FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994 Eastern Shore Natural Gas Company (ESNG) tendered for filing certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective May 1, 1994.

ESNG states that the above-referenced tariff sheets are being filed pursuant to section 154.308 of the Commission's regulations and sections 21, 23 and 24 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. ESNG states that the sales rates set forth thereon reflect a decrease of $0.1358 per dt in the Commodity Charge and a decrease of $0.1073 per dt in the Demand Charge, as measured against ESNG's previous quarterly purchased gas cost adjustment in Docket No. TQ94–4–23–000, et. al., filed on January 28, 1994 and proposed to be effective on February 1, 1994.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 and rule 214 of the Commission's Rules of Practice and Procedure (18 CFR section 385.211 and section 385.214). All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8648 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–193–000]

El Paso Natural Gas Co.; Tariff Filing

April 5, 1994.

Take notice that on March 30, 1994, El Paso Natural Gas Company (El Paso), tendered for filing and acceptance, pursuant to part 154 of the Federal Energy Regulatory Commission (Commission) Regulations Under the Natural Gas Act, certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1–A, Second Revised Volume No. 1 and Third Revised Volume No. 2 which when accepted by the Commission and permitted to become effective, will update El Paso's Tariff to reflect various minor modifications. El Paso requests that the tendered tariff sheets become effective April 29, 1994.

El Paso states that it modified First Revised Volume No. 1–A to: (a) Reflect a customer name change; (b) update the quality specification provisions so as to add and delete various gathering systems and plants; (c) make minor revisions to update certain references in the tariff; and (d) update the Index of Shippers. El Paso modified its Second Revised Volume No. 1 to: (a) Make minor revisions to update certain references in the tariff; (b) delete certain definitions which no longer apply; and (c) reflect revisions to the Index of Purchasers. El Paso modified its Third Revised Volume No. 2 to: (a) Revise the Table of Contents by removing references to recently cancelled Rate Schedules; and (b) remove the Statement of Rates sheet for cancelled Rate Schedule Z–6.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system transportation and sales customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8649 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF86–138–005]

Hanford L.P.; Amendment to Filing

April 6, 1994.

On March 22, 1994, Hanford L.P. (Applicant) tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment modifies the application by naming Hanford L.P. as the Applicant and provides additional information pertaining to the ownership structure of the small power production facility.

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 by April 29, 1994, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8638 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR94–7–000]

Hunt Refining Co. et al.; Petition for Exemption From Jurisdictional Status

April 6, 1994.

Take notice that on March 17, 1994, Hunt Refining Company (Hunt) and East Mississippi Pipeline Company (East Mississippi), (referred jointly as Petitioners), filed a request that the Commission exempt the pipeline facilities of Hunt and East Mississippi

from the Commission's jurisdiction on the basis that such facilities are not "jurisdictional" within the meaning of the Interstate Commerce Act (ICA) but are private, proprietary systems. Petitioners submit that they are not subject to the filing requirements of sections 6 (schedule of rates and charges), 19(a) (maps and valuation data), and 20 (annual, periodic, and special reports) of the ICA. In the alternative, petitioners request that the Commission (a) exempt Hunt and East Mississippi from the filing and reporting requirements which otherwise would apply, or (b) recognize that Hunt and East Mississippi need not publish a schedule of rates and charges.

The Petitioners state that the facilities for which an exemption is sought are owned entirely by Petitioners and will be utilized solely to transport crude oil to which Hunt holds title. No other refinery interconnects with the Petitioners' facilities and, due to the location and service performed by these facilities, requests for access to the facilities by any third party are extremely unlikely.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8634 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–120–001]

Koch Gateway Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff Fifth Revised Volume No. 1, the following tariff sheets, to be effective August 3, 1994:

Fifth Revised Volume No. 1, Second Revised Sheet No. 1104, Substitute First Revised Sheet No. 1906, Second Revised Sheet No. 2700, Substitute First Revised Sheet No. 5200.

Koch Gateway states that the above referenced tariff sheets reflect Koch Gateway's compliance with the Commission's March 2, 1994 Order Accepting and Suspending Certain Tariff Sheets Subject to Refund and Conditions, Rejecting Tariff Sheet, and Establishing Hearing Procedures. Koch Gateway states that these tariff sheets reflect modifications to § 12.8 (b) of the General Terms and Conditions and modifications regarding imbalance resolution to reflect language previously accepted in Koch Gateway's restructuring proceeding.

Koch Gateway also states that the tariff sheets are being mailed to all parties on the official service list created by the 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 § 385.211 of the Commission's regulations. All such protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8660 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–195–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fourth Revised Sheet No. 14 and Third Revised Sheet No. 25, to be effective May 1, 1994.

Natural states that the filing is submitted to commence recovering effective May 1, 1994, $1,659,876 net premium paid for coal gasification supplies which is part of its gas supply realignment program.

Natural requested whatever waivers may be necessary to permit the tariff sheets as submitted herein to become effective May 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Natural states that it has reached a tentative settlement with members of the Natural Customer Group (NCG) regarding recovery from them of GSR costs. Members of the NCG may preserve their rights by filing an abbreviated protest which may be supplemented if the settlement is not approved.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8651 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–196–000]

Northern Natural Gas Company; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Northern Natural Gas Company (Northern), tendered for filing as part of FERC Gas Tariff, Fifth Revised Volume No. 1, First Revised Sheet No. 67, with an effective date of May 1, 1994.

Northern states that the filing updates the Alaskan Natural Gas Transportation System (ANGTS) Balance and the direct bill amounts by shipper resulting from the termination of the ANGTS Rate Adjustment Mechanism effective November 1, 1993. Northern has filed First Revised Sheet No. 67 to reflect the revised monthly direct bill amounts by customer effective May 1, 1994, through October 31, 1994.

Northern states that copies of this filing were served upon Northern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections

385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1994. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8652 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–328–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

April 6, 1994.

Take notice that on April 1, 1994, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP94–328–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point under National's blanket certificate issued in Docket No. CP83–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

National proposes to construct and operate a delivery point located in Ashland Township, Clarion County, Pennsylvania, for additional deliveries of gas to National Fuel Gas Distribution Corporation (Distribution), an existing firm transportation customer. National states that the total volumes to be delivered is estimated to be 910 Mcf annually. National indicates that this will have a minimal impact on its peak day and annual deliveries.

National states that an emergency tap was installed at the proposed location on February 4, 1994, because seven residential customers of Distribution were without gas. National explains that the seven customers were out of gas due to frozen wells and related facilities which previously provided for their needs. On March 24, 1994, Distribution filed for waiver of the initial time limitation because the wells have not returned to sufficient production. National further states that it is now seeking authorization under its blanket certificate to assure continuation of service beyond the expiration of the current emergency authorization.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8632 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–136–002]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with a proposed effective date of March 17, 1994:

Substitute Fourth Revised Sheet No. 24
Substitute First Revised Sheet No. 274

Northwest states that the purpose of this filing is to comply with a Commission order issued on March 16, 1994 in Docket Nos. RP94–136–000 and 001. On February 11, 1994 Northwest made a filing with the Commission that provided a mechanism for Northwest to market firm capacity made available due to the expiration of firm transportation contracts. The Commission accepted the tariff sheets subject to certain changes.

Northwest states that a copy of this filing has been served upon all parties designated on the official service list as compiled by the secretary in this docket and upon all of Northwest's jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before April 12, 1994. 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8661 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–12–000]

Overland Trail Transmission Co.; Petition for Rate Approval

April 6, 1994.

Take notice that on March 31, 1994, Overland Trail Transmission Company (OTTC), successor-in-interest to Rhone-Poulenc Pipeline Company, filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a rate of $0.2817 per MMBtu for transportation services performed under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

OTTC states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and it owns and operates an intrastate pipeline system in the State of Wyoming. OTTC proposes an effective date of March 31, 1994.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before April 21, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8636 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR94–11–000]

Olympic Pipeline Co.; Petition for Rate Approval

April 6, 1994.

Take notice that on March 25, 1994, Olympic Pipeline Company (Olympic) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a firm reservation charge of $5.34 per MMBtu and a 100 percent load factor interruptible rate of $0.1755 per MMBtu for transportation services performed under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Olympic states that it is an intrastate pipeline within the meaning of section 2(16) of the NGPA and it owns and operates an intrastate pipeline system in the State of Louisiana. Olympic proposes an effective date of March 25, 1994. Because Olympic was due to file this petition three years after its petition in Docket No. PR91–8–000, a refund obligation began on December 12, 1993.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before April 21, 1994. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8635 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–5–28–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994 Panhandle Eastern Pipe Line Company (Panhandle), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets listed on Appendix A to the filing. The proposed effective date of these revised tariff sheets is May 1, 1994.

Panhandle states that this filing is made in accordance with section 25 (Flow Through of Cash-Out Revenues In Excess Of Costs And Scheduling Charges Assessed Against Affiliates) of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A to the filing reflect the following changes to Panhandle's currently effective maximum Reservation Rates under Rate Schedules FT, EFT and SCT, and the currently effective maximum commodity rates under Rate Schedules IT and EIT:

(1) A ($.01) per Dt. reduction from the Base Reservation Rate for each of (i) the Gathering Charge Rate, (ii) the Field Zone Transmission Charge Rate and (iii) the Market Zone Access Charge Rate under Rate Schedules FT and EFT;

(2) A (.06¢) reduction from the Base Rate per Dt. for each of (i) the Gathering Charge Rate, (ii) the Field Zone Transmission Charge Rate and (iii) the Market Zone Access Charge Rate under Rate Schedule SCT; and

(3) A (.03¢) reduction from the Base Rate per Dt. for each of (i) the Gathering Charge Rate, (ii) the Field Zone Transmission Charge Rate and (iii) the Market Zone Access Charge Rate under Rate Schedules IT and EIT.

Panhandle states that copies of this letter and enclosures have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations.

All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8666 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–161–004]

Penn-York Energy Corp.; Refund Report

April 6, 1994.

Take notice that on December 3, 1993, Penn-York Energy Corporation (Penn-York) tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report in compliance with the Stipulation and Agreement in Docket Nos. RP91–68–015, et al., filed on January 12, 1993, and approved by the Commission on July 8, 1993, to make payment of refunds as listed in Appendix F by December 5, 1993. Penn-York states that the report to the Commission details the distribution of the refunds to the various customers and sets forth the data and computations supporting the distribution of the refunds covered by the report.

Penn-York states that the refunds were made on November 30, 1993, and attached a summary showing the customers and the amounts they received, along with schedules showing computations of the refund amounts. Penn-York states that a copy of the summary was sent to each of the State Regulatory Agencies and each customer received the summary report and the computations supporting their refund. Penn-York reserves the right to modify its refund subject to any revisions made by the Commission.

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 April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8641 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–68–023]

Penn-York Energy Corp.; Report of Refunds

April 6, 1944.

Take notice that on March 18, 1994, Penn-York Energy Corporation (Penn-York) tendered for filing with the Federal Energy Regulatory Commission

(Commission) its Refund Report made in accordance with subsection 17.1(c) of its FERC Gas Tariff. Third Revised Volume No. 1.

Penn-York states that on March 15, 1994, Penn-York refunded $433,091.89, inclusive of interest calculated in accordance with 18 CFR 154.67(c). Penn-York states that the refunds cover the period December 1, 1992 through November 30, 1993.

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 April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8640 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–906–000]

San Diego Gas & Electric Co.; Filing

April 6, 1994.

Take notice that on February 22, 1994, San Diego Gas & Electric Company (San Diego) filed a request that the Commission withdraw the earlier filing by San Diego in this docket of its Certificate of Concurrence with an earlier filing by Pacific Gas & Electric Company in Docket No. ER94–626–000 of Determinations to the Coordinated Operations Agreement between Pacific Gas & Electric Company, San Diego and Southern California Edison Company. San Diego states in its February 22, 1994, filing that Pacific Gas & Electric Company had already included the Certificate of Concurrence in the filing in Docket No. ER94–626–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 15, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8633 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–3–7–000]

Southern Natural Gas Co.; Proposed Changes In FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised sheets:

First Revised Sheet No. 23,
First Revised Sheet No. 24,
First Revised Sheet No. 25,
First Revised Sheet No. 26,

Southern states that the above-referenced tariff sheets are being filed with a proposed effective date of May 1, 1994, in compliance with the requirements of the Stipulation and Agreement approved by Commission order on March 23, 1989 in Docket Nos. RP83–58–000, et al.

Southern states that the proposed tariff sheets reflect adjustments to Southern's fixed take-or-pay surcharge in order to reconcile projected interest recovered during the past twelve-month period with Commission prescribed interest rates in effect during the period, and to remove tariff sheets to recover Southern's fixed take-or-pay surcharge attributable to settlement payments made directly by Southern.

Southern states that copies of Southern's filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8663 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–67–003, and RP94–133–001]

Southern Natural Gas Co.; GSR Cost Recovery Filing

April 6, 1994.

Take notice that on March 31, 1994, Southern Natural Gas Company (Southern) filed to comply with the Commission's Order issued in Docket Nos. RP94–67–001 and 002 on March 16, 1994 and submitted the following tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1 with the effective date of January 1, 1994:

First Substitute Second Revised Sheet No. 15,
First Substitute Second Revised Sheet No. 17,
First Substitute Second Revised Sheet No. 18,
Second Substitute First Revised Sheet No. 29,
Second Substitute First Revised Sheet No. 30,
Second Substitute First Revised Sheet No. 31.

Additionally, in accordance with the Commission's Order accepting and suspending tariff sheets subject to refund and conditions, rejecting other tariff sheets, consolidating Dockets and establishing hearing issued in Docket Nos. RP94–133–000 and RP94–67–000 on March 16, 1994, Southern submitted for filing the following tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1 with a proposed effective date of March 1, 1994:

First Substitute Fourth Revised Sheet No. 15,
First Substitute Fourth Revised Sheet No. 17,
First Substitute Fourth Revised Sheet No. 18,
First Substitute Third Revised Sheet No. 29,
First Substitute Third Revised Sheet No. 30,
First Substitute Third Revised Sheet No. 31.

As directed by the Commission, Southern states that it will subsequently file, after consultation with its customers, further revisions to these tariff sheets to restate the per unit GSR surcharge to be applied prospectively to Rate Schedule FT, effective April 1, 1994, to reflect a longer recovery period of up to thirty-six months.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or

before April 13, 1994. 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8643 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–194–000]

Stingray Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 56, to be effective May 1, 1994.

Stingray states that the purpose of the filing is to modify section 5.7 of Rate Schedule ITS to permit Stingray to recover costs allocated to certain firm transportation arrangements which terminate by their own contractual terms prior to crediting revenues to interruptible shippers via the revenue crediting mechanism.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheet to become effective on May 1, 1994.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8650 Filed 4–1–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–212–012]

Stingray Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Stingray Pipeline Company (Stingray) tendered for filing tariff sheets to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective April 1, 1994.

Stingray states that the tariff sheets were submitted in compliance with the Federal Energy Regulatory Commission's (Commission) order issued February 16, 1994, approving the Stipulation and Agreement (Settlement) at Docket Nos. RP91–212–000, et al. The tariff sheets set out the settlement base rates and certain other tariff provisions reflected in Stingray's Settlement.

Stingray respectfully requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective April 1, 1994.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list at Docket No. RP91–212–000.

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 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 12, 1994. 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8658 Filed 4–11–94 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF93–129–000]

Syracuse Power Co.; Petition to Intervene and Motion to Revoke Self-Certification

April 6, 1994.

Take notice that on April 1, 1994, Niagara Mohawk Power Corporation (Niagara), filed a petition to intervene and motion requesting the Commission to revoke qualifying status of the cogeneration facility owned by Syracuse Power Company (Syracuse). Syracuse's notice of the self-certification was filed with the Commission on July 9, 1993, in the above-captioned docket.

Niagara maintains that certification should be revoked on the ground that the facility failed to meet the Commission's operating standard during the 1993 calendar year [See, 18 CFR 292.205(a) (1993)]. Niagara alleges that although the facility began commercial operation on July 26, 1993, and produced power during the year, no useful thermal output was produced. This, Niagara states was due to the fact that Purity Water Co., Inc., the facility's steam host, was unable to obtain the necessary permits from the New York State Department of Health Regulations to produce bottled water.

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 within 30 days after the date of publication of this notice in the **Federal Register** 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8637 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–197–000]

Tennessee Gas Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 30, 1994, Tennessee Gas Pipeline Company (Tennessee) filed a limited application pursuant to section 4 of the Natural Gas Act, 15 U.S.C. 717c (1988), and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder to recover gas supply realignment costs (GSR costs) related to the period October 1, 1993 through December 31, 1993. Tennessee proposes that the filing be made effective May 1, 1994. The tariff sheets to permit recovery of such costs are as follows:

Third Revised Sheet No. 22
Third Revised Sheet No. 24

Sixth Revised Sheet No. 30
First Revised Sheet No. 398A
Original Sheet No. 398A.01

Tennessee states that the purpose of the filing in this docket is to set forth the GSR costs and the related rates that will be charged by Tennessee pursuant to Order No. 636 and an "Order Rejecting Tariff Sheets," issued on February 28, 1994 in Docket No. RP94–127–000, 66 FERC 61,248 (1994). The GSR costs sought to be recovered include costs associated with the reformation or termination of certain supply contracts as well as pricing differentials costs associated with continuing to perform under certain gas supply contracts, including the Great Plains Associates contract.

Tennessee states that copies of this tariff filing were posted in conformance with § 154.16 of the Commission's Regulations and in conformity therewith were mailed to all affected customers of Tennessee and interested state commissions.

Take further notice that in compliance with the Commission's "Order on Rehearing and Compliance Filing," issued on February 28, 1994 in Docket Nos. RP93–151–004 et al., 66 FERC 61,246 (1994), Tennessee has filed tariff sheets to revise its mechanism for recovering GSR costs. The tariff sheet, which Tennessee proposes be made effective March 1, 1994, is as follows:

Fifth Revised Sheet No. 30

Take further notice that Tennessee filed tariff sheets to reduce its currently-effective GSR surcharge filed in Docket No. RP94–39–000. Tennessee states that such reduction, which Tennessee proposes be made effective March 1, 1994, is to reflect that the amortization period for recovering pricing differential costs related to that docket ended on February 28, 1994. The tariff sheets filed by Tennessee to effectuate this proposal are as follows:

Second Revised Sheet No. 395
Second Revised Sheet No. 396
Second Revised Sheet No. 397
Second Revised Sheet No. 397A
Second Revised Sheet No. 398
Original Sheet No. 398A
Original Sheet No. 398B
Original Sheet No. 398C

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8653 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–201–000]

Tennessee Gas Pipeline Co.; Report on Account 191 Trailing Costs and Reduced Account 191 Direct Bill Amounts

April 6, 1994.

On April 1, 1994, Tennessee Gas Pipeline Company (Tennessee) filed a report covering the costs and revenues recorded in Account 191 during the period April 1993 through February 1994. Tennessee also filed the following revised tariff sheets, to be effective March 1, 1994, which impose reduced direct bill amounts reflecting the reduced level of costs resulting from adjustments to Account 191 shown in the report:

Fourth Revised Volume No. 1, First Revised Sheet Nos. 31–34.

Tennessee states that copies of the filing are being mailed to all affected customers and state commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before April 13, 1994. 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 part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8645 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–202–000]

Tennessee Gas Pipeline Co.; Report on Reconciliation of Great Plains Tracker

April 6, 1994.

Take notice that on April 1, 1994, Tennessee Gas Pipeline Company (Tennessee) pursuant to Article XXXIII of Fourth Revised Volume No. 1 of FERC Gas Tariff, filed a report reconciling the costs of gas purchased from Great Plains Gasification Associates and the revenues experienced during the period July 1992 through August 1993.

Tennessee states that the report sets forth the refunds owed by Tennessee, by customer, for overcollections during that period. Tennessee states that it will credit the invoices of customers during April 1993 to effectuate the refund.

Tennessee states that copies of the filing are being mailed to all customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8646 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP89–710–012]

Transcontinental Gas Pipe Line Corp.; Report of Refunds

April 6, 1994.

Take notice that on November 24, 1993, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report made in accordance with the Commission's order issued November 2, 1993 in Docket No. CP89–710.

TGPL states that on November 23, 1993, it refunded $2,486,711.88, including interest, for the period November 1, 1991 through May 31, 1993, to its customers Northwest Energy Associates and North Jersey Energy

Associates, to return certain Producer Settlement Payment (PSP) Charges and Litigant Producer Settlement Payment (LPSP) Charges.

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 April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8631 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–199–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 31, 1994, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of April 1, 1994:

Fifth Revised Sheet No. 12, Second Revised Sheet No. 229.

Texas Gas states that the revised tariff sheets are being filed in response to the Commission's Order issued March 29, 1994, in Docket No. RP94–119–001, which allows Texas Gas to make a stand-alone filing to increase IT rates.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's affected jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8655 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–200–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

April 6, 1994.

Take notice that on April 1, 1994, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, tariff sheets contained in Appendix A to the filing. The proposed effective date of these tariff sheets is May 1, 1994.

TGPL states that the purpose of the instant filing is to establish a Refund Recovery Surcharge (RRS) rate in order to provide for the recovery of certain amounts refunded to Northeast Energy Associates and North Jersey Energy Associates pertaining to TGPL's Producer Settlement Payment and Litigant Producer Settlement Payment costs. TGPL proposes to collect an RRS rate of 0.2¢/dt or Mcf for gas received and redelivered in Zones 1, 2, 3 or 4A and a rate of 0.3¢/dt or Mcf for gas received or delivered in Zones 4, 5 or 6.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE. Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8644 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–34–005]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 5, 1994.

Take notice that on March 30, 1994 Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of April 1, 1994:

8th Revised Sheet No. 4,
4th Revised Sheet Nos. 4A–4E,
107th Revised Sheet No. 5,
13th Revised Sheet No. 5A,
9th Revised Sheet No. 5A.01,
5th Revised Sheet No. 5A.02,
5th Revised Sheet No. 5A.03,
5th Revised Sheet No. 5A.04,
6th Revised Sheet No. 5A.05,
11th Revised Sheet No. 5B,
2nd Revised Sheet No. 6B,
6th Revised Sheet No. 8,
3rd Revised Sheet No. 9,
5th Revised Sheet No. 20,
8th Revised Sheet Nos. 20A–20B,
6th Revised Sheet No. 22,
10th Revised Sheet No. 29,
4th Revised Sheet No. 36,
10th Revised Sheet No. 48,
6th Revised Sheet No. 51A,
3rd Revised Sheet No. 51B,
3rd Revised Sheet No. 93,
1st Revised Sheet No. 93A,
2nd Revised Sheet No. 94.

Pursuant to the Federal Energy Regulatory Commission's (Commission) March 30, 1994 Order approving the Stipulation and Agreement (Settlement) filed on November 23, 1993 in the above-referenced proceeding, Transwestern seeks to implement the Settlement, effective April 1, 1994, in accordance with the effectiveness provision of the Settlement.

On March 30, 1994, the Commission issued an order approving the Settlement filed on November 23, 1993 in this rate proceeding at Docket No. RP93–34–000, et al. Pursuant to Article XI, section B of the Settlement, the Settlement becomes effective on April 1, 1994, the first day of the first calendar month following the Commission's issuance of an Order approving the Settlement.

Under the tariff sheets submitted, Transwestern proposes to implement the terms and provisions of the Settlement. The tariff sheets provide for a rate reduction to be effective prospectively from the Effective Date of the Stipulation, and significant refunds/credits and other benefits to Transwestern's customers.

Transwestern states that the tariff sheets submitted contain the same provisions as the pro forma sheets submitted previously with the

Settlement and approved by the Commission on March 30, 1994.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to 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. All such protests should be filed on or before April 12, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8659 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

Docket Nos. RS92–87–000 and RP94–97–000 (Not Consolidated)

Transwestern Pipeline Co.; Technical Conference

April 6, 1994.

Pursuant to the Commission's February 25, 1994, order in Docket No. RS92–87–000, et al.,[1] and the agreement of the parties at the March 8, 1994, technical conference in this proceeding, the Commission's Advisory Staff will convene a technical conference to further discuss Transwestern Pipeline Company's (Transwestern) restructured services in light of one year of actual experience since the implementation of those services. Transwestern has indicated that it intends to file certain changes to its tariff based on its first year's experience with its restructured operations. This conference will provide a forum for the discussion of Transwestern's proposed changes and possibly resolution of issues that may arise concerning those changes. Since the conference is limited to a consideration of Transwestern's operations under its restructuring plan, generic changes in Order No. 636 policy will not be discussed.

The conference will be held on Wednesday, April 13, 1994, at 9 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8647 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–137–015]

Williston Basin Interstate Pipeline Co.; Notice of Compliance Filing

April 5, 1994.

Take notice that on April 1, 1994 Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following revised tariff sheets:

Fourth Revised Sheet No. 21,
First Revised Sheet No. 298,
First Revised Sheet No. 300,
First Revised Sheet No. 309,
First Revised Sheet No. 311.

The proposed effective date of the above reference tariff sheets is April 1, 1994.

Williston Basin states that the tariff sheets listed above are being filed in compliance with Ordering Paragraph (B) of the Commission's March 3, 1994 Order which directed Williston Basin to file tariff sheets to reflect the elimination of the take-or-pay throughput surcharge from service directly billed Western Gas Resources, Inc. under Rate Schedule S–2, on a prospective basis.

Williston Basin states that it is submitting the above tariff sheets under protest.

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 385.211 of the Commission's Rule and Regulation. All such protests should be filed on or before April 12, 1994. 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8657 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP90–137–014 and TM93–6–49–006]

Williston Basin Interstate Pipeline Co.; Refund Report

April 6, 1994.

Take notice that on December 16, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing with the Federal Energy Regulatory Commission (Commission) its Refund Report and supporting workpapers made in compliance with the Commission's "Order Granting Rehearing" issued November 3, 1993 in Docket Nos. RP90–137–010 and TM93–6–49–003.

Williston Basin states that on December 3, 1993, a refund was mailed to Northern States Power Company (NSP) that was applicable to service provided to NSP under Rate Schedule X–13 and reflected the elimination of the take-or-pay throughput surcharge from November 1, 1992 through September 30, 1993, with interest through December 2, 1993. Williston Basin states that the total amount refunded was $265,471.64, including interest of $9,176.89.

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 April 13, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–8639 Filed 4–11–94; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement", under the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Korea concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the

[1] Transwestern Pipeline Company, 66 FERC ¶ 61,238 (1994).

Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/KO(CA)–2, for the transfer of 52.5 kilograms of uranium containing 1.2 kilograms of the isotope uranium–235 (2.3 percent enrichment) from Canada to the Republic of Korea for fabrication of 2 Canflex fuel bundles.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on April 7, 1994.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy, Office of Arms Control and Nonproliferation.

[FR Doc. 94–8744 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed During Week of February 18 Through February 25, 1994

During the Week of February 18 through February 25, 1994, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall Be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: April 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 18 through Feb. 25, 1994]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 21, 1994	Texaco/Airport Texaco, Mobile, AL	RR321–147	Request for modification/rescission in the Texaco refund proceeding. If granted: The November 12, 1993 Decision and Order issued to Airport Texaco regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.
Feb. 22, 1994	Discount Fuel, Kadoka, SD	LEE–0090	Exception to the reporting requirements. If granted: Discount Fuel would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Do	Myers Chevron, Liberty, KY	LEE–0089	Exception to the reporting requirements. If granted: Myers Chevron would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Do	Paul Fisher Oil Company, Inc., Selmer, TN.	LEE–0091	Exception to the reporting requirements. If granted: Paul Fisher Oil Co., Inc., would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Do	Petroleum Products, Inc., Belle, WV	LEE–0087	Exception to the reporting requirements. If granted: Petroleum Products, Inc., would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Do	Texaco/Dees Petroleum Products, Alturas, CA.	RR321–151	Request for modification/rescission in the Texaco refund proceeding. If granted: The May 18, 1992 Decision and Order (Case No. RF321–11735) issued to Dees Petroleum Products regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.
Do	Ron Vader, New Westminister, BC Canada.	LFA–0357	Appeal of an information request denial. If granted: Ron Vader would receive access to information regarding the Hanford Site files.
Do	Ward Oil Company, Aberdeen, ID	LEE–0088	Exception to the reporting requirements. If granted: Ward Oil Company would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Feb. 25, 1994	Berreth Oil, Inc., Mishawaka, IN	LEE–0093	Exception to the reporting requirements. If granted: Berreth Oil, Inc., would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Do	Margaret Klunk, Spring Grove, PA	LFA–0358	Appeal of an information request denial. If granted: The January 26, 1994 Freedom of Information Request Denial issued by the Clean Coal Branch Office would be rescinded, and Margaret Klunk would receive access to a complete itemized accounting, including incidentals and reimbursable contractor costs incurred for Round I, CCT Project at Tallahassee, West Manchester and Spring Grove.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Feb. 18 through Feb. 25, 1994]

Date	Name and location of applicant	Case No.	Type of submission
Do	Lorenz Petroleum, Inc., Manitowoc, WI	LEE–0092	Exception to the reporting requirements. If granted: Lorenz Petroleum, Inc., would not be required to file Form EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Do	Texaco/MAPCO, Inc., St. Louis, MO	RR321–152	Request for modification/rescission in the Texaco refund proceeding. If granted: The May 18, 1993 Decision and Order (Case No. RF321–17068) issued to MAPCO, Inc. regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund applicant	Case No.
2/22/94	Eau Claire Transit	RC272–228.
2/22/94	Farmers Elevator Company	RF272–95126.
2/22/94	Marshfield Cooperative	RF272–95127.
2/22/94	Central Petroleum Company	RF272–95128.
2/23/94	Sanford Brick Company	RA272–57.
2/24/94	1st Colony Corporation	RF272–95129.
2/24/94	Cooper Tools Statesboro Plaza	RF272–95130.
2/24/94	River Country Co-Op	RF272–95131.
2/18/94 thru 2/25/94.	Texaco oil refund applications received	RF321–20305 thru RF321–20377.

[FR Doc. 94–8749 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Proposed Decision and Order for Week of March 14 Through March 18, 1994

During the week of March 14 through March 18, 1994 the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: April 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Midstream Fuel Service, Inc., Mobile, Alabama, Lee–0083, Reporting Requirements

Midstream Fuel Service, Inc. (Midstream) filed an Application for Exception from the provision of filing Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The exception request, if granted, would permit Midstream to be exempted from filing Form EIA–782B. In considering the request, the DOE found that the firm was suffering a gross inequity due to the maternity leave of two of the firm's employees. On March 15, 1994, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part and that Midstream should be granted an extension of time until May 1994 in which to file the forms due between February 1, 1994, and May 1, 1994.

[FR Doc. 94–8750 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Proposed Decisions and Orders for Week of March 21 Through March 25, 1994

During the week of March 21 through March 25, 1994, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time

period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: April 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

Farmers Co-Operative Company, Winger, MN, Reporting Requirements, Lee–0077

Farmers Co-Operative Company filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. Accordingly, on March 24, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Friendly Service Stations, Inc., Fairfield, CT, Reporting Requirements, Lee–0070

Friendly Service Stations, Inc., (Friendly) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." Friendly showed that it had been forced by financial difficulties to reduce its staff to such an extent that complying with the reporting requirement would impose an inordinate burden on the firm. DOE therefore determined that exception relief should be granted. Friendly hopes that its current difficulties will prove temporary. The exception relief granted will therefore be effective for a period of nineteen months, ending April 30, 1995. Accordingly, on March 23, 1994, the DOE issued a Proposed Decision and Order determining that the request should be granted in part.

Lorenz Petroleum, Inc., Manitowoc, WI, Reporting Requirements, Lee–0092

Lorenz Petroleum, Inc. filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was experiencing a serious hardship due to the medical problems of its owner, Kenneth Lorenz. Accordingly, on March 21, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be granted in part.

New Dixie Oil Corporation, Roanoke Rapids, NC, Reporting Requirements, Lee–0074

New Dixie Oil Corporation (New Dixie) filed an Application for Exception from the provision of filing Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The Exception request, if granted, would permit New Dixie to be exempted from filing Form EIA–782B. On March 24, 1994, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request should be denied.

Paul Fisher Oil Co., Inc., Selmer, TN, Reporting Requirements, Lee–0091

Paul Fisher Oil Co., Inc., (Fisher) filed an Application for Exception from the provision of filing Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Sales Report." The Exception request, if granted, would permit Fisher to be exempted from filing Form EIA–782B. On March 23, 1994, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request should be denied.

Raymer Oil Co., Statesville, NC, Reporting Requirements, Lee–0095

Raymer Oil Co., filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file from EIA–782B, the Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. Accordingly, on March 24, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

Winn's Gas & Oil, Paul, ID, Reporting Requirements, Lee–0078

Winn's Gas & Oil filed an Application for Exception from the requirement that it file Form 782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was not experiencing a serious hardship or being adversely affected by the reporting requirement in a way that was significantly different from the burden borne by similar reporting firms. Accordingly, on March 24, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied.

[FR Doc. 94–8751 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–P

Final Closing Date for Special Refund Proceeding No. LEF–0114 Involving Strasburger Enterprises, Inc.

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of closure of special refund proceeding, LEF–0114, Strasburger Enterprises, Inc.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces that it is terminating the proceeding established to distribute refunds from the escrow account maintained pursuant to a consent order entered into between the DOE and Strasburger Enterprises, Inc.

FOR FURTHER INFORMATION CONTACT: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8018.

SUPPLEMENTARY INFORMATION: On January 22, 1992, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order setting forth final refund procedures to distribute the monies in the oil overcharge escrow account established in accordance with the terms of a Consent Order entered into by the Department of Energy and the Strasburger Enterprises, Inc. See Strasburger Enterprises, Inc., 22 DOE ¶ 85,021 (1992), 57 FR 3199 (January 28, 1992). That Decision established January 29, 1993, as the filing deadline for the submission of refund applications for direct restitution by purchasers of Strasburger Enterprises, Inc.'s refined petroleum products. 22 DOE at 88,063.

The Office of Hearings and Appeals commenced accepting refund applications in the Strasburger Enterprises, Inc. refund proceeding on February 18, 1992, more than two years ago. All of the Applications for Refund filed in the Strasburger Enterprises, Inc.

proceeding have been considered and resolved. Furthermore, in view of the extended period of time that has transpired since the commencement of the proceeding, and the fact that no Applications for Refund have been submitted since February 2, 1993, we have concluded that all eligible applicants have been provided with ample time to file. Accordingly, effective April 22, 1994, the proceeding established to distribute funds from the escrow account maintained pursuant to the consent order entered into between the DOE and Strasburger Enterprises, Inc. will be closed. Any unclaimed funds remaining will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501.

Dated: April 6, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–8754 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–P

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $610,000, plus accrued interest, in alleged crude oil overcharges obtained by the DOE under the terms of the Consent Order entered into with J.R. Cone, Case No. LEF–0118 (Cone). The OHA adopts the tentative determination made in the Proposed Decision and Order, 58 FR 68,903 (December 29, 1993), that the funds obtained from Cone, plus interest accrued, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESSES: Applications for Refund from the crude oil funds should be clearly labeled "Application for Crude Oil Refunds" and should be mailed to Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585. Applications for Refund must be filed in duplicate no later than June 30, 1994. Any party who has previously filed an Application for Refund should not file another Application for Refund from the present crude oil funds. The previously filed crude oil applications will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order adopts the procedures set forth in the Proposed Decision and Order (*see* 58 FR 68,903 (December 29, 1993)) that the DOE has formulated to distribute to eligible claimants $610,000, plus accrued interest, obtained by the DOE under the terms of the Consent Order entered into with J.R. Cone on May 14, 1993. The funds were paid by Cone towards the settlement of alleged violations of the DOE price and allocation regulations involving the sale of crude oil during the period from November 1973 through February 1977. The DOE is currently holding the funds in an interest bearing account pending distribution.

The OHA has determined to distribute the Cone Consent Order funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986)(the MSRP). Under the MSRP, crude oil overcharge monies are divided between the Federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products they purchased.

Applications for Refund must be postmarked no later than June 30, 1994. As we state in the Decision, any party who has previously filed an Application for Refund in the crude oil refund proceedings should not file another Application for Refund. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

Dated: April 5, 1994.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Apr. 5, 1994.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: J.R. Cone
Date of Filing: November 16, 1993
Case Number: LEF–0118

On November 16, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute funds which J.R. Cone (Cone) remitted to the DOE pursuant to a Consent Order entered into by Cone and the DOE on May 14, 1993.

On March 25, 1983, the OHA issued a Remedial Order (RO) finding that Cone had erroneously classified crude oil produced from two oil bearing properties as crude oil produced from stripper well properties. On May 14, 1993, Cone and the DOE entered into a Consent Order settling all claims arising from the RO. Pursuant to the Consent Order, Cone has remitted $610,000 to the DOE. These funds have been held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

In accordance with the procedural regulations codified at 10 C.F.R. part 205, Subpart V (Subpart V), the ERA requested in its petition that the OHA establish special refund procedures to remedy the effects of alleged regulatory violations which were resolved by the Consent Order. This Decision and Order sets forth the OHA's plan to distribute these funds.

I. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan for distributing funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. §§ 4501–07 (1988), *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

II. The Proposed Decision and Order

We considered the ERA's petition that we implement a Subpart V proceeding with respect to the Cone Consent Order fund and determined that such a proceeding was appropriate. On December 20, 1993, we issued a Proposed Decision and Order (PDO) setting forth the OHA's tentative plan to distribute this fund. *See* 58 Fed. Reg. 68,903 (December 29, 1993). In the PDO, we stated our intent to adopt the DOE's standard crude oil refund procedures, as set out below, to distribute the funds obtained through the Cone Consent Order.

The PDO provided a period of 30 days from the date of publication in the **Federal Register** for interested parties to file comments regarding the tentative distribution process. More than 30 days has elapsed and the OHA has received no comments on the proposed distribution process for the Consent Order funds.

Consequently, the procedures will be adopted as proposed.

III. The Refund Procedures

A. Crude Oil Refund Policy

We adopt the tentative determination of the PDO to distribute the funds obtained with the Cone Consent Order in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986)(The MSRP). The MSRP was issued as a result of a court-approved Settlement Agreement. *In re: The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90.509 (1986) (the Stripper Well Settlement Agreement). The MSRP establishes that 40% of the crude oil funds will be remitted to the Federal government, another 40% to the states, and up to 20% may be initially reserved for payment of claims to injured parties. The MSRP also specifies that any monies remaining after all valid claims by injured purchasers are paid be disbursed to the Federal government and the states in equal amounts.

The OHA has utilized the MSRP in all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986). This Order provided a period of 30 days for filing of comments or objections to our proposed use of the MSRP as the groundwork for evaluating claims in crude oil refund proceedings. Following this period, the OHA issued a Notice evaluating the numerous comments which it had received pursuant to the Order Implementing the MSRP. This notice was published at 52 Fed. Reg. 11737 (April 10, 1987) (the April 10 Notice).

The April 10 Notice contained guidance to assist potential claimants wishing to file refund applications for crude oil monies under the Subpart V regulations. Generally, all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973, through January 27, 1981, crude oil price control period, and (2) show that they were injured by the alleged crude oil overcharges. We also specified that end-users of petroleum products whose businesses were unrelated to the petroleum industry will be presumed to have been injured by the alleged crude oil overcharges. End-users, therefore, need only submit documentation of their purchase volumes. *See City of Columbus, Georgia*, 16 DOE ¶ 85,550 (1987). Additionally, we stated that we would calculate crude oil refunds on a per gallon (or volumetric) basis. We obtained this figure by dividing the crude oil refund pool by the total consumption of petroleum products in the United States during the crude oil price control period. The OHA has adopted the refund procedures outlined in the April 10 Notice in numerous cases. *See, e.g., Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (*Shell*); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (Mountain Fuel).

B. Refund Claims

We adopt the PDO's proposed determination to use the DOE's standard crude oil refund procedures to distribute the monies in the Cone Consent Order fund. We have chosen to reserve 20% of the fund, $122,000, plus accrued interest, for direct refunds to claimants in order to ensure that sufficient funds will be available for injured parties.

The OHA will evaluate crude oil refund claims filed in this proceeding in a manner consistent with our previous crude oil refund proceedings under Subpart V. *See Mountain Fuel*, 14 DOE at 88,869. Claimants in this proceeding will be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged overcharges.

We adopt a presumption that the crude oil overcharges were absorbed, rather than passed on, by applicants which were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. §§ 751–760h (1988). Under this presumption, end-user claimants need not submit documentation to show injury, and may become eligible for a refund by simply documenting their purchase volumes. *See Shell*, 17 DOE at 88,406.

Petroleum retailer, refiner, and reseller applicants must submit detailed documentation of injury. They may not rely upon the injury presumptions utilized in some refined products refund cases. *Id.* These applicants may, however, use econometric evidence of the type found in the *OHA Report on Stripper Well Overcharges*, 6 Fed. Energy Guidelines ¶ 90,507 (1985). *See also* Petroleum Overcharge Distribution and Restitution Act § 3003(b)(2), 15 U.S.C. § 4502(b)(2) (1988). If a claimant has executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Agreement, it has waived its rights to file an application for Subpart V crude oil refund monies. *See Mid-America Dairymen* v. *Herrington*, 878 F.2d 1448 (Temp. Emer. Ct. App.), 3 Fed. Energy Guidelines ¶ 26,617 (1989); *In re: Department of Energy Stripper Well Exemption Litigation*, 707 F. Supp. 1267 (D. Kan.), 3 Fed. Energy Guidelines ¶ 26,613 (1987).

As we have stated in prior Decisions, a crude oil refund applicant need only submit one application for its share of all available crude oil overcharge funds. *See, e.g., A. Tarricone, Inc.*, 15 DOE ¶ 85,495 (1987). A party that has already submitted a claim in any other crude oil refund need not file another claim. The prior application will be deemed to be filed in all crude oil refund proceedings finalized to date. The DOE has established June 30, 1994, as the final deadline for filing an Application for Refund from the crude oil funds. *See* 58 Fed. Reg. 26,318 (May 3, 1993). It is the policy of the DOE to pay all crude oil refund claims at the rate of $.0008 per gallon. While we anticipate that the applicants that filed their claims before June 30, 1988, will receive a supplemental refund payment, we will decide in the future whether claimants that filed later applications should receive additional refunds. *See, e.g., Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register.**

To apply for a crude oil refund, a claimant should submit an Application for Refund containing all of the following information:

(1) Identifying information including the claimant's name, current business address, business address during the refund period, taxpayer identification number or social security number, a statement indicating whether the claimant is a corporation, partnership, sole proprietorship, or other business entity, the name, title, and telephone number of a person to contact for any additional information, and the name and address of the person who should receive the refund check.[1] If the Applicant operated under more than one name or under a different name during the price control period, the Applicant should specify these names;

(2) If the Applicant's firm is owned by another company, or owns other companies, a list of those companies' names, addresses, and descriptions of their relationship to the Applicant's firm;

(3) A brief description of the claimant's business and the manner in which it used the petroleum products listed on its Application;

(4) A statement identifying the petroleum products which the Applicant purchased during the period from August 19, 1973, through January 27, 1981, an annual schedule displaying the total number of gallons of each petroleum product purchased during this refund period, and the total number of gallons of all petroleum products claimed on the refund application;

(5) An explanation as to how the Applicant obtained the above mentioned purchase volumes, and, if estimates were used, a description of the method of estimation;

(6) A statement that neither the claimant, its parent firm, affiliates, subsidiaries, successors, nor assigns has waived any right it may have to receive a crude oil refund (e.g. by having executed and submitted a valid waiver accompanying a claim to any escrow accounts established pursuant to the Stripper Well Settlement Agreement);

(7) A statement that the Applicant has not filed any other refund application in the Subpart V crude oil refund proceeding;

(8) If the Applicant is not an end-user, was covered by the DOE price regulations, or is related to the petroleum industry, a showing that the Applicant was injured by the alleged crude oil overcharges;

[1] Under the Privacy Act of 1974, the submission of a social security number by an individual applicant is voluntary. An applicant that does not wish to submit a social security number must submit an employer identification number if one exists. This information will be used in processing refund applications, and is requested pursuant to our authority under the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. § 4502(b)(1) (1988), and the regulations codified at 10 CFR Part 205, Subpart V. The information may be shared with other Federal agencies for statistical, auditing or archiving purposes, and with law enforcement agencies when they are investigating a potential violation of civil or criminal law. Unless an Applicant claims confidentiality, this information will be available to the public in the Public Reference Room of the Office of Hearings and Appeals.

(9) If the Applicant is a regulated utility or a cooperative, certification that it will pass on the entirety of any refund received to its customers, will notify its state utility commission, or other regulatory agency, or membership body of the receipt of any refund, and a brief description as to how the refund will be passed along;

(10) The statement listed below signed by the individual Applicant or a responsible official of the company filing the refund application:

I swear (or affirm) that the information contained in this application and its attachments is true to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the Federal government may be subject to a fine, imprisonment, or both, pursuant to 18 U.S.C. § 1001 (1988). I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application which will be placed in the OHA Public Reference Room.

All applications should be either typed or printed and clearly labelled "Application for Crude Oil Refund." Each Applicant must submit an original and one copy of the Application. If the Applicant believes that any information in its Application is confidential and does not wish for this information to be publicly disclosed, it must submit an original Application clearly marked "confidential," containing the confidential information, and two copies of the Application with the confidential information deleted. All refund applications should be sent to: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585.

The filing deadline is June 30, 1994. Even though an Applicant is not required to use any specific form for its crude oil refund application, a suggested form has been prepared by the OHA and may be obtained by sending a written request to the address given above.

C. Payments to the Federal Government and the States

Under the terms of the MSRP, 40% of the alleged crude oil overcharge amounts subject to this Decision, $244,000, plus accrued interest, will be disbursed to the Federal government and the remaining 40%, $244,000, plus accrued interest, will be disbursed to the states for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the *Stripper Well Settlement Agreement*, 6 Fed. Energy Guidelines ¶ 90,509 at 90,687 (1986). When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted by J.R. Cone pursuant to the Consent Order finalized between J.R. Cone and the Department of Energy on May 14, 1993, may now be filed.

(2) All Applications submitted pursuant to paragraph (1) must be filed in duplicate and postmarked no later than June 30, 1994.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer $610,000 and all interest accrued from the Cone subaccount (Account No. 676C00208Z) pursuant to Paragraphs (4), (5), and (6) of this Decision.

(4) The Director of Special Accounts and Payroll shall transfer $244,000 (plus interest) of the funds obtained pursuant to Paragraph (3) above into the subaccount denominated "Crude Tracking- States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $244,000 (plus interest) of the funds obtained pursuant to Paragraph (3) above into the subaccount denominated "Crude Tracking- Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $122,000 (plus interest) of the funds obtained pursuant to Paragraph (3) above into the subaccount denominated "Crude Tracking- Claimants 4," Number 999DOE010Z.

Dated: April 5, 1994.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 94–8755 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–P

Determination of Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b)(2), it intends to award on a noncompetitive basis a cooperative agreement to Pen Kem, Inc. The cooperative agreement is a continuation of work under a former DOE cooperative agreement and will support development of the active ultrasonic spectroscopy for shape characterization efforts which began in 1991 as a part of the PSD sensor project. DOE support is estimated at $150,000 for a twelve month period.

FOR FURTHER INFORMATION CONTACT: Stanley F. Sobczynski, DOE Project Manager, Office of Conservation Energy, U.S. Department of Energy, Washington, DC 20585, (202) 585–1878.

SUPPLEMENTARY INFORMATION: The anticipated objectives to be achieved include the following:

—Development of methodology to infer shape characteristics using ultrasonic response measured under various imposed flow fields;

—Design and fabrication of an R&D prototype slurry characterization chamber (SCC); and

—Valuation of key concepts using model systems (specially prepared clays with controlled shape variations) in the laboratory and experimental evaluation of proposed techniques for monitoring delamination of kaolin will be conducted to identify practical limitations.

The probability of success is high because of Pen Kem's experience and continued work with R&D in the field of colloids. Since the development of the new PSD sensor prototype, development of a new PSD sensor based on ultrasound has been reported in Europe. Preliminary market exploration of the commercial PSD instrument was conducted at the 1992 Pen Kem User's forum in Paris in November 1992.

Accomplishments during the initial phase of the project indicate that Pen Kem will successfully achieve these objectives with continued DOE funding and that competition for support would result in considerable delay in achieving some of the results anticipated during the upcoming phase of the project as well as inhibit the objectives of the Office of Conservation Energy. Award is therefore restricted to Pen Kem, Inc.

Issued in Oak Ridge, Tennessee on March 30, 1994.

Peter D. Dayton,

Director, Procurement and Contracts Division, Oak Ridge Field Office.

[FR Doc. 94–8746 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–M

Weatherization Assistance Program (WAP); Region VII WAP Conference; Notice of Availability of Funding

AGENCY: Department of Energy.

ACTION: Notice of availability of funding.

SUMMARY: This document announces the issuance of a Program Solicitation No. DE–FG47–94R701317 by the Department of Energy, Kansas City Support Office (KCSO). The solicitation invites the grant application from State WAP grantees located in Federal Region VII (Iowa, Kansas, Missouri & Nebraska) for funding of a regional conference in support of the WAP.

ADDRESSES: Department of Energy, Kansas City Support Office, 911 Walnut, 14th Floor, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Cynthia A. King, Grants Management Division, (816) 426–3816; Patrick G. Lana, Grants Management Division (816) 426–4779.

I. Background

The U.S. Department of Energy—Kansas City Support Office (KCSO) is making funds available as part of its Weatherization Assistance Program (WAP) Training and Technical Assistance (T&TA) Program.

II. Eligible Grantees

Eligible grantees are the WAP state grantees located in the area serviced by the DOE–KCSO (Iowa, Kansas, Missouri & Nebraska).

III. Eligible Activities

The grant issued pursuant to this Notice is limited to the Region VII Weatherization Assistance Program Conference.

Application Procedures

The Program Solicitation and Grant Applications have been provided to each state WAP grantee in the KCSO area and must be received no later than April 30, 1994. Application content and evaluation criteria are set forth in the Program Solicitation.

It is anticipated that the grant award will be issued by July 1, 1994.

Issued in Chicago, Illinois on March 21, 1994.

Timothy S. Crawford,

Assistant Manager for Human Resources and Administration.

[FR Doc. 94–8745 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance: Weirton Steel Corporation

AGENCY: Department of Energy, Idaho Operations Office.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.7(b)(2)(i)(A) it plans to negotiate a renewal award to Cooperative Agreement DE–FC07–92ID13162 with Weirton Steel Corporation, Weirton, West Virginia.

FOR FURTHER INFORMATION CONTACT: Linda A. Hallum, Contract Specialist, (208) 526–5545; U.S. Department of Energy, 850 Energy Drive, MS 1221, Idaho Falls, ID 83401–1563.

SUPPLEMENTARY INFORMATION: The objective of the project is to develop a material marking and tracking system and a process planning and scheduling system suitable for use in a steel plant. These systems are part of a larger effort to provide a comprehensive Integrated Manufacturing Information System (IMIS). The renewal award will continue with Phase II tasks. DOE has no recent, current, or planned solicitations under which this proposal would be eligible. The activity to be funded is necessary to the satisfactory continuation of an activity currently funded by DOE and for which competition for support would have a significant adverse effect on continuity or completion of the project. Anticipated project benefits include energy savings, economic benefits, and environmental enhancement. The renewal award will be for two years at a total estimated cost of $9,137,433 per year. Weirton must cost share at least 50% of the project costs and DOE obligations will not exceed amounts authorized for this project. DOE has $2,912,000 available for FY 94 and expects a similar amount for FY 95. Statutory authority for this award is Public Law 93–577, Federal Non-Nuclear Energy Research and Development Act of 1974. The Federal Domestic Catalog Number is 81.078.

Dated: March 28, 1994.

Michael K. Barrett,

Acting Director, Procurement Services Division.

[FR Doc. 94–8747 Filed 4–11–94; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ECAO–CD–94–0671; FRL–4862–4]

Air Quality Criteria for Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Call for information.

SUMMARY: The Environmental Criteria and Assessment Office of Health and Environmental Assessment, of the U.S. Environmental Protection Agency (EPA) is undertaking to update and revise, where appropriate, EPA's air quality criteria for particulate matter (PM) under sections 108 and 109 of the Clean Air Act.

Since completion of the 1982 criteria document for particulate matter and sulfur oxides (and its 1986 addendum), EPA has continued to follow the scientific literature and compile information that may be relevant to a review of the National Ambient Air Quality Standards for PM. Interested parties are invited to assist EPA in developing and refining its scientific information base to help ensure that all relevant information is considered in updating the air quality criteria for PM. Identification of new information in the following areas will be particularly useful: Effects of exposure on laboratory animals and humans; effects on vegetation, agroecosystems (crops), and natural ecosystems; effects on nonbiological materials; effects on global climate; chemistry and physics; sources and emissions; analytical methodology; transformation and transport in the environment; and ambient concentrations.

To be considered for inclusion in the criteria document, submitted information should have been published, accepted for publication, or presented at a public scientific meeting.

DATES: All communications and information should be submitted by June 30, 1994, and addressed to the Project Manager for PM, Environmental Criteria and Assessment office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

Dated: April 5, 1994.

Gary J. Foley,

Acting Assistant Administrator for Research and Development.

[FR Doc. 94–8736 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–140219; FRL–4763–8]

Access to Confidential Business Information by Garcia Consulting, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Garcia Consulting, Inc. (GCI) of Arlington, Virginia access to information which has been submitted to EPA under sections 4, 5, 6, 7, and 12 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than April 25, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–D4–0007, contractor Garcia Consulting, Inc. (GCI) of 2361 Jefferson Davis Highway, Suite 906, Arlington, VA will assist the Office of Pollution Prevention and Toxics (OPPT) in processing export notices submitted under section 12(b) of TSCA and issuing notification letters to foreign

governments. In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D4–0007, GCI will require access to CBI submitted to EPA under sections 4, 5, 6, 7, and 12 of TSCA to perform successfully the duties specified under the contract. Access is required for sections 4, 5, 6, and 7 of TSCA in addition to section 12 because certain regulatory actions under those sections trigger section 12 export notices. GCI personnel will be given access to information submitted to EPA under section 12 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under section 12 of TSCA that EPA may provide GCI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and at GCI's Technical Assistance Information Service (TAIS) office, Waterside Mall, Garage Level, 401 M St., SW., Washington, DC 20460.

Before access to TSCA CBI is authorized at GCI's TAIS office site, EPA will approve GCI's security certification statement, perform the required inspection of its facility, and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, GCI will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1998.

GCI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: April 6, 1994.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–8730 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4863–1]

Committee Meetings of the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meetings.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing a series of meetings of committees of the Grand Canyon Visibility Transport Commission (Commission). The Commission was established by EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991). These meetings are not subject to provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meetings will be held as follows:

Alternatives Assessment Committee—Monday through Wednesday, April 18 to 20, 1994, beginning at 8:30 am.

Aerosol and Visibility Subcommittee—Wednesday, April 20, 1994, beginning at 1:00 pm.

Modeling Subcommittee—Thursday, April 21, 1994, beginning at 8 am.

Meteorology Subcommittee—Thursday, April 21, 1994, beginning at 10:30 am.

Emissions Subcommittee—Friday, April 22, 1994, beginning at 8:30 am.

ADDRESSES: The Alternatives Assessment Committee will be held at 600 17th Street, Suite 1800, North Tower, Denver, Colorado.

All four subcommittee meetings will be held at the Desert Research Institute, 755 East Flamingo Road, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Mr. John Leary; Project Manager for the Grand Canyon Visibility Transport Commission, Western Governors' Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202; telephone number (303) 623–9378; facsimile machine number (303) 534–7309.

SUPPLEMENTARY INFORMATION: The first meeting will be the Commission's Alternative Assessment Committee. The purpose of the meeting will be the finalization of a request for proposals (RFP) to be issued to perform the overall assessment of the emission management options and scenarios. The meeting will be closed to the general public. This action is being taken to ensure that potential bidders on the assessment are not given an unfair advantage by attending this meeting. A bidders conference will be held at a later date as part of the RFP process to ensure bidders have an opportunity to gain a full understanding of the assessment needs.

The second set of meetings will be the Commission's Aerosol and Visibility, Modeling, Meteorology, and Emissions Subcommittees. The Aerosol and Visibility Subcommittee main agenda items will be to establish the bounds of natural background visibility distributions in the transport region, and update other work plan tasks. The Modeling Subcommittee's agenda will focus on reviewing proposed modeling protocols. The Meteorology Subcommittee's primary agenda items will be to compare back-trajectory model results and to develop a synoptic characterization for the years 1982–1992 for the Grand Canyon region. The Emissions Subcommittee, finally, will focus on approving the 1990 emissions inventory, and work on micro and future base inventories. The subcommittee meetings are open to the public.

Dated: April 5, 1994.

Felicia Marcus,

Regional Administrator, Environmental Protection Agency, Region 9.

[FR Doc. 94–8849 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–140221; FRL–4776–3]

Temporary Closing and Relocation of TSCA Nonconfidential Information Center

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is issuing this notice to announce that the Toxic Substances Control Act (TSCA) Nonconfidential Information Center (NCIC), also known as, the TSCA Public Docket Office, will be closed from April 14 through 24, 1994, and will reopen in a new location, on April 25, 1994. The hours of operation and telephone number will remain the same.

DATES: TSCA NCIC will be closed from April 14 through April 24, 1994, and will reopen on April 25, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551. In case of emergency: Juanita Geer or Anthony Cheatham (202–260–1532).

SUPPLEMENTARY INFORMATION: On April 14, 1994, the TSCA NCIC will close. It will reopen on April 25, 1994, at EPA Headquarters in a new location: Rm. B–607, Northeast Mall, 401 M St., SW., Washington, DC 20460. The hours of operation, noon to 4 p.m., Monday through Friday, excluding legal holidays and the telephone number (260–7099), will remain the same at the new

location. In addition, a fax number will be available in mid-June.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: April 8, 1994.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–8880 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4862–2]

Notice of Final Decisions by the Environmental Protection Agency (EPA) on the Lists of Sources Identified by the States of Alaska, Oregon, and Washington, Under Section 304(l) of the Clean Water Act as Amended by the Water Quality Act of 1987; Withdrawal of Notice Published on January 31, 1994

AGENCY: United States Environmental Protection Agency (EPA), Region 10.

ACTION: Public notice; withdrawal.

SUMMARY: On January 31, 1994 (59 FR 4281), EPA published a Clean Water Act public notice. This notice was published as the result of an administrative error. It was substantially identical to a notice published in the **Federal Register** on September 28, 1993 (58 FR 50548). EPA did not intend to provide a second public notice and comment period. Therefore, EPA is withdrawing the notice published on January 31, 1994.

Dated: March 22, 1994.

Jack H. Gakstatter,

Chief, Surface Water Branch.

[FR Doc. 94–8738 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Executive Resources and Performance Review Board; Appointment of Members

As required by the Civil Service Reform Act of 1978 (Pub. L. 95–454), Chairman Reed E. Hundt appointed the following executives to the Executive Resources and Performance Review Board:

Andrew S. Fishel
Ralph Haller
Roy J. Stewart
Robert M. Pepper
William E. Kennard

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–8696 Filed 4–11–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Kaharudin Latief; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice 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 indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than May 2, 1994.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Kaharudin Latief, Jakarta, Indonesia; to acquire 33.3 percent of the voting shares of Bank of San Francisco Company Holding Company, San Francisco, California, and thereby acquire Bank of San Francisco, San Francisco, California.

Board of Governors of the Federal Reserve System, April 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-8700 Filed 4-11-94; 8:45 am]

BILLING CODE 6210-01-F

Norwest Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these 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 May 6, 1994.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to merge with LaPorte Bancorp, Hammond, Indiana, and thereby indirectly acquire LaPorte Bank and Trust Company, LaPorte, Indiana.

In connection with this application, Applicant has also applied to acquire the discount brokerage business of LaPorte Bancorp, Hammond, Indiana, and thereby engage in full-service brokerage, government securities, and limited underwriting activities as authorized under §§ 225.25(b)(15) and (b)(16) of the Board's Regulation Y and the Board Order at 76 Federal Reserve Bulletin 79 (1990).

Board of Governors of the Federal Reserve System, April 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-8701 Filed 4-11-94; 8:45 am]

BILLING CODE 6210-01-F

USBancorp, 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 May 6, 1994.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. USBancorp, Inc., Johnstown, Pennsylvania; to acquire 100 percent of the voting shares of Johnstown Savings Bank, Johnstown, Pennsylvania.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Central Shares, Inc., Lebanon, Missouri; to acquire at least 45.3 percent of the voting shares of Security Bancshares of Pulaski County, St. Robert, Missouri, and thereby indirectly acquire Security Bank of Pulaski County, St. Robert, Missouri.

2. Security Bancshares of Pulaski County, Inc., St. Robert, Missouri, to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank of Pulaski County, Inc., St. Robert, Missouri.

Board of Governors of the Federal Reserve System, April 6, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94-8702 Filed 4-11-94; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Transactions Granted Early Termination Between: 032194 and 040194

Name of acquiring person; Name of acquired person; Name of acquired entity	PMN No.	Date terminated
Liberty Healthcare System, Inc.	94-0111	03/21/94
UniHealth America		
Meadowlands Hospital Medical Center		
J. George Harris	94-0832	03/21/94
Mariner Health Group, Inc.		
Mariner Health Group, Inc.		
Mariner Health Group, Inc	94-0885	03/21/94
Pinnacle Care Corporation		
Pinnacle Care Corporation		
Arch Petroleum Inc	94-0933	03/21/94
Chevron Corporation		
Chevron U.S.A. Inc.		
Microsoft Corporation	94-0963	03/21/94
SOFTIMAGE Inc.		
SOFTIMAGE Inc.		
Amoco Corporation	94-0967	03/21/94
Jerral Wayne Jones		
JMC Exploration, Inc.		
Questar Corporation	94-0970	03/21/94
Union Pacific Corporation		
Amax Oil & Gas, Inc.		
Ulster Petroleums Limited	94-1010	03/21/94
Jerral W. Jones		
Arkoma Production Company of Canada Inc.		
H. B. Fuller Company	94-0865	03/22/94
Koch Industries, Inc.		
Koch Protective Treatments, Inc.		
U.S. Can Corporation	94-0910	03/22/94
CSS Industries, Inc.		
Ellisco Inc.		
Jacobs Management Corporation	94-0925	03/22/94
IJ Holdings Corp.		
Genmar Holdings, Inc.		
IJ Holdings Corp	94-0926	03/22/94
Jacobs Management Corporation		
Miramar Marine Corporation		
Institute of the Sisters of Mercy	94-1019	03/22/94
St. Luke's Health Systems, Inc.		
St. Luke's Health Systems, Inc.		
St. Luke's Health Services Corporation	94-1020	03/22/94
Institute of the Sisters of Mercy		
Misericordia Health Systems, Inc.		
Union Pacific Corporation	94-0965	03/23/94
Cyprus Amax Minerals Company		
Amax Oil & Gas Inc.		
Matsushita Electrical Industrial Co., Ltd	94-0904	03/24/94
Brian Fargo		
Interplay Products, Inc.		
United HealthCare Corporation	94-0950	03/24/94
Complete Health Services, Inc.		
Complete Health Services, Inc.		
Eugene P. Conese, Sr	94-0986	03/24/94
Sequa Corporation		
Chromalloy Gas Turbine Corporation/ Gas Turbine Test		
Philip F. Anschutz	94-0998	03/24/94

Name of acquiring person; Name of acquired person; Name of acquired entity	PMN No.	Date terminated
MCI Communications Corporation Qwest Communications Inc. Atlantic Equity Partners, L.P	94–1003	03/24/94
Irving A. Rubin CPI Plastics, Inc. Texaco Inc	94–0570	03/25/94
Timan Pechora Company L.L.C. Timan Pechora Company L.L.C. Barry A. Ackerley	94–0936	03/25/94
WCC Associates, L.P. Cook Inlet Radio Part., L.P. & Cook Inlet Radio License Barry A. Ackerley	94–0940	03/25/94
Cook Inlet Region, Inc. Cook Inlet Radio Partnership, L.P. & Cook Inlet Radio Rayonier Inc	94–0997	03/25/94
Big Sky Lumber Company Big Sky Lumber Company First Security Corporation	94–1005	03/25/94
KCM Acquisition Company L.P. CrossLand Mortgage Acquisition Corporation General Electric Company	94–1008	03/25/94
Keystone Holdings Partners, L.P. American Savings Bank, F.A. Geoffrey P. Jurick	94–1009	03/25/94
Emerson Radio Corp. Emerson Radio Corp. Horizon Capital Partners I Limited Partnership	94–1011	03/25/94
Pet Incorporated Orval Kent Food Company, Inc. Louis A. Farris, Jr	94–1013	03/25/94
Fingerhut Companies, Inc. Figi's Inc. USIF, Real Estate	94–1016	03/25/94
Tri-State Inns, Inc. Tri-State Inns, Inc. Paul F. Wallace	94–1017	03/25/94
Tri-State Inns, Inc. Tri-State Inns, Inc. Newgen AG	94–1021	03/25/94
Willy R. Strothotte Ravenswood Aluminum Corporation Healthtrust, Inc.—The Hospital Company	94–0928	03/28/94
Nashville Memorial Health Systems, Inc. Nashville Memorial Hospital, Inc. SUPERVALU Inc	94–0932	03/28/94
Wetterau Properties Inc. Wetterau Properties Inc. Inter-Community Health Services, Inc	94–0949	03/28/94
Queen of the Valley Health Services Queen of the Valley Health Services Century Communications Corp	94–0959	03/28/94
A. Leon Capel Cajun Cellular, Inc. ITT Corporation	94–1039	03/28/94
Fosterland Holdings Corporation MLH Investors Corporation Compagnie de Saint-Gobain	94–0937	03/29/94
Howard N. Clark Clark United Corporation Cabot Oil & Gas Corporation	94–0992	03/30/94
Washington Energy Company Washington Energy Resources Company Washington Energy Company	94–0993	03/30/94
Cabot Oil & Gas Corporation Cabot Oil & Gas Corporation Exxon Corporation	94–1007	03/30/94
Timan Pechora Company L.L.C. Timan Pechora Company L.L.C. Flair Corporation	94–0971	03/31/94
American Filtrona Corporation Dollinger Corporation Rohm and Haas Company	94–0984	03/31/94
Monsanto Company Monsanto Company Koninklijke Ahold nv	94–1029	03/31/94
Promodes S.A. Pramer, Inc. General Motors Corporation	94–0787	04/01/94
Morgan Stanley Real Estate Fund, L.P. Red Roof Inns, Inc. Ronald O. Perelman	94–1031	04/01/94
Jerold B. Kretsch Sanborn Manufacturing Company Consolidated Stores Corporation	94–1032	04/01/94
Value Merchants, Inc. Value Merchants, Inc. Levitz Furniture Incorporated	94–1042	04/01/94
John M. Smyth Company John M. Smyth Company Blackstone Capital Partners L.P	94–1046	04/01/94
Edward J. DeBartolo DeBartolo Realty Corporation Salomon Inc	94–1049	04/01/94
Brencroft Limited J.H. Rayner (Cocoa) Limited & Lonray (Cocoa) Inc. Rogosin Enterprises Limited	94–1050	04/01/94
Pirelli S.p.A. Richmond Converters, Inc. Stewart A. Resnick and Lynda Rae Resnick	94–1053	04/01/94
Stewart A. Resnick and Lynda Rae Resnick Franklin Mint Company (General Partnership)		

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 94–8742 Filed 4–11–94; 8:45 am]

BILLING CODE 6750–01–M

[File No. 941 0038]

Martin Marietta Corporation; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit Martin Marietta, a Maryland-based corporation, to acquire General Dynamics Corporation's Space Systems Division and would prohibit, among

other things, the respondent's Expendable Launch Vehicle (ELV) division from disclosing to its satellite division any non-public information that its ELV division receives from a satellite manufacturer, and would require the respondent to give a copy of the final consent order to U.S. satellite owners or manufacturers before obtaining any non-public information from them.

DATES: Comments must be received on or before June 13, 1994.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ann Malester, FTC/S–2224, Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission ("the Commission"), having initiated an investigation of the acquisition by Martin Marietta Corporation ("Martin Marietta"), of certain assets of the Space Systems Division of General Dynamics Corporation ("General Dynamics"), and it now appearing that Martin Marietta, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to refrain from certain acts and to provide for other relief:

It is hereby agreed by and between proposed respondent, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed respondent Martin Marietta is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 6801 Rockledge Drive, Bethesda, Maryland 20817.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives: a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding. *Provided, however,* if, prior to the date the Commission issues its complaint and decision, proposed respondent notifies the Commission in writing that it has abandoned its proposed acquisition as described in the draft of complaint and has withdrawn any related notifications filed pursuant to Section 7A of the Clayton Act, as amended, 15 U.S.C. 18a, the Commission will not issue its complaint and decision.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, and if proposed respondent has not notified the Commission that it has abandoned its proposed acquisition pursuant to paragraph 4 of this agreement, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to refrain from certain acts in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the draft of complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered That, as used in this order, the following definitions shall apply:

A. "Martin Marietta" or "Respondent" means Martin Marietta Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by Martin Marietta, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

B. "Astronautics" means Martin Marietta's Astronautics Company, an entity with its principal place of business at P.O. Box 179, Denver, Colorado 80201, which is engaged in, among other things, the research, development, manufacture and sale of Expendable Launch Vehicles and Satellites, as well as its officers, employees, agents, divisions, subsidiaries, successors, and assigns, and the officers, employees or agents of Astronautics' divisions, subsidiaries, successors and assigns.

C. "Astro Space" means Martin Marietta's Astro Space Company, an entity with its principal place of business at P.O. Box 800, Princeton, New Jersey 08543–800, which is

principally engaged in the research, development, manufacture and sale of Satellites, its officers, employees, agents, divisions, subsidiaries, successors and assigns, and the officers, employees or agents of Astro Space's divisions, subsidiaries, successors and assigns.

D. "General Dynamics" means General Dynamics Corporation, a corporation organized, existing and doing business under the laws of Delaware with its principal place of business at 3190 Fairview Park Drive, Falls Church, Virginia 22042–4523.

E. "Person" means any natural person, corporate entity, partnership, association, joint venture, government entity, trust or other business or legal entity.

F. "Commission" means the Federal Trade Commission.

G. "Expendable Launch Vehicle" means a vehicle that launches satellites from the Earth's surface that is consumed during the process of launching a Satellite and therefore cannot be launched more than one time.

H. "Satellite" means an unmanned machine that is launched from the Earth's surface for the purpose of transmitting data back to Earth and which is designed either to orbit the Earth or travel away from the Earth.

I. "Acquisition" means the acquisition by Martin Marietta of substantially all of the assets relating to General Dynamics Corporation's Space Systems Division.

J. "Non-Public Information" means any information not in the public domain furnished by a Satellite owner or manufacturer to Astronautics or General Dynamics in their capacity as providers of Expendable Launch Vehicles and (a) if written information, designated in writing by the Satellite owner or manufacturer as proprietary information by an appropriate legend, marking, stamp, or positive written identification on the face thereof, or (b) if oral, visual or other information, identified as proprietary information in writing by the Satellite owner or manufacturer prior to the disclosure or within thirty (30) days after such disclosure. Non-Public Information shall not include (i) information already known to Martin Marietta, (ii) information which subsequently falls within the public domain through no violation of this Order by Martin Marietta, (iii) information which subsequently becomes known to Martin Marietta from a third party not in breach of a confidential disclosure agreement with such Satellite owner or manufacturer, or (iv) information after six (6) years from the date of disclosure of such Non-Public information to Martin Marietta or such other period as agreed to in writing by Martin Marietta and the Satellite owner or manufacturer.

II

It is further ordered That: A. Martin Marietta shall not, absent the prior written consent of the proprietor of Non-Public Information, provide, disclose, or otherwise make available to Astro Space any Non-Public Information; and

B. Martin Marietta shall use any Non-Public Information obtained by Astronautics only in Astronautics' capacity as a provider of Expendable Launch Vehicles, absent the prior written consent of the proprietor of Non-Public Information.

III

It is further ordered That Martin Marietta shall deliver a copy of this order to any United States Satellite owner or manufacturer prior to first obtaining any information relating to the owner's or manufacturer's Satellites outside the public domain either from the Satellite owner or manufacturer or through the Acquisition.

IV

It is further ordered That one (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at such other times as the Commission may require, Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has compiled and is complying with this order. To the extent not prohibited by United States Government national security requirements, Respondent shall include in its reports information sufficient to identify all United States Satellite owners or manufacturers with whom Respondent has entered an agreement for the research, development, manufacture or sale of Expendable Launch Vehicles.

V

It is further ordered That Respondent shall notify the Commission at least thirty days prior to any proposed change in Respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in Respondent, that may affect compliance obligations arising out of this order.

VI

It is further ordered That, for the purpose of determining or securing compliance with this order, and subject to any legally recognized privilege and applicable United States Government security requirements, upon written request, and on reasonable notice, Respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondent relating to any matters contained in this order; and

B. Upon five (5) days' notice to Respondent and without restraint or interference from it, to interview officers, directors, or employees of Respondent, who have counsel present, regarding such matters.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has provisionally accepted an agreement containing a proposed Consent Order from Martin Marietta Corporation ("Martin Marietta"), under which Martin Marietta's satellite division would be prohibited from gaining access to any non-public information that Martin Marietta's expendable launch vehicle division receives from competing satellite producers in its capacity as a provider of launch vehicles.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

Martin Marietta is a significant competitor in the market for the manufacture and sale of satellites. On December 22, 1993, Martin Marietta agreed to acquire General Dynamics Corporation's Space Systems Division, which manufactures the Atlas expendable launch vehicles. Following this acquisition, Martin Marietta would be the only United States supplier in the market for Atlas-class expendable launch vehicles as well as a competitor in the satellite market. The proposed complaint alleges that the acquisition, if consummated, would violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because Martin Marietta's satellite division could gain access to

competitively significant and non-public information concerning other satellite suppliers' products. As a result, the proposed acquisition increases the likelihood that competition between satellite suppliers would decrease and that advancements in satellite research, innovation, and quality would be reduced.

The proposed Consent Order prohibits Martin Marietta from disclosing any non-public information Martin Marietta receives in its capacity as a provider of expendable launch vehicles from a satellite owner or manufacturer to Martin Marietta's satellite division. Under the proposed Order, Martin Marietta may only use such information in its capacity as a provider of expendable launch vehicles. Non-public information is defined in the Order as any information not in the public domain furnished by a satellite owner or manufacturer to Martin Marietta's expendable launch vehicle division or General Dynamics in their capacity as providers of expendable launch vehicles and designated as proprietary information.

The Commission anticipates that the effect of the proposed Order will be to maintain the opportunity for full competition in the market for the research, development, manufacture and sale of satellites by limiting the ability of one significant competitor to use information obtained from other competitors.

Under the provisions of the Consent Order, Martin Marietta is also required to deliver a copy of the Order to any United States satellite owner or manufacturer prior to obtaining any information that is outside the public domain. One year from the date the Order becomes final and annually thereafter for nine (9) years, Martin Marietta will be required to provide to the Commission a report of its compliance with the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Dissenting Statement of Commissioner Deborah K. Owen on Proposed Consent Agreement With Martin Marietta Corp. File No. 941–0038

Respondent Martin Marietta Corporation manufactures satellites, which are launched into orbit by expendable launch vehicles, some of which it also manufactures. It proposes to acquire the Space Systems Division of General Dynamics Corporation, which manufactures Atlas-class expendable launch vehicles. The theory of the complaint is that if this acquisition is consummated, Martin Marietta's launch vehicle division will gain access to trade secrets concerning the products of other satellite manufacturers, and will transfer such information to Martin Marietta's satellite division, which will use it to injure its competitors. The Commission's order would enjoin Martin Marietta from misusing its rivals' confidential information in this manner.

Vertical integration, and combinations designed to achieve the efficiencies of such integration, are common phenomena, particularly in the aerospace industry. Accordingly, it would seem that there are already ample opportunities for the sort of abusive information-sharing which concerns the Commission. However, equally common are contractual obligations between vertically integrated companies, and firms that do business with one of their divisions, to prevent the sharing of those firms' confidential business information with other parts of the conglomerate with which they compete. The question then is whether such contracts are sufficient to avoid any competitive problem, or whether government-imposed requirements are necessary; if there exists a significant number of substantiated incidents of such activity, then private agreements would not seem adequate. However, the opposite appears to be the case.

While various Commission personnel have, in recent years, exhorted the business community to be sensitive to antitrust concerns stemming from the sharing of business information, Commission enforcement actions in this area have been rare, and no case has involved the strategic misuse of proprietary information so as to injure a competitor. Furthermore, Martin Marietta currently manufactures both satellites and launch vehicles, and is already privy to competitively significant information from other satellite manufacturers, yet I am unaware of any instance where it has been alleged that proprietary information has been used for exclusionary purposes by Martin Marietta, or indeed by any other aerospace manufacturer. As a result, it seems fair to conclude that contractual obligations prohibiting such behavior, coupled with the threat of business tort and treble-damage antitrust suits, are sufficient deterrents. Moreover, as the amount of available business in the aerospace industry continues to dwindle, it is hard to imagine that developing a reputation for abusing confidential information would enhance any company's competitiveness.

The Commission's proposed consent is somewhat puzzling in its coverage. If the theory of the complaint is correct—that Martin Marietta's dominant power in the launch vehicle market would facilitate anticompetitive information-sharing in the satellite market—why would the company stop there? The theory would seem to support as well allegations of other exclusionary and tying practices, yet these are not included. The Commission, correctly I believe, concluded that there was no evidence to support such charges; I therefore find it strange that it chose to go forward on the equally speculative information-sharing allegations.

In short, I do not believe that the evidence supports the theory behind the Commission's complaint, nor that a Commission order would be superior to privately negotiated confidentiality agreements for protecting the trade secrets of satellite manufacturers. I dissent.

[FR Doc. 94–8743 Filed 4–11–94; 8:45 am]
BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Availability of Final Environmental Assessment and Finding of No Significant Impact; United States Secret Service Headquarters Building

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), the General Services Administration (GSA) has filed with the Environmental Protection Agency, and made available to other government and private bodies, the Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the proposed construction of the United States Secret Service (USSS) Headquarters Building in Washington, DC. The USSS participated as a cooperating agency during preparation of the Final EA pursuant to 40 CFR 1501.6.

The project proposes the construction of an approximately 461,000 gross square foot building, with associated parking. The Headquarters Building will house 1,288 employees. The USSS Headquarters currently occupies space in one Government-owned and three leased buildings. Comments regarding the Final EA and FONSI may be submitted until May 9, 1994, and should be addressed to: General Services Administration, National

Capital Region, Planning Staff (WPL), Room 7618, 7th and D Streets, SW, Washington, DC 20407, Attention: Sonia Rivera-Hersha.

Additional Copies of the Final EA are also available for public review at the Martin Luther King, Jr. Memorial Library, 901 G Street, NW, Washington, DC.

Dated: April 4, 1994.

Thurman M. Davis,

Regional Administrator.

[FR Doc. 94–8759 Filed 4–11–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93D–0259]

Action Levels for Aflatoxins in Animal Feeds; Revised Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised Compliance Policy Guide (CPG) 7126.33 entitled "Action Levels for Aflatoxins in Animal Feeds." The CPG revises the action levels for aflatoxins in peanut products intended for animal feed use (i.e., peanuts, peanut meal, peanut hulls, peanut skins, and ground peanut hay) and provides guidance on levels of aflatoxin contamination of peanut products intended for use in animal feeds which, in the agency's view, may be necessary to support a charge of adulteration under certain provisions of the Federal Food, Drug, and Cosmetic Act (the act). FDA is inviting public comment concerning the revised action levels for peanut products that contain aflatoxins and that are shipped in interstate commerce for use in animal feeds.

DATES: Written comments by June 27, 1994.

ADDRESSES: Submit written requests for single copies of revised CPG 7126.33 to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on revised CPG 7126.33 to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of revised CPG 7126.33 and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel G. McChesney, Center for Veterinary Medicine (HFV–222), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1728.

SUPPLEMENTARY INFORMATION: FDA's use of action levels is defined in § 509.4(c)(1) (21 CFR 509.4(c)(1)) of FDA's regulations governing unavoidable contaminants in animal food and food-packaging material. FDA is announcing that it has revised CPG 7126.33 "Action Levels for Aflatoxins in Animal Feeds" to reflect changes in the action levels for aflatoxins in peanut products intended for animal feed use, in accordance with § 509.4(c)(2), and to provide guidance on levels of aflatoxin contamination of peanut products. FDA is inviting public comment on the revised action levels for aflatoxins in peanut products shipped in interstate commerce and intended for certain food-producing animals. The revised action levels are: (1) 100 parts per billion (ppb) aflatoxins for peanut products intended for breeding beef cattle, breeding swine, or mature poultry; (2) 200 ppb aflatoxins for peanut products intended for finishing swine (i.e., 100 pounds or greater); and (3) 300 ppb aflatoxins for peanut products intended for finishing (i.e., feedlot) beef cattle.

The original 20 ppb action level remains unchanged for aflatoxins in peanut products for use by immature animals, dairy animals, and for aflatoxins in peanut products for which the intended use is not known (CPG 7126.33). Both the revised action levels and the one that remains unchanged were the subject of a memorandum that FDA's Associate Commissioner for Regulatory Affairs issued on December 7, 1990, to the FDA field offices (hereinafter referred to as the December 7, 1990, memorandum) (Ref. 1).

Aflatoxins are added poisonous or added deleterious substances which, depending upon their level in food or feed, may cause the food or feed to be adulterated under section 402(a)(1) of the act (21 U.S.C. 342(a)(1)). This section states that a food (or feed) is deemed to be adulterated if it bears or contains an added poisonous or deleterious substance "which may render [the food (or feed)] injurious to health." If the government charges such a violation of the act, the government must show that there is a reasonable possibility of harm. Thus the action levels for aflatoxin are intended to represent levels of contamination above which, in the agency's view, the government could satisfy the "may render it injurious" test under section 402(a)(1) of the act.

Based on available scientific data, the agency believes that consumption of products containing aflatoxins in excess of 20 ppb may be injurious to the health of humans and immature animals, and that if such products are fed to dairy cattle, aflatoxin residues in fluid milk products that approach 0.5 ppb, the current action level for aflatoxin residues in such products (CPG 7106.10), may result. In 1989, FDA published revised action levels for aflatoxin in corn intended for use in animal feed (Ref. 2). FDA revised the action levels, which appear in CPG 7126.33, because it was able to further define subgroups for which levels of aflatoxin greater than 20 ppb may be necessary to support a "may be injurious to health" charge of adulteration under section 402(a)(1) of the act. Thus, for finishing swine, aflatoxin levels in excess of 200 ppb can support the charge, while levels above 300 ppb aflatoxin in corn and peanut products can support a charge under section 402(a)(1) of the act when the corn or peanut products are intended for finishing (i.e., feedlot) beef cattle. For breeding beef cattle, breeding swine, and mature poultry, corn and peanut products containing aflatoxin in excess of 100 ppb aflatoxin can support the adulteration charge. Furthermore, FDA concluded from its evaluation that meat and eggs from these animals would not contain increased residues of aflatoxin. For immature animals and dairy cows, aflatoxin levels in excess of 20 ppb can support the adulteration charge. For all other species and commodities the action level remains at 20 ppb until revisions to CPG 7126.33 are warranted.

In deciding to revise the action levels for aflatoxin in peanut products, FDA relied on the data in the support paper entitled "Background Paper to Support Action Levels for Aflatoxin-Contaminated Corn" (Ref. 2). Based on this information, FDA concluded that the inclusion of aflatoxin-contaminated peanut products in animal feed at the revised action levels would have a negligible effect on the tissue residue.

Accordingly, the agency has adopted and will use the revised action levels as a basis for guiding its enforcement of

section 402(a)(1) of the act, provided FDA is assured that peanut products in interstate commerce that contain more than 20 ppb aflatoxin are destined for the appropriate subgroups of animals. Without such assurance, the agency may conclude that the peanut products could be destined for humans, immature animals, or dairy cattle and, if it bears or contains more than 20 ppb aflatoxin, FDA believes that the Government would probably prevail in an enforcement action charging adulteration under section 402(a)(1) of the act.

In December 7, 1990, memorandum (Ref. 1) the agency recognized that all action levels, including those for aflatoxins, must be viewed and used as guidance rather than a definitive enforcement standard. The agency's action levels are not binding on the courts, the public (including food producers), or the agency. (See 55 FR 20782 (May 21, 1990).) There may be situations where circumstances warrant enforcement action at levels below an action level or where enforcement action is not warranted even though an action level is exceeded. In considering enforcement action where aflatoxin levels are below the pertinent action level, FDA field offices must take into account the agency's ability to support the adulteration charge that will be included in the complaint. If a field office believes that enforcement action is warranted at levels below an action level, then the recommendation for enforcement action should include all compelling reasons for pursuing such action. Similar consideration is required if a field office believes that enforcement action where aflatoxin levels are above pertinent action levels is not warranted.

The statements made in CPG 7126.33 are not intended to bind the courts, the public, or FDA or to create or confer any rights, privileges, immunities, or benefits on or for any private person, but are intended merely for internal FDA guidance.

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. Memorandum from the Associate Commissioner for Regulatory Affairs to the Regional Food and Drug Directors and District Directors, December 7, 1990

2. "Background Paper to Support Action Levels for Aflatoxin-Contaminated Corn," March 1989.

Interested persons may, on or before June 27, 1994, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy.

This notice is issued under 21 CFR 10.85.

Dated: March 28, 1994.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 94–8699 Filed 4–11–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0352]

Polychlorinated Dibenzo-*p*-dioxins and Polychlorinated Dibenzofurans in Bleached Food-Contact Paper Products; Response to Referral for Action by the Environmental Protection Agency and Request for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice in response to a notice of referral for action on the use of bleached food-contact paper products contaminated with polychlorinated dibenzo-*p*-dioxins (PCDD's) and polychlorinated dibenzofurans (PCDF's) that was issued by the Environmental Protection Agency (EPA) under the Toxic Substances Control Act (TSCA). FDA agrees with EPA's decision to refer this issue to FDA because, under the Federal Food, Drug, and Cosmetic Act (the act), FDA has authority to take appropriate action to ensure that paper and paperboard intended for food-contact use are safe. This notice sets out the various options that FDA is considering regarding the issue of PCDD and PCDF contamination of bleached food-contact paper products and encourages interested persons to submit pertinent data and other comments on this issue.

DATES: Comments by June 13, 1994.

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: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION:

I. Background

PCDD's and PCDF's are formed in trace amounts as byproducts of certain chemical processes, such as bleaching of paper, incineration, and manufacturing of certain chlorinated phenols. They are generally produced as a complex mixture of related compounds or congeners. The PCDD's and PCDF's are classes of 75 and 135 congeners, respectively, the most toxic of which is 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD). TCDD has been shown to be a potent animal carcinogen, and EPA has classified it as a "probable human carcinogen."

In order to assess the hazards of mixtures of PCDD's and PCDF's, scientists have agreed on the use of international toxicity equivalency factors to express the comparative toxicity of these chemicals as fractions of the toxicity of TCDD, the most toxic and most studied congener of the group (Ref. 1). This system expresses the amount of PCDD's and PCDF's present in terms of TCDD toxic equivalents and estimates the risk for a mixture as if it were one chemical compound. Under this system, 2,3,7,8-dibenzofuran (TCDF), the most potent of the PCDF's, has been assessed a TCDD toxic equivalency of 0.1.

Although the occurrence of low levels of PCDD's and PCDF's in the environment has been known for years, it has been only recently that scientists' ability to identify and quantify them has greatly improved. Based on data obtained in studies carried out in several countries, the average person is exposed to approximately 1.2 picograms (pg) (10^{-12} grams) of TCDD equivalents/kilogram (kg) body weight/day (Ref. 2). This low level background exposure is mostly dietary, from foods such as meat, poultry, fish, dairy products, and eggs.

In 1987, results of EPA's National Dioxin Study showed that fish located downstream from paper mills had higher than expected levels of TCDD and TCDF. This finding prompted EPA and the American Paper Institute (API) to conduct a joint study of five paper mills to discover the source of the TCDD and TCDF contamination. The results of this study: (1) Confirmed the presence of parts per trillion (ppt) levels of TCDD and TCDF in pulp and sludge; (2) confirmed parts per quadrillion (ppq) levels of these substances in wastewater from these mills; and (3) identified a particular chlorine bleaching process as the source of the contaminants. Chlorine or chlorine derivatives are often used as the primary bleaching agent in the process of making bleached paper products.

These results prompted FDA to begin its own investigation of TCDD and TCDF contamination of wood pulp and finished paper products that may contact food and ultimately migrate into the packaged food. Because the bulk of the TCDD toxic equivalents associated with PCDD and PCDF contamination of bleached food-contact paper products are attributable to the presence of TCDD and TCDF, FDA's investigation has focused on the levels of these two chemicals in bleached food-contact paper products.

On April 24, 1987, FDA met with representatives of the National Council of the Paper Industry for Air and Stream Improvement (NCASI) to discuss protocols for analyzing for residual TCDD and TCDF levels in bleached wood pulp and in various food-contact paper products. Under these protocols, newly developed, highly sensitive analytical methods were used by individual pulp mills to identify those specific processes that contributed to the formation of TCDD and TCDF so that industry could identify manufacturing changes that could be made to reduce or eliminate such contaminants in the finished paper products. FDA also asked industry representatives to conduct extraction studies to measure the extent of migration of TCDD and TCDF from uncoated and coated paper and paperboard into food simulating solvents.

In May of 1988, NCASI released a report entitled "Assessment of the Risks Associated with Potential Exposure to Dioxin Through Consumption of Coffee Brewed Using Bleached Paper Coffee Filters" (Ref. 3). This study was conducted because given the presence of residual dioxin contaminants in bleached paper coffee filters and the high temperature of the water that is passed through the filters, there appeared to be a high potential for migration of such contaminants into the brewed coffee. Analysis of 5 different bleached paper coffee filters found measurable levels of TCDD and TCDF ranging from 2.2 to 6.6 ppt TCDD toxic equivalents in the paper. Migration studies indicated that 65 to 90 percent of the TCDD equivalents present in the bleached paper coffee filters could migrate into the coffee, depending on brewing conditions.

In October of 1988, FDA received the results of a Canadian Government survey that detected TCDD and TCDF in milk packaged in bleached paper cartons (Ref. 4). TCDD was found in five of eight samples of whole milk packaged in coated, bleached paper milk cartons at concentrations ranging from 0.014 to 0.056 ppt with an average concentration of 0.038 ppt. TCDF was found in all eight samples at concentrations ranging from 0.064 to 2.46 ppt (average concentration of 0.98 ppt). Somewhat higher levels were found in cream packaged in coated, bleached paper milk cartons. Analyses of similar food products packaged in plastic or glass containers showed at least tenfold lower levels of TCDD and TCDF, which were most likely a result of background contamination.

In the spring of 1989, FDA conducted a survey of milk packaged in bleached paper cartons from five U.S. manufacturers (Ref. 5). TCDD was found in 4 of 15 samples of whole milk packaged and stored in one-half pint cartons at refrigerated temperatures for 14 days. The TCDD concentrations, which ranged from 0.02 to 0.07 ppt, were obtained using an analytical method that could determine amounts at or above 0.02 ppt. TCDF was detected in 7 of 15 samples at levels from 0.14 to 0.62 ppt. The detection limit for TCDF was 0.1 ppt. Because neither TCDD nor TCDF was detected in bulk or nonpackaged milk collected at the same dairies before being packaged, the results confirm that these contaminants can migrate out of the bleached paper carton and into the milk.

Because of FDA's concern about the potential for exposure to TCDD and TCDF from other bleached paper food-contact articles, FDA requested that the paper industry provide detailed information that could be used to determine what other bleached paper articles should be the subject of detailed migration studies. Based on the results of the industry survey, FDA also requested, in February 1989, that the paper industry develop migration data for those paper food-contact articles posing the greatest potential for exposure to TCDD and TCDF. In response to this request, the paper industry submitted the results of migration studies for the following paper articles: (1) Milk cartons (Ref. 6), (2) coffee filters (Ref. 3), (3) half-and-half (cream) cartons (Ref. 7), (4) orange juice cartons (Ref. 8), (5) coffee cups (Ref. 9), (6) soup cups (Ref. 10), (7) dual-ovenable trays (Ref. 11), (8) plates (Ref. 12), and (9) microwave popcorn bags (Ref. 13).

In 1990, FDA used data from these migration studies, to develop a quantitative risk assessment for bleached paper food-contact articles containing TCDD and TCDF residues. The procedures that FDA used in this evaluation were similar to the methods that the agency has used to examine the risk associated with the presence of minor amounts of carcinogenic impurities in various food and color additives (see 49 FR 13018, April 2, 1984). This risk evaluation of carcinogenic contaminants has two aspects: (1) Assessment of dietary exposure to the contaminants from the consumption of the additive and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable human exposure.

In addition to the exposure data derived from the industry studies described above, FDA considered exposure from four other bleached paper articles that were not subjected to migration testing (bakery cartons, ice cream cartons, tea bags, and margarine wrappers). An exposure estimate for each of these articles was derived using an estimated migration level based on an assumed residue of 17 ppt TCDD equivalents in the paper article (the average level of TCDD equivalents found to be in paper pulp in a study of 104 paper mills carried out in 1988 and 1989) (Ref. 14). In its exposure estimates, FDA also considered the types of food that come into contact with paper articles and the amounts of these types of food that are ingested daily by consumers. Based on the results of the migration studies and migration estimates as well as food consumption information, FDA estimated the daily intake of TCDD equivalents occurring as a result of migration into food from bleached paper food-contact articles to be no greater than 0.15 pg/kg body weight/day (Ref. 14).

In its 1990 risk assessment, the agency used data from a 2-year chronic toxicity and oncogenicity study carried out by Kociba et al. (Ref. 15) on TCDD fed to rats to estimate the upper-bound level of lifetime human risk from exposure to TCDD toxic equivalents resulting from the use of bleached food-contact paper products. The results of the bioassay on TCDD showed that the material was carcinogenic for rats under the conditions of the study. The test material caused significantly increased incidences of hepatocellular carcinomas and adenomas as well as squamous cell carcinomas of the lung, hard palate, nasal turbinates, and tongue. FDA's toxicologists further concluded that given the paucity of TCDD bioassay data, the Kociba et al. bioassay provided the appropriate basis on which to calculate an estimate of the upper-bound level of lifetime carcinogenic risk from exposure to TCDD toxic equivalents stemming from the use of bleached food-contact paper products.

The agency used a linear-at-low-dose extrapolation from the doses used in the

Kociba et al. bioassay to the very low levels of TCDD toxic equivalents encountered under actual conditions of use of bleached food-contact paper products. This procedure is not likely to underestimate the actual risk from 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. Using a linear-at-low-dose extrapolation method and the tumor incidence data based on the original classification of tumors found in the Kociba et al. study, the FDA estimated a carcinogenic unit risk of 16 x 10^{-6} for an intake of 1 pg/kg body weight/day of TCDD toxic equivalents. Using this carcinogenic risk for TCDD and a daily dietary exposure of 0.15 pg of TCDD equivalents/kg body weight/day (based on data obtained from 1988 to 1990), FDA's 1990 risk assessment estimated that the upper-bound limit of individual lifetime risk from TCDD toxic equivalents that result from the use of bleached food-contact paper products at that time would be 2.5 x 10^{-6} or 2.5 in 1 million (Ref. 16). Because of the conservative assumptions used to obtain the exposure estimate, actual lifetime-averaged individual exposure to TCDD toxic equivalents is expected to be substantially less than the estimated daily intake, and therefore, the actual risk would be less than the calculated upper-bound limit of risk.

This risk was considered low by both FDA and EPA (December 26, 1990, 55 FR 53047). However, because the then current levels of PCDD's and PCDF's (mostly TCDD and TCDF) in bleached white paper were capable of being reduced by the pulp and paper industry through changes in manufacturing procedures, EPA considered the risk associated with PCDD's and PCDF's in food-contact paper products to be "unreasonable" in accordance with section 9(a) of TSCA (55 FR 53047).

EPA has the authority to require the reduction of "unreasonable" risk associated with bleached paper products under section 6(a) of TSCA, which states that EPA may prohibit or limit production of a chemical substance that presents an "unreasonable" risk to human health or the environment. However, under section 9(a) of TSCA, if EPA determines that the risk can be reduced by an action taken by another agency, it may refer such action to the other agency.

In the notice published in the **Federal Register** of December 26, 1990, EPA announced that under section 9(a) of TSCA, it was referring action to FDA on the use of food-contact paper products contaminated with PCDD's and PCDF's. Specifically, EPA has requested that FDA do the following: (1) Assess the risk associated with PCDD and PCDF contaminated bleached food-contact paper products; (2) determine if this risk may be prevented or reduced by action taken under its own authority, and (3) if so, initiate the appropriate regulatory action.

II. FDA's Response to EPA's Referral for Action

FDA agrees with EPA's decision to refer the use of bleached food-contact paper products that may be contaminated with PCDD's and PCDF's (mostly TCDD and TCDF) to FDA because under the act, FDA has the authority to take appropriate regulatory action to ensure that bleached paper and paperboard intended for food-contact use are safe. At the time that FDA received this referral, the agency considered whether immediate regulatory action was necessary to ensure the safe use of bleached food-contact paper products. As stated above, FDA's risk assessment in 1990 of exposure to TCDD and TCDF, resulting from the use of those types of bleached food-contact paper products that have the greatest potential for migration of these substances into food, produced an estimated upper-bound worst-case lifetime risk of 2.5 in 1 million. However, the estimated daily dietary intake used in this risk assessment was based on data obtained from 1988 to 1990. By the time FDA received the referral, many of the paper mills that make bleached paper had made or were in the process of making manufacturing changes to reduce or eliminate residual TCDD and TCDF levels in bleached paper intended for use in contact with food. Therefore, rather than expressing the risk in terms of an average 70-year lifespan, FDA believed that it was more appropriate to view the carcinogenic risk in terms of yearly exposure during the limited time needed by the paper industry to complete the manufacturing changes necessary to reduce the levels of such contaminants in paper products.

An upper-bound worst-case lifetime risk of 2.5 in 1 million corresponds to less than 0.04 in 1 million for each year of exposure. Based on this level of risk per year of exposure, FDA felt at the time that it received the referral that the continued use of bleached paper and paperboard in contact with food was safe during the time needed by FDA to complete its evaluation of TCDD and TCDF contamination of bleached food-contact paper products. FDA also felt at that time that it should conduct a new lifetime risk assessment in light of the changes in the manufacturing of bleached food-contact paper products that had occurred.

Given the cooperation that FDA had received from the paper industry, FDA decided that it was appropriate to explore voluntary avenues for reducing exposure to PCDD's and PCDF's from the use of bleached paper and paperboard. At a meeting held on November 16, 1990, API advised FDA that 100 percent of the U.S. manufacturers of bleached paper for food-contact applications were participating in a voluntary program to reduce TCDD levels in all types of food-contact paper products to 2 ppt or less. In a letter of March 7, 1991, API submitted data to FDA showing that all bleached paper milk cartons manufactured since July 30, 1990, had residual TCDD levels of 2 ppt or less (Ref. 17). API also informed FDA that 93 percent of bleached food-contact paper and paperboard met the 2 ppt or less TCDD standard as of December 31, 1991, and that 98 percent of these products were expected to meet this standard by the end of 1992 (Ref. 18).

The American Forest and Paper Association (AFPA), formed by the recent merger of API with other forest related associations, has submitted to FDA the results of an industry-wide survey conducted during the first quarter of 1993 to determine the degree of compliance with the voluntary specification of 2 ppt or less of residual TCDD in bleached food-contact paper products (Ref. 19). These results show that all of the U.S. manufacturers responding to the survey have implemented standard operating procedures that result in bleached food-contact paper products that meet the voluntary specification of 2 ppt or less of TCDD. Out of 249 tests conducted on samples of either bleached pulp, paper, or paperboard, only 3 samples had detectable levels of TCDD that were above 2 ppt (i.e., 2.1 ppt, 2.2 ppt, and 2.6 ppt). The levels of TCDD that were found to be above 2 ppt in the survey are likely to be the result of normal variability associated with both the methodology used to analyze for the TCDD and the manufacturing procedures used to produce the bleached paper products. Moreover, although the paper industry's voluntary program specifically deals with residual levels of TCDD in bleached food-contact paper products, industry data have shown that the manufacturing changes that have resulted in the significant reduction of TCDD in such products also have resulted in a corresponding decrease in TCDF (Ref. 17).

In 1992, FDA also conducted its own analysis of uncoated bleached paper

destined for use in milk cartons (Ref. 20) to confirm whether it meets the voluntary specification of 2 ppt or less of TCDD. These tests used analytical methodology developed by FDA's Chicago District Laboratory (Ref. 21). FDA collected samples in late 1991 and early 1992 from five U.S. manufacturers that produce over 90 percent of the domestic paper stock used for milk cartons. Paper stock from two of the manufacturers contained very low levels of TCDD (1.4 and 1.5 ppt, respectively) and TCDF (4.0 and 4.7 ppt, respectively). Residual levels of TCDD and TCDF could not be detected in the paper stock from the other three manufacturers using an analytical method sensitive to 1 ppt for TCDD and 2 ppt for TCDF. These results support the paper industry's claim that the bleached paper used to manufacture milk cartons is in compliance with a voluntary specification of 2 ppt for TCDD.

FDA has also recently completed an analysis of milk samples contained in cartons manufactured using bleached paper (Ref. 22). Fifteen milk samples were collected in late 1991 and early 1992 from dairies that use bleached paper from the five major U.S. manufacturers. None of the samples contained detectable levels of TCDD and TCDF using analytical methodologies with detection limits in the 2 to 10 ppq range.

In addition, FDA has developed a new risk assessment to determine what the current upper-bound lifetime cancer risk is from exposure to TCDD toxic equivalents resulting from the use of bleached paper and paperboard products meeting the paper industry's voluntary specification of 2 ppt or less of TCDD. In the absence of migration data for bleached paper products containing such low levels of TCDD (i.e., 2 ppt or less), FDA assumed that the percent migration of TCDD from a specific type of food-contact article meeting the voluntary 2 ppt TCDD specification would be similar to the percent migration observed in earlier studies (Ref. 14). Because the percent migration decreases as the level of the migrant in the food-contact article decreases, this approach is not likely to underestimate migration levels. Using the above assumption and assuming that all bleached food-contact paper products contain residual levels of TCDD low enough to meet a 2 ppt TCDD specification, FDA estimates that the upper-bound daily dietary intake of TCDD toxic equivalents is no greater than 1.8 pg/person/day (0.03 pg TCDD equivalents/kg body weight/day for a 60–kg person) (Ref. 23). FDA used this exposure estimate to determine the current upper-bound lifetime cancer risk from TCDD toxic equivalents resulting from the use of bleached food-contact paper products assuming that virtually all of such products meet a 2 ppt TCDD specification.

The carcinogenic unit risk used by FDA in its 1990 risk assessment was based on tumor incidence data from the Kociba et al. study (Ref. 15). Following FDA's 1990 risk assessment, however, a group of pathologists, called the Pathology Working Group (PWG), reanalyzed the slides of the liver tumors observed in the 1978 Kociba rat bioassay using the National Toxicological Program's 1986 classification system for liver tumors (Ref. 24). FDA has reviewed the results of this reanalysis and agrees with the classification of the tumors made by PWG. Using the results of this revised reading of the Kociba study slides, FDA estimates a carcinogenic unit risk of 9×10^{-6} for an intake of 1 pg TCDD equivalents/kg body weight/day. Using this carcinogenic unit risk and an upper-bound daily dietary exposure estimate of 0.03 pg TCDD equivalents/kg body weight/day, FDA estimates that the upper-bound limit of individual lifetime cancer risk from TCDD toxic equivalents would be 3×10^{-7} for the use of bleached food-contact paper products meeting a 2 ppt TCDD specification (Ref. 25).

The agency obtained this 3×10^{-7} risk estimate by assuming that the lifetime cancer risk from TCDD would be equal in mammalian species, such as in man and in rodents when the daily feeding doses are in proportion to body weight raised to the first power (i.e., equivalence based on feeding dose/body weight/day). This approach is the one that FDA has traditionally used in extrapolating results of rodent carcinogen bioassays to man. However, in the **Federal Register** of June 5, 1992 (57 FR 24152), EPA, FDA, and the Consumer Product Safety Commission published a draft report proposing to establish a common default methodology for determining equivalence in carcinogenic unit risks between mammalian species. If adopted, this unified default approach will be used in those cases where existing agent-specific data are insufficient to make a case-by-case determination. Based on an analysis of empirical and theoretical aspects of the cross-species dose-scaling question, the proposed unified default approach assumes that the lifetime cancer risk from the intake of a carcinogenic substance is equal in different mammalian species when the daily feeding doses are in proportion to body weight raised to the 3/4 power (i.e., equivalence based on feeding dose/body weight$^{3/4}$/day).

Although this proposed unified default methodology has not been adopted by the three agencies, FDA has used it to calculate a second estimate of the upper-bound lifetime cancer risk from TCDD exposure if all bleached food-contact paper products meet the paper industry's voluntary specification of 2 ppt for residual levels of TCDD. Using a scaling factor based on equivalence of pg/kg$^{3/4}$/day to extrapolate the tumor incidence data obtained from the revised reading of the Kociba rodent bioassay slides to man, FDA estimates a carcinogenic unit risk of 30×10^{-6} (pg TCDD equivalents/kg body weight/day)$^{-1}$. Using this carcinogenic unit risk for TCDD and an upper-bound daily dietary exposure estimate of 0.03 pg TCDD equivalents/kg body weight/day, FDA estimates that the upper-bound limit of individual lifetime risk from TCDD toxic equivalents would be 9×10^{-7} for the use of bleached food-contact paper products meeting a 2 ppt TCDD specification (Ref. 25).

Both of the above upper-bound lifetime risk estimates (3×10^{-7} and 9×10^{-7}), obtained using cross-species scaling factors based on equivalence of pg/kg/day and pg/kg$^{3/4}$/day, respectively, would generally be viewed as very low. However, until the proposed unified default methodology has been formally adopted, FDA will use the 3×10^{-7} risk as the best estimate of what the upper-bound lifetime risk from TCDD toxic equivalents would be when all bleached food-contact paper products meet the paper industry's voluntary specification of 2 ppt for residual levels of TCDD.

On the basis of: (1) FDA's 1990 risk assessment which showed an upper-bound lifetime cancer risk of less than 0.04 in 1 million for each year of exposure based on residual levels of TCDD and TCDF in bleached food-contact paper products manufactured between 1988 and 1990; (2) the significant progress made by the paper industry in reducing residual TCDD and TCDF in bleached paper products (AFPA has submitted to FDA the results of an industry wide survey conducted during the first quarter of 1993 showing that U.S. manufacturers have implemented standard operating procedures that result in bleached food contact paper products that meet the voluntary specification for 2 ppt or less of TCDD); and (3) FDA's new risk assessment that the upper-bound limit of individual lifetime risk from TCDD toxic equivalents is 3×10^{-7} if all bleached food-contact paper products in

fact meet the paper industry's voluntary specification of 2 ppt for residual levels of TCDD, FDA tentatively concludes that the continued use of bleached paper and paperboard in contact with food is safe during the time that has been, and will be, needed by FDA to complete its evaluation.

FDA will continue to monitor the paper industry's progress in reducing TCDD and TCDF contamination of bleached food-contact paper products manufactured in the United States. The agency will also consider monitoring residual levels of TCDD and TCDF in bleached food-contact paper and paperboard imported into this country as well as in the bleached paper and paperboard packaging of imported foods. Information currently available to the agency shows that imported bleached food-contact paper products comprise only 3 percent of such products used in the United States.

Data obtained in a recent human epidemiological study involving workers exposed to low levels of TCDD may also provide an additional approach to assessing the carcinogenic risk to humans (Ref. 26). FDA plans to review these data and determine if they are suitable for risk assessment purposes. If suitable, the carcinogenic potency for TCDD in humans obtained using these data would provide an alternative to the current risk assessment approach which requires the extrapolation from animal data. FDA will also consider any other data that become available while it completes its review.

The results of FDA's monitoring of the residual levels of TCDD and TCDF in bleached food-contact paper products together with data and comments received in response to this notice will be used by FDA to determine if any regulatory action is needed to ensure the safe use of such products. If FDA determines that regulatory action is necessary, one possible course of action would be to amend the food additive regulations to establish a specification for maximum allowable levels of residual TCDD and TCDF in food-contact paper products in accordance with section 409 of the act. Using this approach, bleached paper that is intended for use in food-contact articles, and that is expected to contain TCDD and TCDF that will migrate into food, would be regarded as a food additive as defined in section 201(s) of the act and be subject to premarket approval under section 409 of the act (21 U.S.C. 348). A substance, such as bleached paper, that has not been shown to cause cancer, but that contains a carcinogenic impurity such as TCDD, is 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 its use (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)). The risk assessment procedures could be used by FDA to determine the residual level of TCDD and TCDF in bleached food-contact paper at which there is reasonable certainty that no harm will result from the use of the bleached paper. FDA would institute rulemaking to amend its food additive regulations to authorize the food-contact use of bleached paper the contain such levels of TCDD and TCDF.

A second course of action would be for FDA not to proceed with rulemaking and to take action against TCDD and TCDF in food-contact paper products on a case-by-case basis. To clarify the levels that would be of concern to FDA, the agency could publish an action level for residual TCDD and TCDF in bleached food-contact paper products. FDA relies on action levels to provide guidance on the level of added poisonous or deleterious substances that may render food adulterated. The agency has found action levels to be particularly useful in cases, such as the TCDD and TCDF contamination of bleached paper products, where the technology and science associated with an issue continue to change. Although the act is mute on the use of action levels, court decisions on this regulatory approach (*Community Nutrition Institute* v. *Young*, 818 F.2d 943,946 (D.C. Cir. 1987)) have supported their use by FDA as long as it is made clear that such levels are not legally binding on either industry or the agency.

FDA requests comments on other possible regulatory approaches that it could use to ensure that any residual amounts of TCDD and TCDF in bleached food-contact paper products will be safe.

III. Request for Comments

FDA invites public comment on all aspects of this notice concerning residual levels of TCDD and TCDF in bleached food-contact paper products. The preamble to any proposal on this issue will include consideration of comments received in response to this notice.

Interested persons may, on or before June 13, 1994, submit to the Dockets Management Branch (address above) written comments regarding this notice. Trade secret and commercial confidential information should be submitted to the contact person identified above. Trade secret and commercial confidential information will be protected from public disclosure in accordance with 21 CFR part 20. 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.

IV. 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. "Pilot Study on International Information Exchange on Dioxins and Related Compounds," North Atlantic Treaty Organization, report no. 178, December 1988.

2. "Assessment of Health Risks in Infants Associated with Exposure to PCBs, PCDDs and PCDFs in Breast Milk," report on a World Health Organization working group, pp. 1–7, 1988.

3. "Assessment of the Risks Associated with Potential Exposure to Dioxin Through the Consumption of Coffee Brewed Using Bleached Paper Coffee Filters," *NCASI Technical Bulletin*, No. 546, 1988.

4. Letter from EPA to FDA, containing Canadian study of dioxin in packaged milk, September 27, 1988.

5. "Survey of Dioxin-Furan in Milk Packaged in Paper Cartons," FDA FY 89 field assignment, August 1989.

6. "NCASI Milk Carton Migration Study," first progress report, August 1989.

7. "NCASI Milk Carton Migration Study of Half and Half," January 1990.

8. "NCASI Orange Juice Carton Migration Study," interim report, December 1989.

9. "NCASI Hot Beverage Paper Cup Coffee Exposure Scenario Migration Study," interim report, October 1989.

10. "NCASI Hot Beverage Paper Cup Chicken Broth Exposure Scenario Migration Study," interim report, November 1989.

11. "NCASI Dual Ovenable Tray Migration Study," interim report, November 1989.

12. "NCASI Plates/Trays/Dishes Migration Study," interim report, November 1989.

13. Letter dated March 6, 1990, from NCASI, containing microwave popcorn bag migration study.

14. Memorandum dated June 13, 1990, from Food and Color Additives Review Section, "Exposure to Dioxin Congeners from Foods Contacting Bleached Paper Products."

15. Kociba, R. J., et al., "Results of a Two-Year Chronic Toxicity and Oncogenicity Study of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin in Rats," *Toxicology and Applied Pharmacology*, 46:279–303, 1978.

16. Report of the Quantitative Risk Assessment Committee, "Carcinogenic Risk Assessment for Dioxins and Furans in Foods Contacting Bleached Paper Products," April 20, 1990.

17. Letter dated March 7, 1991, from the American Paper Institute, concerning TCDD levels in bleached paper and paperboard as of December 31, 1990.

18. Letter dated April 17, 1992, from the American Paper Institute, concerning TCDD levels in bleached paper and paperboard as of December 31, 1991.

19. Letter dated July 30, 1993, from the American Forest and Paper Association, concerning TCDD levels in bleached pulp, paper and paperboard as of the First Quarter of 1993.

20. Memorandum dated November 2, 1992, from Methods Research Branch, "TCDD and TCDF Residues in Bleached Paper Stock used in Milk Cartons."

21. "The Determination of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin and 2,3,7,8-tetrachlorodibenzofuran in Paper Products," *Laboratory Information Bulletin*, FDA's Chicago District Laboratory, May 1992.

22. Memorandum dated February 25, 1993, from Methods Research Branch, HFS–336, "TCDD and TCDF Residues in Milk Packaged in Bleached Paper Cartons."

23. Memorandum dated November 14, 1991, from Food and Color Additives Review Section, "Exposure to Dioxin Congeners from Foods Contacting Bleached Paper Products With Dioxin Levels Not Exceeding 2 ppt."

24. "2,3,7,8-Tetrachlorodibenzo-*p*-dioxin in Sprague-Dawley Rats," Pathco Inc., March 13, 1990.

25. Report of the Quantitative Risk Assessment Committee, "Upper-Bound Lifetime Carcinogenic Risks From Exposure to Dioxin Congeners From Foods Contacting Bleached Paper Products With Dioxin Levels Not Exceeding 2 ppt," January 27, 1993.

26. Fingerhut, M., et al., "Cancer Mortality in Workers Exposed to 2,3,7,8-Tetrachlorodibenzo-*p*-dioxin," *The New England Journal of Medicine*, vol. 324, pp. 212–218, 1991.

Dated: February 2, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–8698 Filed 4–11–94; 8:45 am]

BILLING CODE 4160–01–F

Office of the Assistant Secretary for Aging

Federal Council on the Aging; Meeting

Agency Holding the Meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9 a.m. and ends at 5 p.m. on Wednesday, April 27, 1994, and begins at 9 a.m. and ends at 3 p.m. on Thursday, April 28, 1994.

Place: On Wednesday, April 27, from 9 a.m. to 5 p.m., the meeting will be held in room 309–F of the Hubert Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201. On Thursday, April 27, from 9 a.m. to 3 p.m., the meeting will be held at 501 School Street, SW., 8th floor, Washington, DC 20024.

Status: Meeting is open to the public.

Contact Person: Brian T. Lutz, room 4657 Wilbur Cohen Federal Building, 330 Independence Avenue, SW., Washington, DC 20201. (202) 619–2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Assistant Secretary for Aging, and the Congress on matters related to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–453, 5 U.S.C. app. 1, section 10, 1976) that the Council will hold a quarterly planning meeting on April 27 from 9 a.m. to 5 p.m. in room 309–F Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, and on April 28 from 9 a.m. to 3 p.m. at 501 School Street, SW., 8th floor, Washington, DC 20024.

The agenda is as follows: On April 27 from 9 a.m to 5 p.m., deliberations will be held on the Council's regular business, including the introduction of new members, discussion of current projects and reports, in-house long-range planning on future activities, and the consideration of issue-specific task forces. These deliberations will include the consideration of an agenda designed to provide a multi-year focus on issues related to long-term care, health care reform, mental health, older women, retirement security, minority elders, intergenerational perspectives, elder abuse, and other matters. The morning session will include a briefing and policy discussion with the Assistant Secretary for Aging.

On April 28, from 9 a.m. to 12 p.m., the Council will discuss issues in preparation for the 1995 White House Conference on Aging (WHCOA), including a briefing and planning discussion with the WHCOA Executive Director. The afternoon session will include a legislative update by staff of the Congressional Aging Caucus in the U.S. House of Representatives, and discussion of a proposed agenda for future meetings.

Dated: April 5, 1994.

Brian T. Lutz,

Executive Director.

[FR Doc. 94–8614 Filed 4–11–94; 8:45 am]

BILLING CODE 4130–01–M

Substance Abuse and Mental Health Services Administration

RIN: 0905–ZA31

The Community Prevention Coalitions Demonstration Grant Program

AGENCY: Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice of availability of funds and request for applications.

SUMMARY: The Center for Substance Abuse Prevention (CSAP) announces the availability of funds to support community prevention coalitions to demonstrate and systematically study approaches to prevent and reduce alcohol, tobacco and other drug abuse and other drug-related problems through the further development of coalitions and partnerships, at the State, regional, and/or local level. This will involve the expansion of long-range, comprehensive, multi-disciplinary community-wide substance abuse prevention programming that reflects the next step in furthering CSAP's mission to support and promote strengthening of comprehensive prevention systems. The Community Prevention Coalitions Demonstration (CPCD) Grant Program is authorized under Sections 501(d)(5) and 516 of the Public Health Service Act, as amended.

Noting the development and strengthening of community partnership programs across the country, CSAP will support, under this announcement, grants to promote the progression of this programmatic concept. The new CPCD grant program will build on the lessons being learned from CSAP's Community Partnership Demonstration Grant Program and similar programs in the field, e.g., Robert Wood Johnson Foundation's "Fighting Back" grants.

The CSAP model of community-based prevention facilitates the incorporation of substance abuse prevention services into the general health care system. With health care reform, this approach which emphasizes greater integration of services, an elimination of duplication, and the need for community self-sufficiency in responding to substance abuse problems finds particular relevance.

The conceptual framework of the Community Partnership Program embraces and operationalizes community empowerment, which is a keystone of the Secretary of the Department of Health and Human Services goals for the Department—empower communities, emphasize prevention, and value the consumer.

This notice consists of three parts:

Part I covers information on the legislative authority and the applicable regulations and policies related to the CPCD grant program.

Part II provides the program description and model and discusses eligibility, availability of funds, period of support and the receipt date for applications.

Part III describes special requirements of the program, the application process, the review and award criteria and lists contacts for additional information.

Part I—Legislative Authority and Other Applicable Regulations and Policies

Grants awarded under this program announcement are authorized under Sections 501(d)(5) and 516 of the Public Health Service Act, as amended (42 U.S.C. 290aa and 42 U.S.C. 290bb-22).

Federal regulations at Title 45 CFR Parts 74 and 92, generic requirements

concerning the administration of grants, are applicable to these awards.

Grants must be administered in accordance with the PHS Grants Policy Statement (Rev. April 1, 1994).

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.194.

Interim progress reports, a final report, and Financial Status Reports (FSRs) will be required and specified to awardees in accord with PHS Grants Policy requirements.

Healthy People 2000: The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This program announcement, "Community Prevention Coalitions Demonstration Grants," is in keeping with objectives in the priority areas of alcohol, tobacco and other drugs, and educational and community-based health programs, including objectives relating to the workplace.

Applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0; or Summary Report: Stock No. 017–001–00473–01) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone: 202–783–3238).

Non-Use of Tobacco: The medical dangers and high risk of addiction associated with firsthand use of tobacco products have been thoroughly documented. Moreover, data presented in leading medical journals (for example, New England Journal of Medicine, June 10, 1993) and reported widely in the press, associate environmental exposure to tobacco smoke (passive smoking) with increased rates of cancer and other pulmonary diseases among people of all ages and with increased rates of asthma among children. Further, scientific evidence supports the connection between the use of smokeless tobacco products, such as chewing tobacco and snuff, and cancer of the mouth, jaw and throat.

Critical questions now facing public health experts concern the most effective methods for preventing youth from using tobacco products and for preventing and/or reducing infants' and children's exposure to smoke in both public and private environments. A combined approach involving public policy, media awareness, and prevention education strategies appears to be a promising way to address this serious problem; however, careful development, implementation, and evaluation of specific tobacco use prevention strategies is required to establish their efficacy.

CSAP recognizes that its target populations are vulnerable to a variety of preventable health and social problems, including substance abuse. Therefore, CSAP believes that preventative education, policy and media advocacy leading to environmental and social change concerning use of tobacco products must be a priority for grantees. Further, CSAP strongly encourages all grantees to provide smoke-free programs and work environments.

Part II—Program Description and Model, Eligibility and Application Receipt Date

Program Description: Based on these early indications of the impact of community-wide coalitions, as well as a national need to develop promising, innovative approaches to drug abuse prevention, CSAP will consider applications that provide a strategy for testing the effectiveness of the model described below.

Because of the long term and difficult nature of establishing community partnerships (Altman, Endres, Linzer, 1991; Center for Substance Abuse Prevention, 1994; Florin, Mitchell and Stevenson, 1993), and the fact that this is a demonstration program seeking to understand the potential of partnership programs, successful applicants must be able to document a fully operational and effective partnership and provide a solid rationale to justify enhancing the nature of its current partnership efforts, in accord with the provisions of this announcement.

The new CPCD Grant Program seeks to demonstrate the potential of: (1) Expanding the scope of existing, well-developed partnerships programmatically and geographically, and/or (2) developing multiple partnerships into coalitions in their current area to address other drug-related health and social problems.

The CPCD Program is an important part of CSAP's ongoing, long-term objective to achieve and document measurable reductions in substance abuse incidence, prevalence, and related consequences such as alcohol, tobacco, and other drug-related health problems, mental disorders and comorbidity, crimes, deaths and injuries among all age and ethnic groups within a community.

Funds are available to test the effectiveness of extending the original partnership concept through one of two approaches reflecting the above concepts: (1) Local Prevention Linkages, or (2) State/Regional Coalitions. Applicants must choose one of these approaches and provide a rationale for their belief that using this approach will significantly enhance the effectiveness of substance abuse prevention efforts in the area served by the proposed multi-partnership coalition. Funding will be consistent with the intent of Congress that direct prevention services should be approximately 50 percent of the project budget.

Program Model: CSAP is seeking applications that demonstrate the effectiveness of the two partnership/coalition approaches which are described below.

1. *Community Partnership-Initiated Approach*—This approach would expand a local community partnership(s) to form a larger coalition comprised of a minimum of two partnerships (at least one of which is established and one of which is new) to provide integrated, community-based prevention services across a larger geographical area. At a minimum, this expansion would require the addition of at least one new community-based partnership. Thus, a community partnership initiated approach would have at least two (2) partnerships to establish a CPCD coalition.

Proposed projects must include a rationale for the expansion and document strategies that will enhance substance abuse prevention programming across the expanded area. This rationale should include identifying and justifying enhancements in the following: (1) Prevention services (such as peer counseling, pre- and post-natal care, cross-cultural education programs); (2) successful prevention activities and related services (such as youth alternative programs, parental support and skills development, mentoring and role modeling by intermediaries, violence related activities); (3) environmental, social policy and media strategies aimed at alcohol, tobacco and other drug abuse prevention; and (4) a plan and design for coordinating and streamlining prevention efforts that can serve to improve service delivery and promote cost-effectiveness.

This approach should demonstrate how to effectively expand and coordinate prevention services across a broader geographical area that will result in sharing ideas, expanding state-of-the-art practices in diverse disciplines and fields, and identifying effective substance abuse prevention measures for implementation.

Applicants must keep in mind that all new services must be community-based and developed at the local level, consistent with program development approaches that have been documented by CSAP. One of the challenges of the

demonstration is to unify a number of disparate, geographically diverse, community-based programs.

2. State-Coordinated Approach—This approach would have the same design and purpose as described for the community initiated approach, except that the State would be the applicant and would serve as the coordinating body in the formation of the broader coalition. A State-coordinated approach could serve a particular region within the State or encompass the entire State.

In particular, the State would bring together at least two (2) existing substance abuse prevention partnerships, allow for a broad array of prevention activities such as those relating to the ones described above, provide for the addition of at least one new community-based partnership, and establish the requisite coordinating and streamlining activities. Thus, a State initiated approach would have no fewer than two (2) existing partnerships and one (1) new partnership in the CPCD coalition. Several States have already made progress in developing regional and State-wide networks.

The CSAP substance abuse partnership/coalition model may serve in bridging a variety of broad-based prevention efforts, including violence and crime reduction, adolescent pregnancy, the spread of sexually transmitted disease, including HIV/AIDS, and school dropout prevention. It allows existing community-based partnerships and programs that currently address substance abuse to demonstrate the effectiveness of expanding their base and their efforts to address related health, social and safety issues through further interaction and linkages with other local coalitions and partnerships. This type of expansion can have a positive impact on preventing substance abuse through new or stronger prevention service systems both within the community itself and among affiliated communities. For example, and to the extent appropriate, partnership substance abuse prevention strategies and services may include the following areas of concern:

—Reducing violence, crime and gang activity related to and/or aggravated by alcohol and other drug problems.
—Reducing/preventing the spread of sexually transmitted disease, including HIV/AIDS, with respect to alcohol and other drug use and abuse.
—Addressing the special needs of rural, wilderness, and frontier communities with alcohol, tobacco, and other drug problems.
—Addressing special needs in areas with high rates of immigration, poverty, disaster, and unemployment—aggravated by alcohol, tobacco, and other drug problems.
—Reducing substance abuse and related problems in the workforce—including collaborative labor/management efforts.

This program encourages that approximately 50 percent of Federal funds be used for the provision of prevention services and approximately 15–25 percent for evaluation.

Because the CPCD Program provides the opportunity for community resources such as local coalitions, partnerships, service providers, and programs to formally collaborate, applicants are required to include a description of agreements, commitments and processes to be used in developing and implementing the proposed project. (This documentation must be provided in Appendix 4 of the application entitled, "Letters of Commitment from Collaborating Organizations/Agencies/Individuals.)

Existing partnerships are expected to have conducted needs assessments and are to use their needs assessment to: determine gaps in prevention services; identify any inefficiencies in the delivery of these services; and to begin work towards changing formerly established priorities to meet current needs. All new services proposed must be supported by the needs assessment.

Proposed projects submitted under this announcement must present a five (5) year comprehensive substance abuse prevention plan to demonstrate and study the development, implementation, and effectiveness of their design. The applicant's initial plan should include a discussion of all preliminary goals, objectives, and activities. These may be refined as appropriate, as the program evolves and progresses.

Evaluation must be an essential part of the plan for assessing the impact of the changes and services on the substance abuse-related problems in the community. Details are provided in the section on Evaluation.

Eligibility: Applications may be submitted by public agencies, such as State, local and tribal governments, or local private (non-profit) organizations/agencies (i.e., existing partnerships, universities). In all cases, the applicant must be designated to act on behalf of the larger evolving coalition of multiple partnerships proposed in the CPCD grant application.

Because the Community Prevention Coalitions Demonstration Grant Program is intended to build on the work of already existing prevention partnerships, by expanding both the base and the service capabilities of these partnerships into broader-based coalitions, this announcement requires that applicants be part of established community partnerships.

The applicant organization must be a member of the coalition (to be developed) and be supported by its (the proposed coalition) membership in receiving an award under this program activity. This agreement must be documented through a letter of support from each member of the proposed coalition. (These letters must be provided in Appendix 4 of the application entitled "Letters of Commitment from Collaborating Organizations/Agencies/Individuals.)

CSAP strongly encourages applications from tribal governments, Native American/Alaskan Native partnerships or Indian Nations. Such applicants must already be existing partnerships.

Previous or current CSAP Community Partnership Demonstration Program grantees are eligible to apply for a new grant under this announcement. Currently funded CSAP Community Partnership grantees must demonstrate their ability to fulfill the requirements of their current grant in addition to taking on the expanded tasks and responsibilities of the Community Prevention Coalitions Demonstration Program.

CSAP Community Partnership grantees will not be permitted to use Community Partnership project staff for full-time positions in a new CPCD project; nor will they be permitted to reduce the level of effort on the current Community Partnership project as a result of obtaining a grant award under this new program.

Applicants must state how an existing partnership will work with the proposed coalition. If not the applicant agency, collaboration and involvement with State and local governments will be required.

Other active partnerships receiving funding from private groups such as the Robert Wood Johnson Foundation, United Way organizations, or other business organizations that have formed a non-profit entity, may also apply.

Applicants receiving Federal funds from other agencies such as the Department of Education or the Centers for Disease Control and Prevention may also apply, but must identify the source of funding and purpose of their current grant.

Availability of Funds: It is estimated that approximately $9 million will be available to support approximately 9–12

awards under this program announcement in Fiscal Year 1994. Average grants will be in the $500,000 range. However, funding levels will depend on the availability of appropriated funds.

Period of Support: Support may be requested for a period of up to five (5) years. Annual awards will be made subject to continued availability of funds and progress achieved.

Application Receipt and Review Schedule: Applications will be received and reviewed according to the following schedule:

Receipt date	IRG review	Council review	Earliest start date
June 10, 1994.	Aug. 1994.	Sept. 1994.	Sept. 30, 1994.

Subject to the availability of funds in future years, CSAP may reissue this announcement and publish future receipt dates and a notice of availability of funds in the **Federal Register**. Because the President's 1995 budget request proposes to consolidate SAMHSA's categorical substance abuse prevention demonstrations, certain aspects of this program could change. Therefore, applicants are strongly encouraged to verify the availability and terms of funding for new awards for this program.

Consequences of Late Submission: Applications must be received by the above receipt date to be accepted for review. An application received after the deadline may be acceptable if it carries a legible proof-of-mailing date (assigned by the carrier) and that date is not later than one week prior to the deadline date. However, private metered postmarks are not acceptable as proof of timely mailing.

Part III—Special Requirements, Review/Award Criteria and Contacts for Additional Information

Evaluation Plan: This CPCD Program requires more rigor in the conceptualization, design and implementation of projects and in their evaluation than the previous Community Partnership Program. The goal is to achieve and document measurable reductions in alcohol, tobacco and other drug abuse incidence, prevalence, and related consequences such as alcohol and other drug related health problems, violence, deaths, and injuries among all age and ethnic groups within a community or regional area. Applications submitted under this announcement must present a multi-year comprehensive substance abuse prevention plan for systems change at the community or geographic area level through the design and implementation of one of the two approaches discussed in the Program Model section of this announcement. The application must contain an evaluation plan which will enable the grantee to assess the effect of the prevention program on a variety of indicators, as described in the remainder of this section.

The ultimate goal of this program is to demonstrate significant reductions in substance abuse. The broad outcomes expected include:

1. A measurable and sustained reduction in initiation of alcohol, tobacco and other drug use among children and adolescents.
2. A reduction in alcohol, tobacco and other drug related deaths and injuries especially among children, adolescents and young adults.
3. A decline in the prevalence of health problems related to and exacerbated by alcohol, tobacco and other drug use.
4. A reduction in on the job problems and injuries related to substance abuse.
5. A reduction in substance abuse related crime.

CSAP will support only applicant projects that have a well developed and comprehensive evaluation plan. The evaluation plan must be conceptually and procedurally integrated with the overall project, and must have both an outcome evaluation component and a process evaluation component.

Since the purpose for this program is to reduce the incidence and prevalence of substance abuse and related health and safety problems in the targeted area, instruments should be used which will provide periodic measures of these indicators. In addition to measures of incidence and prevalence related to substance abuse and related health and safety problems, grantees will be required to collect data on the seven (7) items listed in the Community Wide Indicators of Alcohol and Other Drug Abuse included in the Application Kit. Applicants must specify the means to be used to collect these data. Grantees will be required to collect baseline data, yearly progress report data, and end of project data, and may be required to collect follow-up data on all indices. Grantees will be required to submit all reports and results in both hard copy and in electronic media formats.

The evaluation plan must present a sound methodology for the collection, storage, analysis, and interpretation of data. The evaluation plan must utilize psychometrically sound measures and instruments for data collection. Applicants must describe the selection of instruments to be used and must provide information about their normative properties, including the appropriateness of their use for the culture(s) under study. The presented evaluation methods, measures and instruments must be sensitive and relevant to the target groups of the community with respect to age and gender distribution, reading level, and culture. The evaluation plan must also present a time-line for carrying out all evaluation procedures.

The evaluation plan must be designed and carried out by a professional who is highly experienced in comparative evaluation methodology, independent of the project, and able to work closely with the grantee.

Fifteen to 25 percent of the funds available are to be used for the evaluation component.

Outcome Evaluation: Outcome evaluation assesses whether the project was effective in achieving its goals, objectives and activities. For the purposes of this grant program, the outcome evaluation must provide periodic measures on the community or geographic area in the following broad categorical areas:

(1) Substance abuse prevalence, incidence, frequency and amount;

(2) Substance abuse-related health, safety and risk indicators (e.g., HIV/AIDS, crime, violence, unemployment, etc).

The outcome evaluation design should employ a time series design, which allows for comparisons within and between communities or geographic areas.

Outcome Evaluation Questions: At a minimum, applicants should include the following questions in the outcome evaluation component:

(1) Does the presence of the Coalition and prevention program result in measurable reductions in use/abuse of identified substances, and/or health and safety problems of the target groups in the community or geographic area?

(2) Does the presence of the Coalition and prevention program result in measurable increases in knowledge and anti-substance abuse attitudes by residents of the community or geographic area?

(3) Does the presence of the Coalition and prevention program result in measurable increases in the target group(s)' ability to resist substance abuse and related risky behaviors?

(4) Does the presence of the Coalition and prevention program result in measurable decreases in the target group's school absences or truancy rates in the community or geographic area?

(5) Does the presence of the Coalition and prevention program result in a perceived increase in safety and a

measurable decrease in drug dealing in the community or geographic area neighborhoods?

(6) Does the presence of the Coalition and prevention program result in measurable decreases in the rate of domestic violence in the community or geographic area?

(7) Does the presence of the Coalition and prevention program result in a measurable reduction in the number of violent crimes associated with substance abuse in the community or geographic area?

(8) Does the presence of the Coalition and prevention program result in a measurable reduction in the number of substance abuse related emergency room admissions?

(9) Does the presence of the Coalition and prevention program result in a measurable reduction in the number of substance abuse related vehicle crashes?

(10) Does the presence of the Coalition result in measurable increases in environmental/social change policies (i.e., number of ordinances introduced/enacted/repealed; limited alcohol and tobacco advertising, etc.).

Grantees will be required to collect uniform baseline and yearly data on some indicators using standardized instruments. Data collection and analysis, aggregation to group, and procedures for transmitting the results to CSAP will be provided at the first grantee meeting following award. OMB approval will be obtained for use of the instruments.

Process Evaluation: Process evaluation is both a quantitative and qualitative description of a project. It documents the evolution of the project from inception through implementation and completion. The process evaluation documents what was actually done, what was learned, what barriers inhibited implementation, how such barriers were resolved, and what should be done differently in future projects. In short, process evaluation allows for successful projects to be replicated.

For the purposes of this grant, program process evaluation should:

(1) Document and describe the processes by which the coalition is expanded, refocused, implemented and operated; and

(2) Identify factors associated with effective planning and implementation of the prevention strategies for the community or geographic area.

Comparison Community or Area: Use of comparison communities or geographic areas which closely resemble the community or area served by the coalition is an excellent way to provide a rigorous test of the effectiveness of the interventions to be implemented under this announcement. CSAP realizes that finding suitable comparison communities may be difficult because of the increasing popularity of the partnership movement, and considerable effort may be needed to identify a similar community willing to participate in the full evaluation process.

Comparison and target communities/areas should be as similar as possible at baseline, because the greater the similarity between the target and comparison communities/areas, the greater the likelihood of detecting and explaining effects of the coalition prevention program on the target community/area. The comparison communities/areas should not have a prevention program similar to the one intended for the target community/area. The target and comparison communities/areas should be geographically distant enough to prevent the transmission of program activities from the target to the comparison communities/areas.

CSAP realizes the difficulties applicants may have in identifying comparison communities or areas. CSAP is also aware of the limitations of this approach given the variation and potential for contamination of prevention programs across communities, regions or States. Despite these limitations, applicants are encouraged to use this approach. However, applicants will not be adversely affected by using a different evaluation approach that will yield scientifically credible data.

Participation in National Cross-Site Evaluation: A National cross-site evaluation project will be conducted with the goals of identifying: (1) Successful and innovative community-based Coalition models; (2) effective strategies for the prevention of substance abuse, related health and safety problems and risk factors; (3) common inhibitors to forming effective Coalitions: (4) common inhibitors to design and implementation of effective prevention strategies; (5) Coalition models that effectively prepare the service infrastructure of communities for the eventual implementation of Health Care Reform; and (6) Coalition models and prevention strategies that produce the most benefits for the lowest monetary costs.

Projects funded under this announcement will be required to participate in the National cross-site evaluation, by contributing data that are comparable across projects. A detailed description of the National Cross-site Evaluation Plan will be communicated to the funded projects at the beginning of the grant program.

Although participation in the National Evaluation project is mandatory, grantees will not have to expend grant funds for activities that are not already within the local-level evaluation plans. Selected grantees will be technically and financially supported by the National Cross-site Evaluation project for activities that are not within the purview of their local-level projects.

Coordination with Other Federal/Non-Federal Programs: Applicants seeking support under this announcement are encouraged to coordinate with other Federal, State, and local public and private programs serving their target population. Program coordination helps to better serve the multiple needs of the client population, to maximize the impact of available resources, and to prevent duplication of services. Funding priority will be given to applicants who demonstrate a coordinated approach to providing comprehensive substance abuse prevention services (see Award Criteria).

Single State Agency Coordination: Coordination and collaboration with the Single State Agency (SSA) for alcohol and other drug abuse is encouraged to ensure communication, reduce duplication, and facilitate continuity. The application must include a copy of a letter sent to the SSA that briefly describes the proposed project. A copy of this letter should be included in Appendix B to the application entitled "Letters to/from SSAs."

A list of SSAs can be found in the grant application kit. If the target population falls within the jurisdiction of more than one State, all representative SSAs should be involved. Evidence of support for the proposed project from the SSA and from the State Public Health Agency will be considered in making funding decisions (See "Award Decision Criteria" section).

Intergovernmental Review (E.O. 12372): Applications submitted in response to this announcement are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR Part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application and to receive any necessary instructions on the State's review process. For proposed projects serving

more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application kit. The SPOC should send any State process recommendations to the following address at CSAP (*not* the address to which the application was mailed): Office of Review, Center for Substance Abuse Prevention, Rockwall II Building, Suite 630, 5600 Fishers Lane, Rockville, MD 20857, Attn: SPOC/CPCD Grants.

The due date for the State review process recommendations is *no later than 60 days* after the deadline date for the receipt of applications. CSAP does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cutoff.

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

Non-governmental applicants who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected no later than the receipt date for applications. The PHSIS consists of the following information:

1. A copy of the face page of the application (Standard Form 424).
2. A summary of the project (PHSIS), not to exceed one page, which provides:

a. A description of the population to be served.
b. A summary of the services to be provided.
c. A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are *not* subject to the Public Health System Reporting Requirements.

Application Submission Procedures: All applicants must use application form PHS 5161–1 (Rev. 7/92), which contains Standard Form 424 (face page). The following information should be typed in Item Number 10 on the face page of the application form:

Catalog of Federal Domestic Assistance Number: 93.194

AS 94–02 Community Prevention Coalitions Demonstration

Grant application kits (including form PHS 5161–1 with Standard Form 424, complete application procedures, and accompanying guidance materials for the narrative approved under OMB No. 0937–0189) may be obtained from: National Clearinghouse for Alcohol and Drug Information, (NCADI), Post Office Box 2345, Rockville, Maryland 20852, 1–800–729–6686.

Applicants must submit:

1. An original copy of the application, signed by the duly authorized official of the applicant organization, with a complete set of the appropriate appendices; and
2. Two additional, legible copies of the application and all appendices.

These materials should be sent to the following address: Center for Substance Abuse Prevention Programs, Division of Research Grants, NIH, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892.*

*If an overnight carrier or express mail is used, the Zip Code is 20816.

Review Process: Applications accepted for review will be assigned, at the central receipt point (Division of Research Grants, NIH), to an Initial Review Group (IRG) composed primarily of non-Federal experts. Applications will be reviewed by the IRG for technical merit in accordance with established PHS/SAMHSA peer review procedures for grants.

Notification of the IRG's recommendation will be sent to the applicant upon completion of the initial review. In addition to the IRG's recommendations on technical merit, applications will undergo a second level of review by the appropriate advisory council, whose review may be based on policy considerations as well as technical merit. Applications may be considered for funding only if the advisory council concurs with the IRG's recommendation for approval.

Review Criteria: Each application will be reviewed and evaluated for technical merit using the following criteria:

General

- Potential as a demonstration project to make a significant contribution to knowledge of comprehensive community-based substance abuse prevention services, and systems services development.

Knowledge

- Consistency of the project with state-of-the-art approaches to substance abuse prevention services, evaluation designs, and coalition program development;
- Demonstrated knowledge of the health and substance abuse problems in the target community and the ethnic, cultural, economic, and age factors that impact the community and prevention services.

Cultural Competence

- Evidence of understanding the significance of cultural and gender diversity in achieving a comprehensive community prevention services project; evidence in demonstrating both sensitivity and responsiveness to cultural differences and similarities; and effectiveness in using cultural symbols to communicate messages.
- Established experience and credibility in working with single and multi-cultural communities in developing collaborative working relationships that allow the members of the targeted community to draw on community based values, traditions, and customs in the development of the project's plan and strategies, in addition to other support.

Collaboration

- Evidence of participation, collaboration, and specific commitment of public and private sector organizations and service providers in the coalition; this should include grassroots organizations, health, human services, education, housing, and law enforcement.
- Evidence that the governing boards and/or the chief elected official of the applicant agency demonstrates an understanding, commitment, and support of this service prevention effort, the coalition membership, target community, and the relationship of the project with CSAP, the funding agency.
- Evidence of project's relationship or planned collaboration with existing relevant State and/or local prevention activities in the target community.
- Delineation of the roles and responsibilities of the applicant agency and the coalition in terms of prevention policy and activities, fiscal oversight, personnel oversight, etc. This should be specific in terms of areas over which the applicant agency will have complete control and over which the coalition may or may not be involved by the applicant agency.

Resources

- Adequacy, availability, and accessibility of facilities and resources in the target community;
- Capability, experience, and qualifications of the applicant organization to plan, design, and coordinate prevention efforts with members;
- Appropriateness of the budget for each year of the proposed activities;
- Ability to sustain services and systems begun under the project after the funding period has ended.

Management Plan/Approach

- Adequacy and appropriateness of the needs assessment;
- Appropriateness of the applicant's proposed approach, activities, and goals and objectives to the goals and objectives of the CPCD program;
- Qualifications and experience of program director, project director, evaluator, and other key personnel;
- Evidence that the resources required to support the project are clearly tied to the goals of the CPCD program and are delineated in the accompanying budget;
- Adequacy, rationale, appropriateness, and feasibility of the proposed services, strategies, and timeframes to meet the applicant's stated objectives;
- Appropriateness and potential of plans for improving the coordination and accessibility of existing prevention services and/or stimulating the delivery of new or additional services;
- Adequacy of procedures to identify, recruit, and retain the project's services provider participants.
- Adequacy of procedures for the protection of participants

Evaluation Plan

- Clarity, feasibility, appropriateness, and completeness of evaluation plan, measures and indicators—process and outcome.

Award Decision Criteria: Applications recommended for approval by the Initial Review Group and the appropriate advisory council will be considered for funding on the basis of their overall technical merit as determined through the review process. Other award criteria will include:

- Availability of funds.
- Geographical distribution throughout the United States and its territories.
- Evidence of support from the Single State Agency for alcohol and other drug abuse and the State Public Health Agency.
- Coordination with other Federal/non-Federal programs.
- Neighborhoods hardest hit by drug use and related crime and violence.

Contacts for Additional Information

Questions concerning program issues may be directed to: David Robbins, Chief, Community Prevention and Demonstration Branch, Division of Community Prevention and Training, Center for Substance Abuse Prevention, Rockwall II Building, Room 9D–18, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9438.

Questions concerning grants management issues may be directed to: Margaret E. Heydrick, Grants Management Branch, Center for Substance Abuse Prevention, Rockwall II Building, Room 640, 5600 Fishers Lane, Rockville, Maryland 20852, (301) 443–3958.

Dated: April 6, 1994.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 94–8792 Filed 4–11–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (076–0100), Washington, DC 20503, telephone (202) 395–7340.

Title: Land Acquisitions.

OMB approval number: 1076–0100.

Abstract: Respondents are Native American tribes or individuals who request real property acquisition for trust status. No specific form is used but respondents supply information and data so that the Secretary may make an evaluation and determination in accordance with established Federal factors, rules and policies.

Frequency: As needed.

Description of respondents: Native American tribes and individuals desiring acquisition of lands in trust status.

Estimated completion time: 4 hours.

Annual responses: 9,200.

Annual Burden hours: 36,800.

Bureau clearance officer: Gail Sheridan (202) 208–2685.

Dated: January 12, 1994.

Larry Morrin,

Chief, Division of Real Estate Services.

[FR Doc. 94–8760 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[NV–030–4332–02; Closure Notice NV–030–94–03]

Closure of Federal Lands; Churchill County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Federal Land Closure, Notice.

SUMMARY: Notice is hereby given that certain public lands in the vicinity of an unnamed canyon immediately north of War Canyon on the east side of the Clan Apline Mountains Wilderness Study Area (WSA) in eastern Churchill County, Nevada, are closed to all motorized vehicles. This closure is necessary due to extensive illegal woodcutting activities in this area and the extension of an existing jeep trail as a result of cross-country OHV travel. This action is in conformance with the Lahontan Resource Management Plan, the Interim Management Policy and Guidelines for Lands Under Wilderness Review (IMP) and the approved off-road vehicle designation order (#NV–03–8801) for lands within the Carson City District.

DATES: This closure goes into effect on April 15, 1994, and will remain in effect until the Carson City District Manager determines it is no longer needed.

FOR FURTHER INFORMATION CONTACT: Terry F. Knight, Wilderness Coordinator, Carson City District, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706. Telephone (702) 885–6100.

SUPPLEMENTARY INFORMATION: The authorities for this closure are 43 CFR 8341.2, 43 CFR 8342.3 and 43 CFR 8364.1. Any person who fails to comply with a closure order is subject to arrest and fines of up to $1000 and/or imprisonment not to exceed 12 months. This closure applies to all motorized vehicles, excluding (1) any emergency or law enforcement vehicle while being used for emergency purposes, and (2) any vehicle whose use is expressly authorized in writing by the Lahontan Resource Area Manager.

The public lands affected by this closure are located within the Clan Alpine Mountains WSA, specifically:

Mt. Diablo Meridian

T. 20N., R. 37E.
Sec. 21
Sec. 28

A map of the area closed to motorized vehicles is posted in the Carson City District Office.

Dated: March 30, 1994.

James W. Elliott,

Carson City District Manager.

[FR Doc. 94–8615 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–HC–M

[WY–920–41–5700; WYW106149]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

April 4, 1994.

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW106149 for lands in Sublette County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW106149 effective November 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 94–8761 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–22–M

[NV–930–4210–04; N–57773]

Realty Action: Exchange of Lands in Clark and Esmeralda Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action N–57773 for exchange of lands in Clark and Esmeralda Counties, Nevada.

SUMMARY: The following described private lands in Clark and Esmeralda Counties, Nevada, are being considered for acquisition by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Mount Diablo Meridian, Nevada

T. 1 S., R. 34 E.,
Sec. 19, S½N½.
Sec. 30, SE¼SW¼, NE¼SE¼, S½SE¼.
Sec. 31, lots 1, 2, NE¼, E½W½, W½SE¼.
T. 21 S., R. 55 E.,
Sec. 14, NE¼, E½SW¼, W½SE¼.
Sec. 23, NW¼NE¼, NE¼NW¼.
T. 19 S., R. 56 E.,
Sec. 11, Tract 47.
Sec. 12, Tract 37.
T. 19 S., R. 57 E.,
Sec. 7, a portion of lot 4, a portion of SE¼SW¼.
T. 20 S., R. 57 E.,
Sec. 27, SW¼SW¼.
Sec. 28, W½NE¼, SE¼NE¼, NE¼SE¼.
Sec. 34, N½NW¼, SE¼NW¼.
T. 23 S., R. 57 E.
Sec. 1, MS 4246 A & B.
Sec. 12, MS 37, MS 4246 A & B.
T. 20 S., R. 58 E.,
Sec. 6, lots 2 and 4, a portion of lot 3, SE¼NW¼.
T. 22 S., R. 58 E.,
Sec. 19, a portion of NE¼SE¼.
Sec. 20, a portion of NW¼SW¼.
T. 21 S., R. 59 E.,
Sec. 6, a portion of lot 5.
T. 22 S., R. 59 E.
Sec. 7, a portion of the S½NE¼ and a portion of N½SE¼.
T. 15 S., R. 68 E.,
Sec. 24, E½NE¼, N½NE¼SE¼, N½SW¼NE¼SE¼, SE¼SW¼NE¼SE¼, SE¼NE¼SE¼, N½SE¼SE¼, N½SW¼SE¼SE¼, S½SE¼SE¼SE¼.
Sec. 25, S½N½NE¼NE¼, S½S½NE¼NE¼, NW¼NE¼, E½SW¼NE¼, N½NW¼SE¼NE¼, SE¼NW¼SE¼NE¼, N½NE¼NE¼SE¼, S½SE¼NE¼SE¼, E½SE¼SE¼.
Sec. 35, SE¼.
Sec. 36, E½NE¼NE¼, SW¼NE¼NE¼, SE¼NE¼, W½NW¼NE¼SW¼, E½SW¼NE¼SW¼, SE¼NE¼SW¼, W½SW¼, SE¼SW¼, W½SW¼SE¼.
T. 16 S., R. 68 E.,
Sec. 1, lots 3, 4, SW¼NW¼, N½SE¼NW¼, W½SW¼.
Sec. 12, NW¼NW¼, N½SW¼NW¼.
T. 14 S., R. 69 E.,
Sec. 32, SE¼SW¼, SW¼SE¼.
Sec. 33, NW¼SW¼.
T. 15 S., R. 69 E.,
Sec. 5, lots 3, 4, SE¼NW¼.
Sec. 30, lots 2 and 3, a portion of lots 1 and 4, N½NE¼, SW¼NE¼, NE¼NW¼, N½SE¼.
Sec. 31, a portion of lots 1 and 2, NE¼NW¼, SE¼.
T. 16 S., R. 69 E.,
Sec. 6, lots 1 and 2, S½NE¼, E½SW¼, SE¼.

Aggregating 4,970.00 acres, more or less.

The exchange is being proposed by Olympic Land Corporation. The purpose of the exchange is to acquire non-federal lands located along the Virgin River, within the Red Rock Canyon National Conservation Area and within the Toiyabe and Inyo National Forests. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with local governmental officials. The public interest will be served by making the exchange. The value of the lands will be determined by an appraisal. If the exchange values are not equal, the transaction will be phased or the acreage adjusted or money will be used to equalize the values upon approval of the final appraisal of both the offered and selected lands. The selected lands were identified in a Notice of Realty Action published in the **Federal Register** (58 FR 47472) on September 9, 1993.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments concerning the offered lands to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

Dated: April 5, 1994.

Gary Ryan,

District Manager.

[FR Doc. 94–8682 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–HC–M

[OR–130–04–4210–05: GP4–117; WAOR 50716]

Realty Action; Sale of Public Lands in Ferry County, WA

AGENCY: Bureau of Land Management.

ACTION: Notice of Realty Action; Sale of Public Lands in Ferry County, Washington.

SUMMARY: The following described public lands have been determined to be suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713:

Willamette Meridian

T. 36 N., R. 32 E., Section 1, Lots 6 & 25;
Aggregating 0.40 acres, more or less, in Ferry County, Washington.

The property will be offered by direct sale to the Ferry County Joint Housing Authority at no less than the approved fair market value. The public land is located within a proposed construction site for a low income housing complex which is urgently needed by the community of Republic.

The sale will be subject to: 1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

3. All other valid existing rights, including, but not limited to, any right-of-way, permit, or lease of record.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws.

Detailed information concerning the sale, is available for review at the Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202.

For a period of 45 days, interested parties may submit comments to the Spokane District Manager at the above address. Any adverse comments will be reviewed by the State Director. In absence of any adverse comments, this realty action will become a final determination of the Department of the Interior.

Date of Issue: April 4, 1994.

Joseph K. Buesing,

District Manager.

[FR Doc. 94–8762 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–33–M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau Clearance Officer at the address shown below, and to the Office of Management and Budget Interior Desk Officer, Washington, DC 20503, telephone 202–395–7340.

Title: Private Rental Survey.

OMB approval number: 1006–0009.

Abstract: Respondents supply identifying information, and descriptive and rental data on private rental houses, apartments, mobile homes, and trailer spaces. This information allows the bureau to establish comparable rental rates for occupants of Government furnished quarters.

Bureau Form Numbers: 7–2226 and 7–2227.

Frequency: On occasion.

Description of Respondents: Small businesses or organizations.

Estimated completion time: Form 7–2226—12 minutes; form 7–2227—10 minutes.

Annual Responses: 3,000.

Annual Burden Hours: 590.

Bureau clearance officer: Mr. Robert A. Lopez, Chief, Publications and Records Management Branch, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado, 80225–0007, 303–236–6769.

Dated: March 23, 1994.

J. W. McDonald,

Assistant Commissioner—Resources Management.

[FR Doc. 94–8763 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–09–M

Central Valley Project, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Withdrawal of notice of intent.

SUMMARY: The Bureau of Reclamation (Reclamation) is canceling plans to prepare an environmental impact statement (EIS) on interim regulations to implement the Reclamation Reform Act (RRA) in California's Central Valley Project (CVP).

FOR FURTHER INFORMATION CONTACT: Mr. Terry Lynott, Director, Policy and Programs, Bureau of Reclamation, Denver Office, PO Box 25007, Denver CO 80225.

SUPPLEMENTARY INFORMATION: The notice of intent was published in the **Federal Register** (57 FR 20288, May 12, 1992) to comply with orders dated July 26, 1991, and March 10, 1992, by the United States District Court for the Eastern District of California [*NRDC* v. *Duvall, No. Civ. S–88–375 LKK*] declaring that Reclamation had not complied with the requirements of the National Environmental Policy Act of 1969 in preparing an environmental assessment with a "Finding of no Significant Impact" in the promulgation of its 1987 regulations for the RRA (43 CFR part 426, Rules and Regulations for Projects Governed by Federal Reclamation Law). A settlement contract between the Departments of Justice and of the Interior and NRDC was entered into on September 16, 1993, concerning *NRDC, et al.* v. *Beard*. The settlement contract eliminates the need for a separate EIS and rulemaking for the Central Valley Project, California.

Dated: April 5, 1994.

J. William McDonald,

Assistant Commissioner—Resources Management.

[FR Doc. 94–8683 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–94–M

National Park Service

Gary Marina, Supplement to the Draft Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Availability of supplement to the draft environmental impact statement for the Gary Marina, adjacent to Indiana Dunes National Lakeshore.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a supplement to the draft environmental impact statement (DEIS) for the Gary Marina. The city of Gary proposes to construct a marina on Lake Michigan adjacent to the west boundary of Indiana Dunes National Lakeshore. The proposed marina would require an access road through Indiana Dunes National Lakeshore. The supplement to the DEIS was prepared by the city of Gary and the NPS.

The city of Gary and the NPS's preferred alternative for marina access is identified in the supplement to the DEIS as the "proposed" access alternative; construction of an access road on the abandoned Indiana Harbor Belt Railroad bed, within the west end of Indiana Dunes National Lakeshore, and on U.S. Steel Corporation property, adjacent to, but outside, Indiana Dunes National Lakeshore. This is a new alternative that was not previously described in the DEIS of April 1989. The new alternative was developed in response to public and agency comment on the DEIS. Many comments called for the development of an access alternative with less impact to Indiana Dunes National Lakeshore than those presented in the DEIS.

The city of Gary and the NPS's preferred alternative for the marina location is identified in the DEIS as Site 1, which is behind an existing breakwater on land currently owned by U.S. Steel Corporation. All other marina site alternatives described in the DEIS have been eliminated from further consideration.

Comments on the Supplement to the DEIS should be received no later than June 7, 1994.

Comments on the supplement to the DEIS should be submitted to: Mr. Dale Engquist, Superintendent, Indiana Dunes National Lakeshore, 1100 N. Mineral Springs Road, Porter, Indiana 46304, (219) 926–7561

Public reading copies of the supplement to the DEIS and the 1989 DEIS, will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior,

18th and C Streets, NW., Washington, DC 20240, (202) 343–6843

Headquarters and Visitor Center (corner of Hwy 12 and Kemil Road), Indiana Dunes National Lakeshore, 1100 N. Mineral Springs Road, Porter, Indiana 46304, (219) 926–7561

City Hall, City of Gary, 401 Broadway, Gary, Indiana 46402, (219) 881–1332

Gary Public Library, City of Gary, 220 West 5th Avenue, Gary, Indiana, 46402, (219) 886–2484

A limited number of the supplement to the DEIS and the 1989 DEIS are available on request from the Superintendent, Indiana Dunes National Lakeshore (refer to address above).

Dated: March 28, 1994.

F.A. Calabrese,

Acting Regional Director, Midwest Region.

[FR Doc. 94–8673 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 2, 1994. 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 April 27, 1994.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Apache County

Lower Zuni River Archeological District, Restricted Address, St. John's vicinity, 94000398

Coconino County

Eldredge, Dean, Museum, 3404 E. US 66, Flagstaff, 94000396

Pima County

I'itoi Mo'o—Montezuma's Head and 'Oks Daha—Old Woman Sitting, Organ Pipe NM, Ajo vicinity, 94000399

COLORADO

Moffat County

Mantle's Cave, Dinosaur NM, Dinosaur vicinity, 94000394

CONNECTICUT

Middlesex County

Connecticut Valley Railroad Roundhouse and Turntable Site, Off Main St. in Ft. Saybrook Monument Park in Saybrook Point, Old Saybrook, 94000395

GEORGIA

Oconee County

Elder's Mill Covered Bridge and Elder Mill, 4/5 mi. S of jct. of Elder Mill Rd. and GA 15, Watkinsville vicinity, 94000389

KANSAS

Reno County

St. Theresa's Catholic Church, 211 E. 5th Ave, Hutchinson, 94000390

NEW JERSEY

Camden County

Dorrance, Arthur, House, 28 Franklin Ave., Merchantville, 94000391

Monmouth County

Taylor, George, House, 74 Broadway, Freehold Borough, 94000392

Morris County

King Store and Homestead, 211 Main St., Roxbury Township, Ledgewood, 94000393

NEW YORK

Suffolk County

Sag Harbor Village District (Boundary Increase), Roughly bounded by Sag Harbor, Bay, Eastville, Grand, Joel's Ln., Middle Line Hwy., Main, Glover and Long Island, Sag Harbor, 94000400

PENNSYLVANIA

York County

Village of Muddy Creek Forks, Jct. of Muddy Creek Forks and New Park Rds., E. Hopewell, Fawn and Long Chanceford Townships, Muddy Creek Forks, 94000397

WISCONSIN

Dane County

Stoughton Main Street Commercial Historic District (Boundary Increase), Main St. from Forest St. to Fifth St., Stoughton, 94000387

Trempealeau County

Arcadia Free Public Library, 406 E. Main St., Arcadia, 94000388

[FR Doc. 94–8672 Filed 4–11–94; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The U.S. Agency for International Development (USAID) has authorized the guaranty of loans to the Republic of the Philippines ("Borrower") as part of USAID's development assistance program. At this time, the Government of the Philippines has authorized USAID to request proposals from eligible lenders for a loan under this program of $15 Million U.S. Dollars (US$15,000,000). The names and addresses of the Borrower's representatives to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of the Philippines

Project No.: 492–HG–001—$15,000,000

Housing Guaranty Loan No.: 492–HG–002 A01

1. *Attention:* Honorable Romeo L. Bernardo, Undersecretary, Address: Department of Finance, room 416, 5 Storey Bldg., Bangko Sentral Ng Pilipinas Complex, Malate, Manila, Philippines.

Telex No.: CB CONF

Telefax Nos.: 011 (632) 521–0106 or 011 (632) 522–0164 (preferred communications)

Telephone Nos.: 011 (632) 59–56–87 or 011 (632) 59–82–79

2. *Attention:* Honorable Romeo L. Bernardo, Undersecretary, c/o Ms. Ma. Cecilia C. Soriano, World Bank Advisor, Address: The World Bank, room No. MC 12–319, 1818 H. Street, NW., Washington, DC 20433.

Telefax No.: (202) 622–1551 (preferred communication)

Telephone No.: (202) 458–0094

3. *Attention:* Ms. Rosalia V. de Leon, Address: Department of Finance, Room 416, 5–Storey Bldg., Bangko Sentral Ng Pilipinas Complex, Malate, Manila, Philippines.

Telex No.: CB CONF

Telefax Nos.: 011 (632) 522–0164 (preferred communication)

Telephone Nos.: 011 (632) 59–56–87 or 011 (632) 59–82–79

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should submit their bids to all of the Borrower's representatives by Tuesday, April 26, 1994, 12:00 noon Eastern Daylight Savings Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

1. Mr. William Frej, Director/RHUDO/JAKARTA, USAID/Jakarta, Box 4, Unit 8134, APO AP 96520–8135, (Street address: Jalan Medan Merdeka Seletan #5, Jakarta, Pusat, Indonesia).

Telefax No.: 011 (6221) 380–6694 (preferred communication)

Telephone No.: 011 (6221) 360–360

2. Mr. Harold L. Dickherber, ONRAD/DLD, USAID/Philippines, APO AP 96440, (Street Address: 1680 Roxas Boulevard, Ermita, Manila, Philippines 1000).

Telefax Nos.: 011 (632) 522–2512 or 011 (632) 521–4811 (preferred communication)
Telephone Nos.: 011 (632) 522–4411 or 011 (632) 521–7116

3. Mr. David Grossman, Assistant Director, Mr. Peter Pirnie, Financial Advisor, Address: U.S. Agency for International Development, Office of Housing and Urban Programs, G/DG/H, room 401, SA–2, Washington, DC 20523–0214.
Telex No.: 892703 AID WSA
Telefax No.: (202) 663–2552 or (202) 663–2507 (preferred communication)
Telephone No.: 202/663–2547 or (202) 663–2548

For your information the Borrower is currently considering the following terms:

(1) *Amount:* U.S. $15 million.

(2) *Term:* 30 years.

(3) *Grace Period:* Ten years grace on repayment of principal (during grace period, semi-annual payments of interest only). If variable interest rate, repayment of principal to amortize in equal, semi-annual installments over the remaining 20-year life of the loan. If fixed interest rate, semi-annual level payments of principal and interest over the remaining 20-year life of the loan.

(4) *Interest Rate:* Alternatives of fixed and variable rates are requested.

(a) *Fixed Interest Rate:* If rates are to be quoted based on a spread over an index, the lender should use as its index a long bond, specifically the 6¼% U.S. Treasury Bond due August 15, 2023. Such rate is to be set at the time of acceptance.

(b) *Variable Interest Rate:* To be based on the six-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to convert to fixed. The rate should be adjusted weekly.

(5) *Prepayment:*

(a) Offers should include any options for prepayment and mention prepayment premiums, if any.

(b) Only in an extraordinary event to assure compliance with statutes binding USAID, USAID reserves that right to accelerate the loan (it should be noted that since the inception of the USAID Housing Guaranty Program in 1962, USAID has not exercised its right of acceleration).

(6) *Fees:* Offers should specify the placement fees and other expenses, including USAID fees and Paying and Transfer Agent fees. Lenders are requested to include all legal fees and out-of-pocket expenses in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan. All fees should be clearly specified in the offer.

(7) *Closing Date:* Not to exceed 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the borrower, and thereafter, subject to certain conditions required of the Borrower by USAID as set forth in agreements between USAID and the Borrower.

The full repayment of the loans will be guaranteed by USAID. The USAID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive the USAID guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for the USAID guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by USAID.

Information as to the eligibility of investors and other aspects of the USAID housing guaranty program can be obtained from: Mr. Peter M. Kimm, Director, Office of Housing and Urban Programs, U.S. Agency for International Development, room 401, SA–2, Washington, DC 20523–0214.

Fax Nos: (202) 663–2552 or 663–2507
Telephone: 202/663–2530

Dated: April 7, 1994.

Michael G. Kitay,

Assistant General Counsel Bureau for Global Programs, Field Support and Research, Agency for International Development.

[FR Doc. 94–8724 Filed 4–11–94; 8:45 am]
BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–696–698 (Preliminary)]

Magnesium From the People's Republic of China, The Russian Federation, and Ukraine

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–696–698 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China, the Russian Federation, and Ukraine of unwrought magnesium (primary magnesium), provided for in subheadings 8104.11.00 and 8104.19.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by May 16, 1994.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: March 31, 1994.

FOR FURTHER INFORMATION CONTACT:

Fred H. Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on March 31, 1994, by Magnesium Corporation of America (Magcorp), Salt Lake City, UT; the International Union of Operating Engineers, Local 564, Freeport, TX; and the United Steelworkers of America, Local 8319, Salt Lake City, UT.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on Thursday, April 21, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Fred H. Fischer (202–205–3179) not later than Monday, April 18, 1994, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in § 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before Tuesday, April 26, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: April 6, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–8790 Filed 4–7–94; 4:44 pm]

BILLING CODE 7020–02–P–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32479]

Caddo Antoine and Little Missouri Railroad Company—Feeder Line Acquisition—Arkansas Midland Railroad Company Line Between Gurdon and Bird's Mill, AR

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of feeder line application.

SUMMARY: The Commission accepts the feeder railroad application filed by The Caddo Antoine and Little Missouri Railroad Company (CALM) under 49 U.S.C. 10910 and 49 CFR 1151.3 to acquire from the Arkansas Midland Railroad Company Inc. a 52.9-mile rail line between Gurdon (milepost 426.3) and Bird's Mill (milepost 479.2), AR, and institutes a proceeding.

DATES: Competing applications to acquire all or any portion of the line are due May 12, 1994. Verified statements and comments addressing both the initial and competing applications are due June 13, 1994. Verified replies by applicants and other interested parties are due July 5, 1994.

ADDRESSES: Send pleadings referring to Finance Docket No. 32479 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423 and (2) CALM's representative: James M. Moody, Jr., Wright, Lindsey & Jennings, 2200 Worthen Bank Building, 200 West Capitol Avenue, Little Rock, AR 72201–3699.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927–5660 or Joseph C. Levin (202) 927–6287. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Copies of the application are available at the Commission and from CALM's representative.

CALM's application is substantially complete and contains the basic information required by 49 CFR 1151.3. Additional information is needed, however, to assist the Commission in evaluating the application. Accordingly, CALM is directed to submit in its verified statement/comments the following supplemental information:

1. Pro forma income statements, balance sheets and cash flow statements for each of the first 3 years after the proposed acquisition of the line, as additional support to demonstrate its financial fitness. The data in these statements should be fully explained and supported. The pro forma income statements should reflect net income rather than operating income.

2. Details of any borrowing or other financing arrangements that have been made for CALM's purchase and operation of the line, including the specific sources of funds CALM will use and what the sources will commit.

3. Details of any planned track improvements, including estimated costs.

4. The estimated land value and sources of unit costs for the net liquidation value (NLV) estimate of the line.

Decided: April 6, 1994.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–8703 Filed 4–11–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *AND* to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) Annual Reporting Requirement for Manufacturers of Listed Chemicals.

(2) None. Drug Enforcement Administration.

(3) Annually.

(4) Businesses or other for-profit. Public Law 103–200 (The Domestic Chemical Diversion Act of 1993) imposes an annual reporting requirement for manufacturers of listed chemicals. This information enables the Drug Enforcement Administration to monitor the domestic manufacture and availability of listed chemicals to prevent diversion and illicit use.

(5) 210 annual responses at 4.0 hours per response.

(6) 840 annual burden hours.

(7) Not applicable under Section 3504(h).

Public comment on this item is encouraged.

Dated: April 5, 1994.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 94–8767 Filed 4–11–94; 8:45 am]

BILLING CODE 4410–09–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 94–3]

New Post Office Boxes

AGENCY: Copyright Office; Library of Congress.

ACTION: Copyright Office establishes new post office boxes.

SUMMARY: The Copyright Office publishes this notice to inform the public that it has established two new post office boxes to facilitate timely receipt of mail from copyright owners and users that demands immediate attention. This notice is intended to explain the purposes of the post office boxes and the specific kinds of mail that should be addressed to each box.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20540. Telephone (202) 707–8380. Telefax (202) 707–8366.

SUPPLEMENTARY INFORMATION: The Copyright Royalty Tribunal Reform Act of 1993 abolished the Royalty Tribunal as an independent agency and transferred its responsibilities and duties to ad hoc Copyright Arbitration Royalty Panels (CARPs) to be administered by the Library of Congress and the Copyright Office. To assure that time sensitive mail relating to CARP business is not delayed in the general incoming mail the Office receives, the Office has established a separate post office box that is to be used only for CARP claims, filings, and general correspondence. Such mail should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024.

A second special Copyright Office post office box has been established for other limited uses only, as follows: (1) Freedom of Information Act (FOIA) requests, (2) section 411(a) notice and copy of complaint for infringement actions after Office refusal to register a claim, (3) comments submitted in Office rulemaking proceedings, (4) requests for Copyright Office speakers, (5) requests for approvals of computer generated application forms, (6) requests to the Reference and Bibliography Section for expedited search reports needed for litigation, customs or publishing deadlines, and (7) requests to the Certifications and Documents Section for expedited additional certificates, certifications, copies of deposits, correspondence or Copyright Office records or copies required for inspections which are needed for pending or prospective litigation, customs matters, or contract or publishing deadlines.

Such special mail may be sent to: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024.

Requests for regular services to the Reference and Bibliography Section or the Certifications and Documents Section must not be directed to this post office box. Copyright registration applications, deposit copies, or correspondence must not be directed to this post office box either. To do so will delay Office handling of that material and may also result in a later effective date of registration.

Dated: April 7, 1994.

Mary Levering,

Deputy Register of Copyrights.

[FR Doc. 94–8740 Filed 4–11–94; 8:45 am]

BILLING CODE 1410–07–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–024]

Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Krautkramer Branson, a wholly-owned subsidiary of Emerson Electric Company, of St. Louis, Missouri, a partially exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent Application Serial No. 08/134,444, filed October 12, 1993, and entitled "Flux-Focusing Eddy Current Probe and Method for Flaw Detection." The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245, subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the Date of this

Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the partially exclusive license.

DATES: Comments to this notice must be received by June 13, 1994.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: April 5, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–8769 Filed 4–11–94; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Notice of Meetings

AGENCY: National Endowment for the Humanities.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. Law 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* April 29, 1994

Time: 9:30 a.m. to 5 p.m.

Room: M–07.

Program: This meeting will review HBCU Faculty Graduate Study applications, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1995.

David C. Fisher,

Advisory Committee, Management Officer.

[FR Doc. 94–8739 Filed 4–11–94; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences.

Date and time: April 25, 1994.

Place: National Science Foundation, 4201 Wilson Boulevard, room 630, Arlington, VA 22230.

Type of meeting: Closed.

Contact person: Dr. Scott L. Collins, Division of Environmental Biology, room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1479.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Center for Ecological Analysis and Synthesis proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Reason for late notice: Delay in production of special competition announcement.

Dated: April 6, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–8621 Filed 4–11–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Arizona Public Service Co., et. al.; Palo Verde Nuclear Generating Station Units 1, 2, and 3, Environmental Assessment and Finding of No Significant Impact

[Docket Nos. 50–528, 50–529, and 50–530]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company, et. al., (the licensee), for the Palo Verde Nuclear Generating Station (PVNGS) Units 1, 2, and 3 located in Wintersburg, Arizona.

Environmental Assessment

Identification of Proposed Action

By letter dated October 26, 1993, the licensee proposed to change technical specifications (TS) to allow an increase in fuel enrichment (Uranium 235) to a maximum of 4.30 weight percent.

The Need for the Proposed Action

The proposed changes to the TS are required in order to provide the licensee with operational flexibility to use fuel enriched with U–235 up to 4.30 weight percent at PVNGS, Units 1, 2, and 3. The present TS permit a maximum of 4.05 weight percent U–235. Thus the change to the TS was requested.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS and concludes that storage and use of fuel enriched with U–235 up to 4.30 weight percent at PVNGS, Units 1, 2, and 3 is acceptable. The safety considerations associated with higher enrichments have been evaluated by the NRC staff and the staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability of any accident. There will be no change to authorized power level. There was no change requested to current 52,000 MWD/MTU burnup. The change in fuel enrichment is bounded by NRC staff generic review (discussed below). As a result, there is no significant increase in individual or cumulative radiation exposure.

The environmental impacts of transportation resulting from the use of higher enrichment and extended irradiation are discussed in the staff assessment entitled "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation." This

assessment was published in the **Federal Register** on August 11, 1988 (53 FR 30355) as corrected on August 24, 1988 (53 FR 32322) in connection with the Shearon Harris Nuclear Power Plant, Unit 1: Environmental Assessment and Finding of No Significant Impact. As indicated therein, the environmental cost contribution of an increase in fuel enrichment of up to 5 weight percent U–235 and irradiation limits of up to 60,000 MWD/MTU are either unchanged, or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CFR 51.52(c). These findings are applicable to the proposed amendments for PVNGS, Units 1, 2, and 3. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes involve systems located within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing in connection with this action was published in the **Federal Register** on January 19, 1994 (59 FR 2860). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. The staff considered denial of the proposed action. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of the Palo Verde Nuclear Generating Station Units 1, 2, and 3, dated February 1982 (NUREG 0841).

Agencies and Persons Consulted

The staff consulted the State of Arizona official regarding environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

For further details with respect to this action, see the license's application for amendment dated October 26, 1993, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 6th day of April 1994.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Director, Project Directorate IV–3, Division of Reactor Project III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–8693 Filed 4–11–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service Co., et al.; Palo Verde Nuclear Generating Station Units 1, 2, and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company, (the licensee), for operation of Palo Verde Nuclear Generating Station Units 1, 2, and 3 located in Wintersburg, Arizona.

Environmental Assessment

Identification of Proposed Action

The proposed action would revise the provisions in the Technical Specifications (TS) related to increasing the pressurizer safety valve (PSV) setpoint tolerance from +/−1 percent to +3 percent and −1 percent, increasing the main steam safety valve (MSSV) setpoint tolerance from +/−1 percent to +/−3 percent, reducing the high pressurizer pressure trip setpoint (HPPT) response time from 1.15 seconds to 0.5 second, and reducing the Technical Specifications minimum auxiliary feedwater (AFW) pump flow requirement from 750 gallons per minute (GPM) to 650 GPM.

The proposed action is in accordance with the licensee's application for amendment dated November 13, 1990, as supplemented by letters of additional information dated May 27, 1992, May 13, 1993, and November 12, 1993.

The Need for the Proposed Action

The proposed changes to the TS are required in order to provide the licensee with operational flexibility in meeting surveillance requirements for auxiliary feedwater (AFW) flow, and pressurizer safety valve (PSV) and main steam safety valve (MSSV) lift setpoint tolerances. The proposed change to the TS also involves a reduction of the high pressurizer pressure trip (HPPT) response time. This reduction is necessary to ensure that the peak pressures during postulated accident scenarios for the other changes (AWF, PSV, and MSSV) do not violate safety limits.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS and the licensee's assessment of increased radiological release as a result of the safety valve setpoint tolerance change and the proposed reduction in auxiliary feedwater flow. For the most limiting SGTR scenario, this results in an increase in the 2-hour thyroid dose from 200 rem to less than 248 rem. Adding the increased dose due to the expanded PSV and MSSV setpoint tolerances (which the licensee calculated as a 5-percent dose increase), results in a 2-hour dose of 260 rem. This value provides adequate margin to the 10 CFR part 100 guideline of 300 rem. The licensee also evaluated radiological release for the reactor coolant pump (RCP) shaft seizure event, and determined that the calculated 0.5 rem increase was insignificant compared to the 246 rem dose reported in Supplement 2 to the staff's Safety Evaluation Report related to the Combustion Engineering Standard Safety Analyses Report (CESSAR) for System 80, and the 300 rem SRP acceptance criteria. The staff finds the analysis results, utilizing proper

conservatisms, to be within 10 CFR guidelines.

Therefore, the proposed changes do not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on December 27, 1990 (55 FR 53220). Two petitions for leave to intervene and request for hearing were filed following this Notice. One request was denied and the other granted. However, the party that was granted the hearing later voluntarily withdrew their contention.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of the Palo Verde Nuclear Generating Station Units 1, 2, and 3, dated February 1982 (NUREG 0841).

Agencies and Persons Consulted

The staff consulted the State of Arizona official regarding environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the licensee's application for amendment dated November 13, 1990, and supplemented by letters of additional information dated May 27, 1992, May 13, 1993, and November 12, 1993, which are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room at the Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 6th day of April 1994.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Director, Project Directorate IV–3, Division of Reactor Project III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–8695 Filed 4–11–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, Mississippi Power and Light Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–29, issued to Entergy Operations, Inc. (the licensee), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Louisiana.

The proposed amendment, requested by the licensee by letter of October 15, 1993, would represent a full conversion from the current Technical Specifications (TS) to a set of TS based on NUREG–1434, "Improved BWR/6 Technical Specifications," Revision O, September 1992. NUREG–1434 has been developed through working groups composed of both NRC staff members and the BWR/6 owners and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve TS. As part of this submittal, the licensee has applied the criteria contained in the Final NRC Policy Statement on Technical Specification Improvements to the current Grand Gulf Nuclear Station, Unit 1 Technical Specifications utilizing BWR Owners' Group (BWROG) report NEDO–31466, "Technical Specification Screening Criteria Application and Risk Assessment," (and Supplement 1) as incorporated in NUREG–1434.

The licensee has categorized the proposed changes into four general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes, and less restrictive changes.

Administrative changes are those that involve reformatting, renumbering and rewording of the existing TS. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1434 and do not involve technical changes to the existing TS. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components or variables that do not meet the criteria of inclusion in TS as identified in the Application of Selection Criteria to the Grand Gulf Nuclear Station TS. The affected structures, systems, components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components or variables will be relocated from the TS to administratively controlled documents. Changes to these documents will be made pursuant to 10 CFR 50.59. In addition, the affected structures, systems, components or variables are addressed in existing surveillance procedures which are subject to 10 CFR 50.59 and subject to the change control provision in the Administrative Controls Section of the TS. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to mitigation of an accident or transient event. The more restrictive requirements continue to ensure process variables, structures, systems and components are maintained consistent with the safety analyses and licensing basis.

Changes characterized as less restrictive have been subdivided into four additional subcategories. They include:

a. *Relocating details to TS Bases, the Updated Safety Analysis Report (USAR), or procedures.* The requirements to be transposed from the TS to the Bases, USAR or procedures are the same as those currently included in the existing TS. The TS Bases, USAR and procedures containing the relocated information are subject to 10 CFR 50.59 and are subject to the change control provisions in the Administrative Controls section of the TS.

b. *Extension of instrumentation surveillance test intervals (STIs) and allowed outage times (AOTs).* The proposed changes affect only the STIs and AOTs and will not impact the function of monitoring system variables over the anticipated ranges for normal operation, anticipated operational occurrences, or accident conditions. However, the changes are expected to reduce the test related plant scrams and test induced wear on the equipment. General Electric Topical Reports GENE–770–06–1 and GENE–770–06–2 showed that the effects of these extensions of STIs and AOTs, which produced negligible impact, are bounded by previous analyses. Further, the NRC has reviewed these reports and approved the conclusions on a generic basis.

c. *Relocation of instrumentation only requirements (which provide no post-accident function).* These requirements are part of the routine operational monitoring and are not considered in the safety analysis. Changes made to the Bases, USAR, and procedures containing the relocated information will be made in accordance with 10 CFR 50.59 and are subject to the change control provisions in the Administrative Controls section of the TS. These proposed changes will not impose or eliminate any requirements.

d. *Other less restrictive changes.* Additional changes that result in less restrictions in the TS are discussed individually in the licensee's submittal.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 12, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner, Director, Project Directorate IV–1: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a

balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards considerations in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 15, 1993, 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, located at the Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Dated at Rockville, Maryland, this 5th day of April 1994.

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Senior Project Manager, Project Directorate IV–I, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–8692 Filed 4–11–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–498 and 50–499]

Houston Lighting and Power Company (South Texas Project, Units 1 and 2); Exemption

I

On March 22, 1988, and March 28, 1989, the Commission issued Facility Operating License Nos. NPF–76 and NPF–80 to Houston Lighting & Power Company, et al. (the licensee) for South Texas Project, Unit Nos. 1 and 2, respectively. The license provided, among other things, that the facility is subject to all rules, regulations and orders of the Commission.

II

Pursuant to 10 CFR 55.59(a)(1), "each licensee shall successfully complete a requalification program developed by the facility licensee that has been approved by the Commission. The program shall be conducted for a continuous period not to exceed 24 months in duration." Also, pursuant to 10 CFR 55.59(c)(1), "The requalification program must be conducted for a continuous period not to exceed two years, and upon conclusion must be promptly followed, pursuant to a continuous schedule, by successive requalification programs."

By letter dated December 17, 1993, as supplemented by letter dated January 14, 1994, the licensee requested a one-time exemption from 10 CFR 55.59(a)(1) and (c)(1) which would extend the current requalification cycle to April 22, 1994.

Pursuant to 10 CFR 55.11, "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest."

III

HL&P increased the operating staff from five to six crews to reduce the burden placed on the operating staff. The increase to six crews is in the public interest in that it will allow sufficient numbers of operating personnel to maintain individual workloads at a reasonable level while on shift without the need for routine overtime and still allow for continued uninterrupted training. The licensee began its six-operating crew, six-week requalification training plan in January 1994. Because of the additional crew, the current requalification cycle, which began on April 13, 1992, will continue until April 22, 1994. The extension of the training cycle is unavoidable in order to enhance the operations staff while maintaining adequate staffing levels. The exemption will allow the licensee to exceed the 24-month limit stated in 10 CFR 55.59 by ten days.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 55.11, this exemption is authorized by law, will not endanger life or property, and is otherwise in the public interest.

Therefore, the Commission hereby grants Houston Lighting & Power Company an exemption from the requirements of 10 CFR 55.59(a)(1) and (c)(1).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the Exemption will have no significant impact on the environment (59 FR 11330).

This Exemption is effective on issuance.

Dated at Rockville, Maryland this 4th day of April 1994.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 94–8694 Filed 4–11–94; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33864; International Series Release No. 646; File No. SR–Amex–94–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Foreign Listing Standards

April 5, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 23, 1994, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Section 110 of the *Company Guide* to allow non-U.S. issuers to provide their U.S. shareholders with summary annual reports under certain circumstances. The following is the text of the proposed rule change, with italics representing the language to be added:

Section 110. Securities of Foreign Companies * * *

(d) Disclosure—The Exchange will require the company to: (i) furnish to American shareholders an English language version of its annual financial statements and all other materials regularly provided to other shareholders, and (ii) publish, at least semi-annually, an English language version of its interim financial statements. *In addition, the Exchange will permit non-U.S. issuers to follow home country practices regarding the distribution of annual reports to shareholders, if, at a minimum, shareholders (i) are provided at least summary annual reports and (ii) have the ability, upon request, to receive a complete annual report, and the financial information contained in the summary annual report is reconciled to U.S. generally accepted accounting principles to the extent that such reconciliation would be required in the full annual report.*

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 propose 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

1. Purpose

In 1990 the U.K. Companies Act was amended to permit issuers listed on the London Stock Exchange to provide holders of their ordinary shares with an option to receive either a full annual report or a summary annual report. The U.K. Companies Act sets forth the specific financial and management information that must be contained in the summary reports, and requires that shareholders who receive only the summary report be given the opportunity, at any time, to obtain the full annual report from the company and that companies must notify shareholders annually of this right and how the report might be obtained. When the amendments first became effective, shareholders received both reports and notice of the available option with respect to future reports.

The purpose of the amendments was to provide: (1) Potential cost savings to issuers, and (2) a more easily read document to retail holders. A majority of U.K. shareholders now receive the summary reports, and the amendments are viewed as successful.

Certain U.K. issuers would now like to provide U.S. holders of listed ADRs with summary reports in place of full annual reports if the holders do not object. The Commission recently approved a New York Stock Exchange ("NYSE") rule change which allows non-U.S. issuers which are NYSE-listed to mail summary annual reports to U.S. share/ADR holders in lieu of the full annual report, if permitted by home country practice.[1]

The Exchange is proposing to similarly amend Section 110 of the Exchange's *Company Guide*, which is comparable to the NYSE provision described above. Section 110 currently allows the Exchange to consider the laws, customs and practices of the country where a non-U.S. issuer is domiciled in evaluating the listing eligibility of a company whose corporate structure or practices are inconsistent with specified rules which apply to domestic companies, but requires that a full annual report be provided to all U.S. share/ADR holders.

Under the proposed amendment, a U.S. holder would initially receive both reports and then be provided with an ongoing option to receive either report.[2] The summary report would set forth such financial and other information as is required by home country law and would be required to include a U.S. GAAP reconciliation to the same extent as would be required in the full annual report. The change would have no impact on the issuer's existing annual and semi-annual SEC reporting obligations.

The proposed amendment is consistent with the Exchange's existing policies with respect to non-U.S. companies, which permits such companies to follow home country practice in such areas as interim reporting and corporate governance.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating transactions in securities and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no 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 solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-94-04 and should be submitted by [insert date 21 days from date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–8628 Filed 4–11–94; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* Securities Exchange Act Release No. 33661, International Series Release No. 637 (February 23, 1994), 59 FR 10028 (March 2, 1994).

[2] The Commission notes that, although the U.K. Companies Act requires that shareholders initially receive both reports, the language of the proposed Amex rule permits non-U.S. issuers to follow home country practices, which may not contain this requirement.

[Release No. 34–33856; File No. SR–PTC–93–05]

Self-Regulatory Organizations; Participants Trust Company; Order Approving and Filing and Order Granting Accelerated Approval to Amendment to Proposed Rule Change Relating to Restrictions in the Intraday Payment of Principal and Interest

April 4, 1994.

On November 12, 1993, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–PTC–93–05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] amending PTC's rules regarding intraday payments of principal and interest ("P&I"). Notice of the proposal appeared in the **Federal**

[1] 15 U.S.C. 78s(b)(1).

Register on January 20, 1994.[2] On February 14, 1994, PTC filed Amendment No. 1 to the proposed rule change,[3] requesting permanent approval of its pilot program of intraday payment of collected and available P&I.[4] No comments were received on the proposed rule change set forth in the notice. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposal would establish, on a permanent basis, PTC's authority to offer participants the opportunity to receive, on an intraday basis, payment of principal and interest PTC has received on their behalf. PTC first offered this service on a pilot basis in November 1993.[5] In addition to making this service permanent, the proposal would codify the requirement that intraday distribution of P&I shall be made only from P&I payments collected and in immediately available funds at such time, without recourse to borrowed funds or to alternate sources of funds.

Under this service, participants are able to receive 50% of the P&I payments made with respect to GNMA I securities by means of an intraday Fedwire transfer of immediately available funds at approximately 12 noon on the distribution date, with the balance distributed by means of a credit to such participants at end-of-day.[6] Before November 1993, PTC's rules and procedures provided that PTC disburse P&I on securities deposited at PTC by means of a credit to a participant's applicable account cash balance. As a result, a participant would receive available funds in the amount of the P&I, net of any account debits and/or credits, at the end of the day as part of the settlement payment process.

II. Discussion

The Commission believes that PTC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3) (A) and (F).[7] Those sections require that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions and to protect investors and the public interest.

The Commission believes that PTC's proposal will allow participants to get P&I funds faster consistent with systemic concerns. Limiting intra-day payments to immediately available funds held by PTC will ensure that PTC's other funds are available if required to achieve end-of-day settlement.[8]

The Commission believes good cause exists for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1[9] requires that the Commission grant PTC permanent approval of its pilot program for intraday P&I payments.[10] Because PTC's proposal incorporates into its rules the requirement that intraday disbursement of P&I be limited to the amount of P&I collected and available, PTC has fulfilled the Commission's requirement for permanent approval of the pilot program. In addition, the staff of the Board of Governors of the Federal Reserve System ("Board of Governors") has stated that it believes that the proposed rule change is consistent with the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and therefore agrees with the accelerated approval.[11]

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–PTC–93–05 and should be submitted by May 3, 1994.

IV. Conclusion

For the reasons stated above, the Commission finds that PTC's proposal is consistent with section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that PTC's proposed rule change (SR–PTC–93–05), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–8627 Filed 4–11–94; 8:45 am]

BILLING CODE 8010–01–M

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[2] Securities Exchange Act Release No. 33462 (January 12, 1994), 59 FR 3146.

[3] Letter from Leopold S. Rassnick, Vice President, General Counsel and Secretary, PTC, to Francois Mazur, Staff Attorney, Division of Market Regulation, Commission (February 14, 1994).

[4] See Securities Exchange Act Release No. 33132 (November 2, 1993), 58 FR 59501.

[5] *Id.*

[6] *Id.* These percentages, and the ability of participants to select the method of payment, may change upon future Commission approval, taking into account P&I collection and disbursement experience, the impact on PTC's settlement cycle of intraday disbursement of P&I by Fedwire transfer, and participant response to the pilot program.

On November 16, 1993, PTC implemented its early P&I pilot program. A total of 44 participants chose to receive the early cash disbursement of 50% of their P&I allotment, while 10 chose to receive their total allotment at net settlement. Letter from John J. Sceppa, President and Chief Executive Officer, PTC, to Judith Poppalardo, Assistant Director, Division of Market Regulation, Commission (November 23, 1993). Each month since then, PTC has affected a successful intraday distributions of P&I. Letter from Leopold S. Rassnick, Vice President, General Counsel and Secretary, PTC, to Francois Mazur, Staff Attorney, Division of Market Regulation, Commission (March 17, 1994).

[7] 15 U.S.C. 78q–1(b)(3)(A) & (F).

[8] Such funds include, but are not limited to, PTC's own funds, funds obtained from PTC's uncommitted P&I line of credit, as well as other borrowings which may be used to fund P&I distribution when affected as part of the end-of-day settlement.

Participants are limited to receiving up to 50% of their P&I allotment disbursement early. Any increase in percentage would require that PTC file a proposed rule change pursuant to section 19(b)(1) of the Act.

[9] *Supra* note 3.

[10] Securities Exchange Act Release No. 33132, *supra* note 4.

[11] Telephone conversation between William R. Stanley, Senior Trust Analyst, Board of Governors, and Francois Mazur, Staff Attorney, Division of Market Regulation, Commission (March 7, 1994).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

[Rel. No. IC–20193; 811–4634]

Capstone Equity Series, Inc.; Application

April 5, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Capstone Equity Series, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on February 8, 1994 and amended on March 28, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 2, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 1100 Milam Avenue, suite 3500, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Staff Attorney, at (202) 272–7648, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Maryland corporation. On April 8, 1986, applicant (then known as ValueGuard Stock Fund, Inc.) filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. The registration statement became effective on August 6, 1986, and applicant commenced its initial public offering on that same date.

2. On June 25, 1992, shareholders of the Timed Equity Asset Management Fund series ("TEAM Fund") of applicant redeemed all their TEAM Fund shares at the net asset value per share determined on that date, in exchange for which TEAM Fund distributed all of its assets totalling $409.86.

3. On June 18, 1992, and again on October 26, 1992, applicant's board of directors approved a plan of reorganization whereby applicant agreed to transfer all of the assets of its Ray Equity/Income Trust series ("Ray Fund") to the Capstone Fund of the Southwest series (the "Acquiring Fund") of Capstone Series, Inc., in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of all identified liabilities of Ray Fund. In accordance with rule 17a–8 of the Act, applicant's directors determined that the sale of applicant's assets to the Acquiring Fund was in the best interests of applicant's shareholders, and that the interests of the existing shareholders would not be diluted as a result.[1]

4. In approving the reorganization, the directors considered various factors, including, (a) the low asset size and consequent high expense ratios of Ray Fund (b) limited investment flexibility due to Ray Fund's small asset size, (c) the compatibility of applicant's investment objectives and practices with those of the Acquiring Fund, (d) the potential of enhanced investment performance, greater flexibility, and increased stability due to larger asset size, and (e) economies of scale to be realized primarily with respect to fixed expenses.

5. Proxy materials soliciting shareholder approval of the reorganization were distributed to applicant's shareholders on or about September 24, 1992. Preliminary and definitive copies of the proxy materials were filed with the SEC. Applicant's shareholders approved the reorganization, in accordance with Maryland law, at a special meeting held on October 30, 1992.

6. As of November 2, 1992 (the "Closing Date") applicant had 310,577 shares of common stock outstanding with an aggregate net asset value of $2,047,664, and a per share net asset value of $6.59. On the Closing Date, applicant transferred all of the assets of the Ray Fund to the Acquiring Fund in exchange for shares of the Acquiring Fund having a net asset value equal to the value of the assets of the Ray Fund, less any liabilities transferred. The shares received in exchange for applicant's assets were distributed to applicant's shareholders on a *pro rata* basis.

7. The expenses in connection with the reorganization consisted of legal, accounting, printing, and administrative expenses totalling approximately $23,000. These expenses were borne by applicant, CAMCO, and the Acquiring Fund, with applicant's share of the expenses totalling approximately $6,000.

8. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–8629 Filed 4–11–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant and the Acquiring Fund may be deemed to be affiliated persons of each other because certain of applicant's directors and officers also serve as directors and/or officers of the Acquiring Fund. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

[Rel. No. IC–20194; 811–4389]

Capstone Cashman Farrell Value Fund, Inc.; Application

April 5, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Capstone Cashman Farrell Value Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on February 8, 1994 and amended on March 28, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by SEC by 5:30 p.m. on May 2, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 110 Milam Avenue, suite 3500, Houston, Texas 77002.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Staff Attorney, at (202)

272–7648, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a diversified open-end management investment company organized as a Maryland corporation. On August 22, 1985, applicant filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. The registration statement became effective on March 27, 1986, and applicant commenced its initial public offering on that same date.

2. On July 16, 1993, applicant's board of directors approved a plan of reorganization whereby applicant agreed to transfer all of its assets and liabilities to the Value Equity Fund portfolio of Core Funds, Inc. (the "Acquiring Fund"), in exchange for Series B shares of the Acquiring Fund. In accordance with rule 17a–8 of the Act, applicant's directors determined that the sale of applicant's assets to the Acquiring Fund was in the best interest of applicant's shareholders, and that the interests of the existing shareholders would not be diluted as a result.[1]

3. In approving the reorganization, the directors considered various factors, including, (a) the low asset size and consequent high expense ratios of applicant, (b) limited investment flexibility due to applicant's small asset size, (c) the compatibility of applicant's investment objectives and practices with those of the Acquiring Fund, (d) the potential of enhanced investment performance, greater flexibility, and increased stability due to larger asset size, and (e) economies of scale to be realized primarily with respect to fixed expenses.

4. Proxy materials soliciting shareholder approval of the reorganization were distributed to applicant's shareholders on or about October 4, 1993. Preliminary and definitive copies of the proxy materials were filed with the SEC. Applicant's shareholders approved the reorganization, in accordance with Maryland law, at a special meeting held on November 2, 1993.

5. As of November 26, 1993 (the "Closing Date"), applicant had 330,695 shares of common stock outstanding with an aggregate net asset value of $3,977,614, and a per share net asset value of $12.03. On the Closing Date, applicant transferred all of its assets to the Acquiring Fund in exchange for Series B shares of the Acquiring Fund having a net asset value equal to the value of the assets of applicant, subject to its liabilities. The shares received in exchange for applicant's assets were distributed to applicant's shareholders on a *pro rata* basis.

6. The expenses in connection with the reorganization consisted of legal, accounting, printing, and administrative expenses totalling approximately $55,500. These expenses were borne by applicant and the Acquiring Fund, with applicant's share of the expenses totalling approximately $24,000.

7. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–8630 Filed 4–11–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant and the Acquiring Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

DEPARTMENT OF STATE

[Public Notice 1986]

Certification Pursuant to Section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Titles I–V of Public Law 103–87)

Pursuant to the authority vested in me by the laws of the United States, including section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act (Titles I–V of Pub. L. 103–87) and the related Presidential delegation of authority dated March 29, 1994, I hereby certify that the Government of Russia has not provided assistance to Cuba during the eighteen month period preceding April 1, 1994.

This certification shall be reported to Congress and published in the **Federal Register.**

Dated: April 1, 1994.

Warren Christopher,

Secretary of State.

[FR Doc. 94–8764 Filed 4–11–94; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice 1983]

United States International Telecommunications Advisory Committee Radiocommunication Sector; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector Group B, will meet on April 25, 1994, from 9:30 a.m. to 4:30 p.m. in room 1105 at the U.S. Department of State, 2201 C Street, NW. Washington, DC 20520.

The agenda of the Group B meeting will include a review of the results of the Radiocommunication Advisory Group meeting, a review of the overall Radiocommunication Sector operations by the Director of the Bureau, Richard Kirby, a review of the final report of the VGE and any other matters within the competence of this Committee.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the seating available. In this regard, entrance to the Department of State is controlled. If you are not presently named on the mailing list of the Radiocommunication Sector Group, and wish to attend please call (202) 647–0201—(fax (202) 647–7407) not later than 5 days before the meeting. Enter from the "C" Street Main Lobby. A picture ID will be required for admittance.

Dated: March 31, 1994.

Warren G. Richards,

Chairman, U.S. ITAC for ITU-Radiocommunication Sector.

[FR Doc. 94–8765 Filed 4–11–94; 8:45 am]

BILLING CODE 4710–45–M

United States International Telecommunications Advisory Committee Radiocommunication Sector Study Group 9; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector Study Group 9, will meet on April 28, 1994, at 9:30 a.m. in room 315 at the Federal Communication Commission, 1919 M Street, NW. Washington, DC 20554.

This is the initial meeting to prepare for the international meeting scheduled

to be held November 1–11, 1994. Additionally, the meeting will consider other activities affecting the work of Study Group 9 such as the work of Task Group 2/2 (Sharing with the MSS and BSS under 3 GHz), Task group 4/5 (Feeder Links), sharing with the space science services and any other matters within the competence of this Study Group.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the Chairman. Those planning to attend the meeting should contact Mr. Alex Latker by phone at (202) 632–3214 or by fax at (202) 634–1382.

Dated: March 31, 1994.

Warren G. Richards,

Chairman, U.S. ITAC for ITU-Radiocommunication Sector.

[FR Doc. 94–8766 Filed 4–11–94; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Sportsflight Airways, Inc. for Issuance of Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 94–4–10; Docket 49181).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Sportsflight Airways, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than April 15, 1994.

ADDRESSES: Objections and answers to objections should be filed in Dockets 49181 addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara P. Dunnigan, Air Carrier Fitness Division (X–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2342.

Dated: April 5, 1994.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 94–8623 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–62–P

Application of ATX, Inc. for Authority to Operate as an Airline

AGENCY: Department of Transportation.

ACTION: Notice of opinion and final order.

SUMMARY: The Department of Transportation, by Order 94–4–8 in Docket 48780, has rejected the application of ATX, Inc. to operate as an air carrier, citing the strong influence that Frank Lorenzo, the former chairman of the Texas Air Corp., would have on the company. In the final decision, the Department found that the record fails to demonstrate that Lorenzo has a sufficient commitment to safety or to comply with legal requirements. Both Eastern Air Lines and Continental Airlines, while they were owned by Texas Air Corp. and controlled by Lorenzo, experienced operational, maintenance, and labor-related problems that were among the most serious in the history of U.S. aviation. These problems threatened safety to the point that the Federal government had to intervene to ensure the public's protection. While ATX has adequate financing and meets the citizenship requirements, managerial competence and compliance disposition are lacking and thus ATX fails to meet the department's airline fitness standards.

FOR FURTHER INFORMATION CONTACT: John V. Coleman, Director, Office of Aviation Analysis, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1030.

Dated: April 5, 1994.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 94–8624 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–62–M

[Notice 94–7]

Commercial Space Transportation Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Wednesday, April 20, 1994, from 8:30 a.m. to 5 p.m. in room 2230 of the Department of Transportation's headquarters building at 400 Seventh Street, SW., in Washington, DC. This will be the nineteenth meeting of the COMSTAC. In addition to reports from the respective COMSTAC Working Groups, the meeting will address, among other things, the updated commercial spacecraft mission model and a report on voluntary industry standards. There will also be a legislative update on Congressional activities involving commercial space transportation and a presentation from the Office of the U.S. Trade Representative regarding the space launch trade agreements.

This meeting is open to the interested public; however, space may be limited. Additional information may be obtained by contacting Ms. Linda H. Strine at (202) 366–2980.

Dated: April 5, 1994.

Frank C. Weaver,

Director, Office of Commercial Space Transportation.

[FR Doc. 94–8798 Filed 4–8–94; 9:05 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on May 3 and 4, 1994, of the following debt management advisory committee:

Public Securities Association, Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff on May 3, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. On May 4, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 11:30 a.m. Eastern time on May 3 and will be open to the public. The remaining sessions on May 3 and the committee's reporting session on May 4 will be closed to the public, pursuant to 5 U.S.C. App. § 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. § 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is

exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. § 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. § 552b.

Dated: April 5, 1994.

Frank N. Newman,

Under Secretary of the Treasury Domestic Finance.

[FR Doc. 94–8619 Filed 4–11–94; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on April 13 in room 600, 301 4th Street, SW., Washington, DC from 9:45 a.m. to 12 p.m.

At 9:45 a.m. the Commission will meet with Dr. Barry Fulton, Acting Director, Bureau of Educational and Cultural Affairs; Mr. Tom Spooner, Acting Director, Office of Academic Programs; Ms. Lula Rodriguez, Director-designate, Office of International Visitors; Mr. Robin Berrington, Director, Office of Arts America; and Mr. Robert Shiffer, Director, Office of Citizen Exchanges to discuss educational and cultural exchanges. At 11 a.m. the Commission will meet with Ms. Jody Olsen, Chair, Alliance Board of Directors Executive Director, Council for International Exchange of Scholars; Mr. Dick Deasey, Chair, Alliance Task Force on USIA and Executive Director, National Council for International Visitors; Dr. Norm Peterson, Executive Director, Alliance for International Education and Cultural Exchange and Mr. Carl Herrin, Deputy Director, Alliance for International Educational and Cultural Exchange to discuss international educational and cultural exchanges.

FOR FURTHER INFORMATION: Please call Wilma Chittams, (202) 619–4457, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: April 6, 1994.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 94–8678 Filed 4–11–94; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 70
Tuesday, April 12, 1994

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).

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND PLACE: 10:00 a.m., April 14, 1994.

PLACE: American Enterprise Institute, 1150 17th Street, NW., 12th Floor, Wohlstetter Room, Washington, DC 20036.

OPEN MEETING: The members of the Board of International Broadcasting (BIB) will meet in open session from 10:00 A.M. to 11:00 A.M. to discuss the following matters: (1) approval of the minutes of the most recent BIB open meeting; (2) the Chairman's report; (3) RFE/RL Interim President's report; (4) new business; and (5) set the date of the next meeting.

CLOSED MEETINGS: The open session of the BIB meeting will be followed by a closed meeting of the Board of Directors of RFE/RL, Inc., a nonprofit private corporation. After completion of this corporate meeting in the afternoon of April 14, the members of the BIB will reconvene in closed session, if necessary. They would consider the potential use of grant funds to achieve budget reductions consistent with the broad foreign policy objectives of the United States. This BIB meeting would be closed, therefore, pursuant to 5 U.S.C. 552b(c) (1), (2), and (9)(B). Premature disclosure of the information discussed would likely (1) significantly frustrate implementation of proposed agency action, including but not limited to negotiations abroad; (2) disclose matters that would be properly classified to be kept secret in the interests of foreign policy; and (3) in some instances, relate solely to internal personnel rules and practices of an agency.

CONTACT PERSON FOR MORE INFORMATION: Patricia Sowick, Program Officer, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036. (Tel: 202–254–8040)

Dated: April 6, 1994.

Richard W. McBride,

Executive Director.

[FR Doc. 94–8925 Filed 4–8–94; 3:36 pm]

BILLING CODE 6155–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 14, 1994, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. Reports

1. Collateral Evaluation Requirements [Loan Policies and Operations; 12 CFR Part 614]

C. New Business

1. Regulations

a. Capital (Phase I) [Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; 12 CFR Part 615] (Final)

b. Miscellaneous Technical Changes [12 CFR Parts 600, 602, 603, 604, 605, 611 and 615] (Final)

Closed Session*

A. New Business

1. Enforcement Actions

Date: April 8, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–8903 Filed 4–8–94; 3:11 pm]

BILLING CODE 6705–01–P

* Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (8) and(9).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matter will be added to the "discussion agenda" for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 10:00 a.m. on Tuesday, April 12, 1994, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC:

Memorandum and resolution regarding (1) the Federal Deposit Insurance Corporation and the Resolution Trust Corporation entering into a general agreement that sets forth a plan for the orderly unification of the activities and responsibilities of their respective affordable housing programs; and (2) authorization for the Director, Division of Depositor and Asset Services, or his designee, with the concurrence of the General Counsel, or his designee, to execute supplemental Memoranda of Understanding that would be treated as an integral part of the general agreement.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Acting Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 7, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–8791 Filed 4–7–94; 4:45 pm]

BILLING CODE 6714–01–M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10 a.m., Tuesday, April 19, 1994.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED: Ex Parte No. 334 (Sub-No. 8), *Joint Petition for Rulemaking on Railroad Car Hire*

Compensation and Ex Parte No. 334 (Sub-No. 8A), *Joint Petition for Exemption and Arbitration Rule From Application of 49 U.S.C. 10706 and Motion to Dismiss* (Petition to Reopen and Reconsider filed by the Angelina & Neches River Railroad Company), Finance Docket No. 32036 (Sub-No. 1) Wisconsin Central Transportation Corporation, et al.— Continuance in Control—Top Valley and Western Ltd.

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of Congressional and Public Affairs, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–8904 Filed 4–8–94; 3:09 pm]

BILLING CODE 7035–01–P

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Presidential Search Committee Meeting

TIME AND DATE: A meeting of the Legal Services Corporation Board of Directors Presidential Search Committee will be held on April 14, 1994. The meeting will commence at 1 p.m.

PLACE: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW., Potomac Ballrooms 1 & 2, Washington, DC 20037, (202) 955–6400.

STATUS OF MEETING: Open, except that part of the meeting may be closed pursuant to a vote, to be solicited prior to the meeting, of a majority of the Board of Directors. Should the aforementioned majority vote to close all or a portion of the meeting be obtained, the Committee will, with its Advisory Committee, consider the qualifications of candidates for the position of President of the Corporation. In addition, the Committee will consider for approval the minutes of the executive session(s) held on March 12, 1994.[1] The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c) (2) and (6)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5 (a) and (e)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.
2. Approval of Minutes of March 12, 1994 Meeting.

Closed Session:

3. Approval of Minutes of March 12, 1994 Executive Session.
4. Consider, With Advisory Committee, Qualifications of Candidates for the Position of President of the Corporation.

Open Session:

5. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date issued: April 7, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–8793 Filed 4–7–94; 5:04 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors Operations and Regulations Committee will meet on April 15, 1994. The meeting will commence at 9 a.m. It is anticipated the substantive portion of the open session (i.e., deliberation of agenda item number 5) will commence at approximately 10 a.m.

PLACE: Career College Association, 750 First Street, NE., J. Warren Davies Conference Center, 9th Floor, rooms "A" and "B", Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open, except that portion of the meeting may be closed pursuant to a vote, to be solicited prior to the meeting, of a majority of the Board of Directors. Should the aforementioned majority vote to close all or a portion of the meeting be obtained, the Committee will hear the report of the General Counsel on litigation to which the Corporation is or may become a party. In addition, the Committee will consider and act on internal personnel and operational matters related to the Executive Office, the Office of the General Counsel, the Office of Administration, and the Office of Human Resources/Equal Opportunity, the four offices of the Corporation under the Committee's purview. Finally, the Committee will consider for approval the minutes of the executive session(s) held on March 11, 1994. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c) (2), (6), and (10)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5 (a), (e), and (h)].[2] The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for pubic inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002 in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.

Closed Session:

2. Approval of Minutes of March 11, 1994 Executive Session.
3. Consider and Act on General Counsel's Report on Litigation to Which the Corporation is or May Become a Party.
4. Consider and Act on Internal Personnel and Operational Matters.

Open Session: (Resumed)

5. Approval of Minutes of March 11, 1994 Meeting.
6. Consider Updates on the Reauthorization Legislative Process.
7. Briefing on Proposed Amendments to Parts 1607, 1608, 1611, and 1621 of the Corporation's Regulations.
8. Public Comment.
9. Consider and Develop Committee Process for Evaluation of Proposed Changes to Bylaws and Regulations.
10. Consider and Act on Whether to Withdraw the Corporation's Bylaws, 45 C.F.R. Part 1601, From the Code of Federal Regulations.
11. Consider Possible Amendments to the Corporation's Bylaws and Consider and Act on Whether to Publish Those Proposed Changes for Public Comment.
12. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to

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[1] As to the Committee's consideration and approval of the draft minutes of the executive session(s) held on the above-noted date(s), the closing is authorized as noted in the **Federal Register** notice(s) corresponding to that/those Committee meeting(s).

[2] As to the Committee's consideration and approval of the draft minutes of the executive session(s) held on the above-noted date(s), the closing is authorized as noted in the **Federal Register** notice(s) corresponding to that/those Committee meeting(s).

accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date issued: April 7, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–8794 Filed 4–7–94; 5:04 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors Audit and Appropriations Committee will meet on April 15, 1994. The meeting will commence at 1 p.m.

PLACE: Legal Services Corporation, 750 First Street, NE., Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote, to be solicited prior to the meeting, of a majority of the Board of Directors. Should the aforementioned majority vote to close all or a portion of the meeting be obtained, the Committee may consider a report from a representative of the audit firm retained by the Corporation, (i.e., Grant/Thornton) to conduct the fiscal year 1993 financial audit. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2) and (6)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5 (a) and (e)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.
2. Approval of Minutes of March 10, 1994 Meeting.
3. Report by Grant/Thornton Regarding the Corporation's Fiscal Year 1993 Financial Audit.

Closed Session:

4. Report by Grant/Thornton Regarding Personnel and Operational Matters Related to the Corporation's Fiscal Year 1993 Financial Audit.

Open Session: (Resumed)

5. Review of the Budget and Expenses Through February 28, 1994.
6. Consideration of Proposed Amendments to the Committee's Guidelines for Adoption, Review and Modification of the Consolidated Operating Budget.
7. Discussion of Proposed Fiscal Year 1995 Budget for the Corporation.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date issued: April 5, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–8795 Filed 4–7–94; 5:04 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Provision for the Delivery of Legal Services Committee Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors Provision for the Delivery of Legal Services Committee will meet on April 15, 1994. The meeting will commence at 4 p.m.

PLACE: Legal Services Corporation, 750 First Street, NE., Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.
2. Approval of Minutes of March 10, 1994 Meeting.
3. Chair's Report.
4. Briefing by the Inspector General on Cotton & Company Audit of Grantee Monitoring.
5. Report on Corporation Efforts Related to the National Community Services Act.
6. Report on the Law School Clinical Program Solicitation.
7. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: April 7, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–8796 Filed 4–7–94; 5:04 pm]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

TIME AND DATE: The Legal Services Corporation Board of Directors will meet on April 16, 1994. The meeting will commence at 9 a.m.

PLACE: Legal Services Corporation, 755 First Street, NE., Board Room, 11th Floor, Washington, DC 20002, (202) 336–8800.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of a majority of the Board of Directors to hold an executive session. At the closed session, in accordance with the aforementioned vote, the Board will consider and vote on approval of the draft minutes of the executive session(s) held on January 8, 1994 and March 11, 1994. The Board will consult with the Inspector General on internal personnel, operational and investigative matters. Further, the Board will be briefed by the Inspector General on matters related to semiannual reporting requirements. The Board will also consult with the President on internal personnel and operational matters. Finally, the Board will deliberate regarding internal personnel and operational matters. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2) (5), (6), and (7)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5 (a), (d) (e), and (f)].[4] The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its eleventh floor reception area, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of Agenda.
2. Approval of Minutes of March 11, 1994 Meeting.
3. Welcoming Remarks by Representatives of the American Bar Association Board of Governors.

[4] As to the Board's consideration and approval of the draft minutes of the executive session(s) held on the above-noted date(s), the closing is authorized as noted in the **Federal Register** notice(s) corresponding to that/those Board meeting(s).

4. Chairman's and Members' Reports.
5. President's Report.
6. Presentation on the Provision of Legal Services to People in Institutions.
7. Presentation on Fiscal Year 1995 Appropriations Process.
8. Consider and Act on Provision for the Delivery of Legal Services Committee Report.
9. Consider and Act on Audit and Appropriations Committee Report.
10. Consider and Act on Presidential Search Committee Report.
11. President's Report.
12. Inspector General's Report.

Closed Session:

13. Approval of Minutes of Executive Session Held on January 8, 1994.
14. Approval of Minutes of Executive Session Held on March 11, 1994.
15. Consultation by Board with the President on Internal Personnel and Operational Matters.
16. Consider and Act on Internal Personnel and Operational Matters.
17. Briefing by the Inspector General Regarding the Semiannual Report.
18. Consultation by Board with the Inspector General on Internal Personnel, Operational and Investigative Matters.

Open Session: (Resumed)

19. Public Comment.
20. Consider and Act on Other Business.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: April 7, 1994.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 94–8797 Filed 4–8–94; 3:48 pm]

BILLING CODE 7050–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 11, 18, 25, and May 2, 1994.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 11

There are no meetings scheduled for the Week of April 11.

Week of April 18—Tentative

There are no meetings scheduled for the Week of April 18.

Week of April 25—Tentative

Monday, April 25

2:00 p.m.
Briefing on Status of Action Plan for Fuel Cycle Facilities and Alternative Regulatory Approaches (Public Meeting) (Contact: Ted Sherr, 301–504–3371)

Tuesday, April 26

2:00 p.m.
Briefing on Systematic Regulatory Analysis of HLW Program (Public Meeting) (Contact: Joseph Holonich, 301–504–3439)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Wednesday, April 27

3:00 p.m.
Briefing on Proposed Changes to NRC's Program for Protecting Allegers Against Retaliation (Public Meeting) (Contact: James Lieberman, 301–504–2741)

Thursday, April 28

10:00 a.m.
Briefing on Electricity Forecast from Energy Information Administration (EIA) Annual Energy Outlook (Public Meeting) (Contact: Mary Hutzler, 202–586–2222)

Week of May 2—Tentative

There are no meetings scheduled for the Week of May 2.

ADDITIONAL INFORMATION: By a vote of 4–0 on April 6, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Georgia Power Company—Staff's Motion for Stay and Petition for Review of LBP–94–06" (Public Meeting) be held on April 7, and on less than one week's notice to the public.

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.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: April 8, 1994.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 94–8912 Filed 4–8–94; 3:07 pm]

BILLING CODE 7590–01–M

ASSASSINATION RECORDS REVIEW BOARD

TIME AND DATE: 2:00 P.M., Tuesday, April 12, 1994.

PLACE: National Archives and Records Administration, Archivist Reception Room, Room 105, 7th and Pennsylvania Avenue, NW.

STATUS: open.

MATTERS TO BE CONSIDERED:

1. Organizational matters and election of Board chair.
2. Consideration of process for appointment of Executive Director and other personnel
3. Consideration of budget request for FY95 and other matters affecting the Board's timetable for review of assassination records.

CONTACT PERSON FOR MORE INFORMATION: Mr. John R. Tunheim, Member of the Board; (612) 296-2351.

Dated: April 11, 1994.

John R. Tunheim,

Member of the Assassination Records Review Board.

[FR Doc. 94-9003 Filed 4-11-94; 11:44 am]

BILLING CODE 3195-01-M

Federal Register

Tuesday
April 12, 1994

Part II

Department of Transportation

Coast Guard

46 CFR Parts 97 and 148

Carriage of Bulk Solid Materials Requiring Special Handling; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 97 and 148

[CGD 87–069]

RIN 2115–AD02

Carriage of Bulk Solid Materials Requiring Special Handling

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations for the carriage of certain bulk solid materials by adding materials carried under Coast Guard Special Permits issued pursuant to this regulation (Special Permits) and other materials contained in the International Maritime Organization Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal, to the list of materials permitted under the regulations. The special handling procedures associated with these materials would also be included in the regulations. The proposed revisions would harmonize U.S. regulations with recommended international practice, and eliminate the need to apply for Special Permits, except for newly classified hazardous materials.

DATES: Comments must be received on or before July 11, 1994.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 87–069), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to Room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters. A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at Room 1218, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Hazardous Materials Branch, Office of Marine Safety, Security and Environmental Protection, (202) 267–1217.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CDG 87–069) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this notice are Mr. Frank K. Thompson, Project Manager, Office of Marine Safety, Security, and Environmental Protection, and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Regulatory History

On April 28, 1989, an Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** (54 FR 18308). The Coast Guard received sixteen letters commenting on the ANPRM. These comments will be discussed later in this rulemaking document. A public hearing was not requested and one was not held.

Persons interested in the portion of this rulemaking concerning coal were provided the opportunity to attend and participate in meetings held by the Chemical Transportation Advisory Committee, Subcommittee on Coal Transportation. These meetings were announced in the **Federal Register**, and were open to the public. Minutes of these meetings, and the final report of the subcommittee are on file in the rulemaking docket and may be obtained at the address under **ADDRESSES.**

Background and Purpose

Bulk solid hazardous materials include materials grouped into a number of specific classes, the definitions of which are contained in the Research and Special Programs Administration (RSPA), Department of Transportation, Hazardous Materials Regulations (HMR) (49 CFR chapter I, Subchapter C). There are also some solid materials which are not properly described by any of the hazard classes defined in the HMR, but which when carried in bulk may pose a threat to the vessel or the crew, most commonly from a tendency to spontaneously generate heat or to deplete the oxygen in the cargo space.

The international standard for the marine transport of solid materials in bulk is the Code of Safe Practice for Solid Bulk Cargoes, popularly known as the "BC Code," published by the International Maritime Organization (IMO). In the BC Code, certain materials which do not fit into the standard IMO hazard classes are placed in the class "Materials hazardous only in bulk" (MHB). This class is defined as materials which, when carried in bulk, present sufficient hazards to require specific precautions. Examples of such materials include materials that are liable to reduce the oxygen content in a cargo space, self-heating materials, or materials which become hazardous when wet.

The BC Code is currently only a recommended standard. However, several countries have adopted the Code in their national regulations. In addition, recent amendments to Chapter VI of the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS 74/83) adopted certain general provisions of the BC Code. These amendments to Chapter VI of SOLAS 74/83 were developed by the IMO Subcommittee on Containers and Cargoes (BC Subcommittee), and adopted by the IMO Maritime Safety Committee (MSC) at its 59th Session in May 1991. As adopted by MSC, the amendments to SOLAS 74/83 entered into force for those countries signatory to the Convention, including the United States, on January 1, 1994. These amendments to SOLAS 74/83 make mandatory the provisions of the BC Code dealing with cargo stowage, the passage of cargo information from the shipper to the master and the use of oxygen and toxic vapor analyzers. The SOLAS Chapter VI as amended refers to the BC Code as one possible source of information on the properties and

recommended handling procedures for bulk solid materials.

Many U.S. export shipments are bound for countries which have adopted the BC Code as national regulations. These shipments therefore already comply with the recommendations of the BC Code.

The Coast Guard issues Special Permits for shipments of bulk solid materials not listed in 46 CFR part 148 in order to establish requirements for the safe carriage of these materials. The Special Permits allow the Coast Guard to closely monitor these shipments in order to determine if the requirements imposed under the permit are adequate to ensure safe carriage. The Coast Guard also uses Special Permits to allow the shipment of materials not listed in 46 CFR part 148 for which international guidelines have been established. After a history of safe transportation has been established under a Coast Guard Special Permit, carriage requirements for the material may be included in 46 CFR part 148.

The Coast Guard issues two basic types of Special Permits. The first type of permit is issued for materials for which recommended handling procedures are contained in the BC Code. This type of permit basically restates the recommendations contained in the Code. The second type of permit is issued for materials classified as hazardous substances by the HMR or as hazardous wastes by the Environmental Protection Agency (EPA). When hazardous substances are transported in quantities exceeding their reportable quantity (RQ) they, by definition, become hazardous materials. This second type of Special Permit basically sets forth requirements for preventing crew exposure to the materials and release of the material to the atmosphere or water.

Twenty-five new materials are proposed for inclusion in 46 CFR part 148 as materials which require special handling when transported in bulk by water. All of the twenty-five are covered by the BC Code; in addition, eleven are regulated by the HMR (49 CFR Chapter I, Subchapter C), and five are currently subject to Coast Guard Special Permits. Twelve of the materials proposed for inclusion in 46 CFR part 148 are classified as MHB in the BC Code.

There are ten materials, classified as MHB in the BC Code, which have not previously been regulated by the Coast Guard, either in 46 CFR part 148 or by Special Permit. It is the Coast Guard's position that these materials, if handled improperly when loaded as bulk cargoes, pose an unacceptable risk to the vessel and crew. For many of these materials, monitoring of the cargo space for toxic or flammable gases and oxygen will be required under Chapter VI of SOLAS 74/83 as amended.

The intent of this proposal is to include in 46 CFR part 148 the above mentioned twenty-five materials and any special handling procedures associated with these materials, including those requirements which will be imposed by Chapter VI of SOLAS 74/83 as amended.

As of April 1, 1993, the Coast Guard had the following 45 Special permits outstanding:

SP 8–78	SP 2–85	SP 7–90	SP 2–92
SP 9–78	SP 5–85	SP 8–90	SP 3–92
SP 1–79	SP 6–85	SP 1–91	SP 4–92
SP 7–79	SP 3–86	SP 2–91	SP 5–92
SP 1–80	SP 1–87	SP 3–91	SP 6–92
SP 5–82	SP 2–87	SP 4–91	SP 7–92
SP 6–82	SP 3–87	SP 5–91	SP 8–92
SP 4–83	SP 5–88	SP 7–91	SP 1–93
SP 7–83	SP 3–89	SP 8–91	SP 2–93
SP 8–83	SP 5–90	SP 9–91	SP 3–93
SP 1–84	SP 6–90	SP 1–92	SP 4–93
			SP 5–93

The above Special Permits, which affect bulk solid cargoes such as ammonium nitrate fertilizers, ferrosilicon, and metal ore concentrates would be terminated as of their expiration dates following publication of a final rule.

Discussion of Comments

As stated earlier, sixteen comments were received in response to the ANPRM.

1. Five of the comments requested that the Coast Guard reconsider the necessity of regulating unmanned inland barges in the same manner as oceangoing vessels. It was never the intent of the Coast Guard to require unmanned barges to comply with the same requirements as manned vessels. This position is evidenced by question nine in the ANPRM. Barges would be specifically exempted from complying with the stated requirements in several places in the NPRM. For example, barges would not be required to carry any gas monitoring equipment. The Coast Guard recognizes that the SOLAS Convention applies only to self-propelled oceangoing vessels, and that to require vapor detection equipment on unmanned barges would be unnecessary and impractical since the primary purpose of the equipment is to protect the vessel's crew from being exposed to harmful vapors or entering spaces which lack the oxygen necessary to support life. Placing personnel on the vessel to take measurements would increase the likelihood of introducing a source of ignition that would not otherwise be present. This equipment would also be of little benefit on open hopper barges, where any vapors generated escape to the atmosphere.

2. One comment suggested that the responsibility of the shipper to provide shipping papers be stated with more specificity. The Coast Guard has adopted this suggestion. Paragraph (a) of § 148.60 would contain a provision requiring that the shipping paper be prepared by the shipper. Additionally, in several sections, including §§ 148.15(a) and (b), 148.25(a) and 148.90(c), the responsibility of the shipper would be further clarified. These sections would state that it is the shipper's responsibility to determine if a Special Permit is required, and to apply for the Special Permit. The shipper would also be responsible for producing the originating shipping paper, and, most importantly, the shipper would be responsible for passing information to the master of the vessel (or the tug or towboat operator) concerning the nature of the cargo to be loaded and any necessary precautions to be taken while loading and transporting that cargo.

3. Several comments stated that classification of previously unregulated materials as hazardous would impose unforeseen burdens on the shippers of these materials. The comments expressed concern that the materials would be subject to regulations covering all modes of transport, including truck and rail, and that the Occupational Safety and Health Administration (OSHA) requirements for Material Safety Data Sheets and Hazard Communication Programs would be applied to shipments of the material.

It is not the Coast Guard's intent to classify the materials previously unregulated by the Coast Guard as "hazardous". In response to the concerns raised by the comments, this NPRM proposes to change the title of 46 CFR part 148 to "Bulk Solid Materials Requiring Special Handling" thereby eliminating the word "hazardous". The proposed rules would also establish a new classification called "Potentially Dangerous Materials" (PDM) which would parallel the IMO classification MHB. This classification would include materials that may be transported in bulk without posing undue risk if the precautions described in part 148 are observed. Conversely, if these precautions are not followed, the material in this category would have the potential to cause harm. In most cases the proposed precautions are simply good operating procedures that would be followed by a prudent mariner in order to ensure the safety and integrity of the vessel. Also, proposed § 148.1 clearly states that these regulations

would apply only to bulk shipments of these materials by water, and proposed § 148.3 clearly states that materials defined as Potentially Dangerous Materials would be regulated only when being carried as a bulk cargo on board a vessel. These categories and requirements would clearly reflect the intended status and handling requirements for the materials in question.

4. One comment noted that the amendments to Chapter VI of SOLAS 74/83 will not render the BC Code mandatory, and, that since the code will remain a recommended standard, it should not be referenced in the Coast Guard regulations. The fact that IMO has not made the BC Code mandatory through SOLAS does not prohibit any sovereign nation from adopting the Code or any of its provisions through that nation's domestic statutes and regulations. The Coast Guard proposes, however, to incorporate by reference in 46 CFR part 148 only those portions of the BC Code dealing with hazardous materials. Thus, selected pertinent provisions of the BC Code would be adopted in the Coast Guard regulations. Where necessary, those provisions of the BC Code included in the proposed rules would be modified to fit the nature of the U.S. shipping industry.

5. One comment suggested that the format of the regulations not be substantially altered because those affected by the regulations are familiar with the current format. The comment suggested that if the motivating concern of the Coast Guard is reduction of the paperwork burden of the Special Permit process, then the Coast Guard should change the permitting process to allow for one permit per commodity, with interested shippers becoming a party to that permit, and extend the expiration date of the permit by ten years. The comment suggested adopting these changes without adding any of the materials currently carried under Special Permit to the list of materials permitted under the regulations.

The Coast Guard does not agree with this comment. It is the Coast Guard's position that while this rule, if adopted, would alter the current format of the regulations, it would also clarify the responsibilities of shippers and provide them with important safety information. Elimination of the time-consuming paperwork burden inherent in the Special Permit process for those materials which have an established record of safe transportation is only one of the motivating factors for undertaking this regulatory revision. Under this proposal, new or one-time carriers of a material would be informed of the risks and precautions involved in carrying that material. When the materials currently carried under Special Permit are not included in the proposed regulations, there is a possibility that a shipper or carrier might not be aware that a material is potentially dangerous when carried in bulk and therefore might not observe the appropriate precautions.

In addition, the inclusion of materials currently carried under Special Permit in 46 CFR part 148 would allow all shippers more flexibility since they would not have to allow for lead time to obtain a Special Permit, and would have a wider choice in the number of cargoes that they would be able to carry.

6. One comment suggested that the Coast Guard differentiate between the hazards associated with the various materials. This has been done by placing the materials into one of the hazard classes defined by the HMR or by classifying them as PDM and including provisions with special requirements for materials with the potential to cause significant harm if mishandled.

7. One comment stated that there is no need to change U.S. regulations until the amendments to Chapter VI of SOLAS 74/83 are approved by IMO and the BC Code becomes mandatory. The Coast Guard does not agree with this comment. The amendment to Chapter VI of SOLAS 74/83 will not make the entire BC Code mandatory, only certain basic provisions concerning the passage of cargo information from the shipper to the master and the use of vapor detection equipment will become mandatory. Moreover, since the comment was received, the revisions to Chapter VI of SOLAS 74/83 were adopted at the 59th session of MSC. Therefore, the Coast Guard has determined that there is no need to further delay the proposal to revise 46 CFR part 148.

8. Three comments supported the addition of Direct Reduced Iron (DRI), in both hot-molded and cold-molded briquets, to the regulations, since they are currently being shipped under Special Permits which mirror the provisions of the BC Code. The requirements for carrying DRI are included in proposed §§ 148.245 and 148.250.

9. Two comments suggested that the provision of Special Permit 1–92 excepting shipments of DRI lumps, pellets, and cold-molded briquets on short and sheltered voyages from the requirement that such cargoes must be inerted or inhibited should be extended to voyages made entirely on the inland waters of the U.S. This comment is adopted and is included in proposed § 148.245(h)(2).

10. One comment recommended that precautions for entering inerted holds be added to the requirements for carrying DRI lumps, pellets and cold-molded briquets. The comment noted that when carbon dioxide is the inerting medium, a safety risk could possibly be created by carbon monoxide produced by reaction between the carbon dioxide and the DRI. The recommendation is adopted and appropriate requirements for analyzing the atmosphere of the cargo hold for carbon monoxide and oxygen prior to entry are included in proposed § 148.245(g). Also, that section is referenced in proposed Table 148.10.

11. Four comments recommended that the Coast Guard refrain from publishing any proposed requirements for the carriage of coal prior to receiving the final report of the Chemical Transportation Advisory Committee (CTAC) Subcommittee on Coal Transportation.

CTAC formed the Coal Subcommittee in order to obtain the recommendations of the U.S. coal industry, and the Coast Guard did not intend to publish any requirements for the carriage of coal prior to receiving the Subcommittee's report. Since this comment was received, the final report of the Coal Subcommittee was submitted to and approved by CTAC. Subsequently, the Coast Guard prepared and submitted a proposal based on the Coal Subcommittee's final report to the 31st session of the IMO Subcommittee on Containers and Cargoes (The "BC Subcommittee"). The U.S. proposal, with some slight modifications, was adopted by the BC Subcommittee; and in 1991, the provisions of the BC Code dealing with the transport of coal were amended accordingly. Proposed § 148.240 is based on the BC Code as amended.

Proposed § 148.240 differs from the report of the CTAC Coal Subcommittee in the following respects:

a. The report offers no guidance on the frequency of monitoring for methane and carbon monoxide, while paragraphs (i) and (l) of proposed § 148.240 set out minimum testing frequency for that coal which is most likely to create dangerous conditions. Under proposed § 148.240(n), it would be within the discretion of the master to reduce the frequency of monitoring in certain situations.

b. The report does not specify that the temperature of a self-heating coal must be monitored. Paragraph (j) of proposed § 148.240 would require such monitoring.

c. The report directs the master to seek expert advice and to consider heading for the nearest suitable port of refuge if it is determined that the coal is heating. Proposed § 148.240(k) would require the master to contact the nearest Coast Guard Captain of the Port when a coal cargo is heating.

Other comments about coal concern the effects of designating coal as a hazardous material and question the necessity of regulating barge shipments of coal. These issues are addressed in the discussion on the designation of certain materials as potentially dangerous, and in the discussion of the treatment of barge shipments.

12. Two comments recommended that, based on experience gained while shipping uncalcined petroleum coke under the terms of a Coast Guard Special Permit, uncalcined petroleum coke be treated in the same manner as calcined petroleum coke in the proposed regulations. This recommendation is adopted and is included in § 148.295. In addition, the Coast Guard submitted a paper to the 30th session of the IMO Subcommittee on Containers and Cargoes recommending that a similar change be made to the BC Code. This proposal met with approval and the BC Code was amended accordingly.

13. One comment requested that a public hearing be held in the event that woodchips and wood pulp pellets were not removed from this rulemaking. The Coast Guard declined to schedule a public hearing at this stage of the rulemaking. The only requirement for shipments of woodchips and wood pulp pellets included in this proposed rule is that closed holds be tested prior to entry to ensure that they contain sufficient oxygen to support life. Because most U.S. shipments of woodchips and wood pulp pellets are currently made in open barges, this requirement would not apply to most U.S. shipments. The requirement is retained in this proposal in order to comply with the revisions to Chapter VI of SOLAS 74/83. Because the requirement would not apply to most U.S. shipments of woodchips and wood pulp pellets, the Coast Guard has determined that a public hearing is not necessary at this time.

Discussion of Proposed Amendments

Subpart 97.12

Subpart 97.12 of 46 CFR part 97 would be revised to clarify that the subpart would apply to bulk solid cargoes in general and not only to ores and ore concentrates. Due to experience gained from a casualty to a foreign vessel that loaded a bulk solid cargo in a U.S. port, the Coast Guard also proposes to extend the applicability of this part to foreign vessels operating in U.S. navigable waters. Further, existing § 97.12–5, which has not been revised since 1965, references a manual that was the predecessor of the BC Code and that is no longer in print. The revised section would include reference to the BC Code as a source of information for use in complying with the requirement that the master of a vessel be furnished with guidance on safe loading and stowage.

Part 148

As discussed, the title of part 148 would be changed to read "Bulk Solid Materials Requiring Special Handling".

This NPRM also proposes to modify the structure of the regulations from four to six subparts. Each is explained below briefly.

Subpart A would state the purpose and applicability of the regulations, define terms used in the part, and list (in tabular form) the solid materials permitted to be carried as bulk cargoes.

Subpart B would provide all relevant information concerning Special Permits.

Subpart C would set forth minimum transportation requirements for all materials regulated by 46 CFR part 148 and the requirements for shipping papers and Dangerous Cargo Manifests.

Subpart D would set forth general stowage and segregation requirements for materials according to their hazard class, and, in addition, would contain stowage and segregation requirements for specific materials.

Subpart E would contain special handling, loading, and carriage requirements for specific materials. The requirements for specific materials in subpart D and this subpart would be in addition to the minimum requirements for all materials and the general requirements for their respective hazard classes contained in subpart C.

Subpart F would contain requirements for special equipment or procedures when dealing with certain cargoes. The requirements of this part would apply when dealing with a cargo only if a provision from this part is included in Table 148.10 in reference to a particular material included in that cargo.

The current sections of part 148 would be revised and renumbered as follows:

Current section	Replaced by proposed section
148.01–1	148.1, 148.3
148.01–7	148.10
148.01–9	148.15, 148.20
148.01–11	148.25
148.01–13	148.12
148.01–15	148.9
148.02–1	148.60
148.02–3	148.70
148.02–5	148.115
148.03–1	148.50
148.03–5	148.60
148.03–7	148.100
148.03–11	Subpart D
148.03–13	148.110
148.04–1	148.300
148.04–9	148.265
148.04–13	148.260
148.04–15	148.295
148.04–17	148.295
148.04–19	148.320
148.04–20	148.315
148.04–21	148.130(a)(4) and (c)
148.04–23	148.230.

The following proposed sections differ substantively from the current regulations:

Section 148.1. The proposed regulations would apply to foreign-flag, as well as U.S.-flag, vessels when operating in U.S. waters. The regulations would apply to all classes of vessels that transport solid bulk cargoes which require special handling, including unmanned barges and barge-carrying vessels.

Section 148.3. This section would include several new definitions, including "potentially dangerous material." Also, the definition of "bulk" has been revised for clarity and consistency with the BC Code.

Section 148.8. The appendices B, D.1, D.4 and D.5 of the 1991 Edition of the BC Code would be incorporated by reference. Several provisions of the proposed rules require the performance of tests specified in the BC Code appendices. Shippers and carriers in international commerce will be able to comply with the BC Code where such compliance is required by the administration of the country of origin or destination.

Section 148.10. The format for table 148.10 would be modified. The table would include the UN number and hazard class of the materials and references to sections of special requirements to be followed whenever that material is carried. These revisions would make it easier to determine the exact requirements for the carriage of each approved cargo.

Sections 148.15 through 148.30. These sections would clarify when a Special Permit is required, who would have to apply for a Special Permit, what information would be required to be submitted to obtain a Special Permit, and who would be covered by the Special Permit once it is issued. These

proposed sections are more detailed than the current regulations in order to more clearly state each person's responsibility and to clear up recurring misunderstandings concerning the applicability of the Special Permit. The submittal of detailed information about the material carried would also greatly decrease the amount of time currently spent by the Coast Guard in doing the necessary research to process each petition for a Special Permit.

Section 148.15. This proposed section places the responsibility on the shipper to determine if the material to be shipped fits into any of the hazard classes defined in the HMR or whether it meets the definition of a PDM.

Section 148.20. This section would list the information that must be included in a petition for a Special Permit. Submission of a Material Safety Data Sheet (MSDS) would, in part, fulfill this requirement. When applying for renewal or extension of an existing Special Permit, a shipper would be permitted to submit less detailed information because the Coast Guard would already be in possession of much of the information.

Section 148.30. This section would instruct the shipper on how to obtain a listing of materials for which a Special Permit currently exists.

Section 148.55. This proposed section states that the regulations apply to all transportation of solid bulk cargoes within the United States including shipments which originate in foreign countries. This section provides that it would be the responsibility of the person importing a bulk solid cargo to ensure that the foreign shipper is aware of U.S. regulatory requirements.

Section 148.120. This section would contain two tables presenting the requirements for segregation between incompatible bulk solid cargoes and segregation between bulk solid cargoes and incompatible packaged cargoes. These tables are identical to those which appear in the BC Code.

Section 148.155. The properties of potentially dangerous materials vary greatly. This section would present the special stowage and segregation requirements for these materials in tabular form for clarity.

Section 148.260. This proposed section specifies that a vessel may not leave port unless the Captain of the Port is satisfied that the temperature of the metal turnings is in accordance with the limits set by the applicable provisions of this section. The current provision merely specifies that the Captain of the Port must be notified if the temperature limits are exceeded.

Section 148.270. This section would establish a new category of materials in part 148. Hazardous substances have previously been carried only under Special Permits issued on a case by case basis. Hazardous substances are classified by the EPA based on the potential of an accidental release of the material to endanger public health or welfare or the environment. The EPA assigns to each hazardous substance a "Reportable Quantity" (RQ), which is that quantity, the release of which, requires notification pursuant to 40 CFR part 302.

The HMR, in 49 CFR 171.8, defines hazardous materials as including hazardous substances. Hazardous substances are defined as materials, including mixtures and solutions, that are listed in the appendix to § 172.101 and that are present in a quantity, in one package, that exceeds the RQ of that substance. The definition further sets out the concentration of a hazardous substance, for mixtures and solutions, that must be present before the mixture or solution is considered a hazardous substance. For bulk shipments, the entire shipment would be taken into consideration since there is no package. RQs assigned by EPA do not exceed 5,000 pounds, so any bulk shipment of hazardous substance would be a shipment of a hazardous material. This section would not relieve the shipper or the master from any of the reporting requirements set forth in 40 CFR part 302, but would set out minimum requirements for the safe carriage of solid hazardous substances in bulk.

Sections 148.300 and 148.305. These sections would be revised to reflect recent amendments to the HMR and the BC Code which have redefined low specific activity (LSA) radioactive materials and added a new entry for Radioactive Material, Surface Contaminated Objects.

Section 148.330. In spite of the stated intention of this rulemaking to harmonize U.S. regulations with the BC Code, this section, which applies to zinc ashes, zinc dross, zinc residues, and zinc skimmings, differs significantly from the BC Code. The provisions of this section are based on two Coast Guard Special Permits, SP 8–83 and SP 4–84. The terms of these permits were developed as the result of a number of incidents involving fires or explosions in cargoes of zinc skimmings, including at least one with loss of life. The intention of this section is to reduce the possibility of hydrogen gas generation caused by the reaction of seawater and zinc. Under the proposed section, the cargo hold of vessels selected to carry zinc ashes, zinc dross, zinc residues or zinc skimmings must be equipped with mechanical ventilation using motors approved for use in hydrogen gas atmospheres, permanently installed combustible gas detectors, and temperature-sensing thermocouples.

Section 148.450. On April 11, 1991, off the coast of California, a foreign-flag vessel that had loaded a bulk solid cargo in a U.S. port developed a severe list due to shifting of the cargo. Fortunately, this vessel was able to return to port and off-load its cargo. The Coast Guard investigation of this marine casualty determined that the cargo shifted because its moisture content exceeded the safe transportable limit, and that this caused the cargo to behave as a liquid. Due to this marine casualty and others of a similar nature, the Coast Guard proposes to add a new section that prescribes requirements for bulk solid cargoes that are subject to liquefaction. The proposed regulations are adapted from the BC Code and would only apply to calcined pyrites, coal, and metal sulfide concentrates as indicated in table 148.10. The proposed rules would recommend, but not require, use of the test procedures in appendix D of the BC Code to determine the moisture content and transportable moisture limit of bulk solid cargoes.

Incorporation by Reference

The following material would be incorporated by reference in §§ 148.55, 148.205, 148.220, and 148.450:

The Code of Safe Practice for Bulk Solid Cargoes, Appendices B, D.1, D.4 and D.5.

Copies of the material are available for inspection where indicated under **ADDRESSES.** Copies of the material are available at the addresses given in § 148.8.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Assessment

This proposal is not a significant regulatory action under Executive Order 12866 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). A draft Regulatory Assessment is available in the docket for inspection and copying where indicated under "ADDRESSES".

These proposed regulations would have a multifaceted economic impact on the bulk solids transportation industry. The Coast Guard estimates that if these regulations are adopted there would be an economic impact on the entire bulk solid shipping industry of $391,653 per

year, after an initial investment of $168,000. Costs associated with preparation of the vessels and operation and maintenance of the equipment are estimated to be $373,440 annually. The cost of doing the paperwork necessary under the proposed revisions to this part is estimated to be $18,213 annually, which is less than half of the $43,745 estimated for the current regulations due to the elimination of the need to apply for Special Permits for most cargoes.

Amendments to add those materials currently carried under Special Permit to those listed in 46 CFR part 148 that may be carried with special handling, will, if adopted, reduce the paperwork burden on the regulated industry and the Coast Guard, and provide greater flexibility for shippers of bulk solid materials.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 501 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

It is estimated that the bulk solid materials affected by this proposal would be shipped on 18 vessels, by at least one hundred different shippers. Therefore, the cost of these regulations would be divided among numerous interests and would not significantly impact any particular interest.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a comment (see **ADDRESSES**) explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection of information requirements in the following sections: 46 CFR part 148, subpart B and 148.60 and 148.70. The following particulars apply:

DOT No: 2115.

OMB Control No: 2115–0100.

Administration: U.S. Coast Guard.

Title: Carriage of Bulk Solid Materials Requiring Special Handling.

Need for Information: Special Permits allow the Coast Guard to ensure safety while allowing the shipping industry the flexibility to ship new materials. Shipping papers are necessary to identify the cargo being shipped and the hazard associated with the cargo. The Dangerous Cargo Manifest provides information on the location and quantity of hazardous materials on board a vessel. Shipper's certificates ensure that certain cargoes are acceptable for shipment by vessel.

Proposed Use of Information: This information is used by the Coast Guard to ensure safety on board vessels and in administering and enforcing the laws, regulations, and international treaties for the safe transportation and stowage of hazardous materials.

Responses: 1521 per year.

Respondents: 100.

Frequency of Response: 15.2 per respondent per year.

Burden Estimate: 575 hours per year.

Average Burden Hours per Respondent: 5.75 hours per year.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES**.

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This rulemaking proposes regulations under which certain solid materials requiring special handling may be transported in bulk by water. The regulations would apply to each domestic and foreign vessel, which is not exempted under 49 U.S.C. 1806(b), that transports solid materials requiring special handling when transported in bulk, when in the navigable waters of the United States. The authority to establish such regulations for vessels operating in the navigable waters of the United States has been committed to the Coast Guard by Federal statutes. Furthermore, since vessels tend to move from port to port in the national and international marketplace, the safety standards proposed in this rule should be of national scope to avoid burdensome variances. Therefore, the Coast Guard intends this rule, if adopted, to preempt state action addressing the same subject matter.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection and copying where indicated under **ADDRESSES**. The only environmental impact of this rulemaking would be to decrease the likelihood of a spill or release of hazardous material into the environment. This decrease in the probability of a spill can be attributed to an increased awareness of the potential danger of hazardous bulk solid materials, and the decreased risk of a fire or explosion on a vessel carrying these materials. Since bulk carriers currently have a very low rate of spills and releases, this impact would be minimal.

List of Subjects

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 148

Cargo vessels, hazardous materials transportation, Marine safety.

For the reasons set out in the preamble the Coast Guard proposes to amend 46 CFR parts 97 and 148 as follows:

PART 97—OPERATIONS

1. The authority citation for part 97 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 5111, 6101; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

2. Subpart 97.12 is revised to read as follows:

Subpart 97.12—Bulk Solid Cargoes

§ 97.12–1 Applicability.

(a) Notwithstanding § 90.05–1(a)(1) of this chapter, this subpart applies to each vessel, other than an unmanned barge,

to which this subchapter applies, and to each foreign vessel operating on the navigable waters of the United States, when carrying a bulk solid cargo.

(b) A bulk solid cargo, is a cargo other than grain that consists of a combination of particles, granules, or larger pieces of material, generally uniform in composition, and that is loaded directly into a cargo space of a vessel without any intermediate form of containment.

(c) Additional requirements applying to bulk solid materials requiring special handling are contained in part 148 of this chapter.

§ 97.12–5 Guidance to be furnished to the master.

(a) The owner or operator of each vessel to which this subpart applies shall furnish the master of that vessel with guidance concerning the safe loading and stowage of each bulk solid cargo carried by that vessel.

(b) The "Code of Safe Practice for Solid Bulk Cargoes", printed and distributed by the International Maritime Organization contains general information on the loading and stowage of bulk solid cargoes which may be used to comply with the requirement of paragraph (a) of this section. NOTE: This code is available from the source listed in § 148.8(b) of this chapter.

3. In § 97.55–1, the first sentence of paragraph (a) is revised to read as follows:

§ 97.55–1 Master's responsibility.

(a) Before loading bulk grain or any bulk solid cargo to which § 148.435 of this chapter applies, the master shall have the lighting circuits to cargo compartments in which the grain or bulk solid cargo is to be loaded deenergized at the distribution panel or panel board. * * *

* * * * *

4. Part 148 is revised to read as follows:

PART 148—CARRIAGE OF BULK SOLID MATERIALS WHICH REQUIRE SPECIAL HANDLING

Subpart A—General

Sec.

Subpart B—Special Permits

Subpart C—Minimum Transportation Requirements

Subpart D—Stowage and Segregation

Subpart E—Special Requirements for Certain Materials

Subpart F—Additional Special Requirements

Authority: 46 U.S.C 5111; 49 U.S.C. App. 1804; 49 CFR 1.46

Subpart A—General

§ 148.1 Applicability.

(a) This part prescribes the regulations under which certain solid materials requiring special handling may be transported in bulk by water.

(b) The regulations in this part apply to each domestic and foreign vessel that is not exempted under 49 U.S.C. 1806(b) and that transports solid materials requiring special handling when transported in bulk, when in the navigable waters of the United States.

(c) Each master of a vessel, person in charge of a barge, owner, operator, charterer, and agent shall ensure compliance with this part and communicate the requirements to every person performing any function covered by this part.

§ 148.3 Definitions.

The following terms are defined as used in this part:

A–60 class division means such a division as defined in § 32.57–5 of this chapter.

Adjacent space means an enclosed space on a vessel, such as a cargo hold or compartment, accommodation or working space, storeroom, passageway, or tunnel, that shares a common bulkhead or deck with a cargo hold or compartment containing a material listed in table 148.10 of this part and that has a hatch, door, scuttle, cable fitting, or other penetration through such a bulkhead or deck.

Away from means effectively segregated so that incompatible materials cannot interact dangerously in the event of an accident but may be carried in the same hold or compartment or on deck provided a minimum horizontal separation of 3 meters (10 feet), projected vertically, is provided.

BC Code means the *Code of Safe Practice for Solid Bulk Cargoes* published by the International Maritime Organization, 4 Albert Embankment, London SE1 7SR, UK.

Bulk applies to any material, other than a liquid or gas, consisting of a combination of particles, granules or any larger pieces of material, generally uniform in composition, which is loaded directly into the cargo spaces of a vessel without any intermediate form of containment.

Cold-molded briquets are briquets of DRI that have been molded at a temperature of under 650°C (1495°F) or that have a density of under 5.0 g/cm³.

Commandant (G–MTH) is the Marine Technical and Hazardous Materials Division of the Coast Guard Office of Marine Safety, Security and Environmental Protection. The address is: the Commandant (G–MTH), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–1217.

DRI means direct reduced iron.

Ferrous metal means ferrous metal borings, shavings, turnings, or cuttings.

Hazard class (class) means the category of hazard assigned to a material under this part and 49 CFR parts 171 through 173.

Hazard classes used in this part are defined in the following sections of 49 CFR:

HAZARD CLASS DEFINITIONS

Class No.—description	Reference
Class 1, 1.1, 1.4, 1.5—Explosives	§ 173.50
Class 2—Compressed gas	§ 173.115
Class 3—Flammable liquid	§ 173.120
Class 4, 4.1, 4.2, 4.3—Flammable solid, spontaneously combustible material, dangerous when wet material	§ 173.120
Class 5, 5.1—Oxidizer and organic peroxide	§ 173.127
Class 6.1—Poisonous material	§ 173.132
Class 7—Radioactive material	§ 173.2 § 173.403
Class 8—Corrosive material	§ 173.136
Class 9— Miscellaneous hazardous material	§ 173.140

Hazardous substance is a substance as defined in 49 CFR 171.8.

Hold means a space below deck that is used exclusively for the stowage of cargo and that is enclosed by the vessel's decks and sides or permanent steel bulkheads.

Hot-molded briquets are briquets of DRI that have been molded at a temperature of 650 °C (1495 °F) or higher, or that have a density of 5.0 g/cm³ (312 lb/ft³) or greater.

LFL means lower flammable limit.

Master includes an authorized representative of the master.

Material Safety Data Sheet is as defined in 29 CFR 1910.1200.

Potentially Dangerous Material ("PDM") means a material which, although not specifically falling into a particular hazard class, when carried as a bulk cargo on board a vessel presents sufficient likelihood of developing dangerous conditions which require specific precautions. Materials in this class include those which may cause oxygen depletion in the cargo hold, and those liable to self-heating. Materials which present a potential danger associated solely with their tendency to shift in the cargo hold are not included in this class of material.

Readily Combustible Material is as defined in 49 CFR 176.3.

Reportable Quantity (RQ) is as defined in 49 CFR 171.8.9

Seed cake means the residue remaining after the vegetable oil has been extracted by a solvent process or mechanically expelled from oil-bearing seeds such as coconuts, cotton seed, peanuts, linseed, etc.

Separated by a complete cargo compartment or hold from means either a vertical or horizontal separation. If the intervening decks are not resistant to fire and liquid, only horizontal separation, i.e. by a complete cargo compartment or hold, is acceptable.

Separated from means in different cargo compartments or holds when stowed under deck. If the intervening deck is resistant to fire and liquid, a vertical separation, i.e. in different cargo compartments, is acceptable as equivalent to this segregation.

Separated longitudinally by an intervening complete cargo compartment or hold from means that vertical separation alone does not meet this requirement.

Shipper includes an authorized representative of the shipper.

Stowage factor means the number of cubic meters that 1000 kilograms (0.984 long ton) of a bulk solid material will occupy.

Surface ventilation means ventilation which is sufficient to remove accumulated gases from the void space above the cargo, but which does not direct air into the body of the cargo.

Transported includes the various operations associated with cargo transportation such as, loading, off-loading, handling, stowing, carrying, and conveying.

Vessel means a cargo ship or barge.

§ 148.5 Alternative procedures.

(a) The Commandant (G–MTH) may authorize the use of an alternative procedure in place of any requirement of this part if it is demonstrated to the satisfaction of the Coast Guard that the requirement is impracticable or unnecessary and that an equivalent level of safety can be maintained.

(b) Each request for authorization of an alternative procedure must be in writing, identify the requirement for which the alternative is requested, and contain a detailed explanation of—

(1) Why the requirement is impracticable or unnecessary; and

(2) What measures will be taken to maintain an equivalent level of safety.

§ 148.7 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and recordkeeping requirements in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f), which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
Part 148	2115–0100

§ 148.8 Incorporation by reference.

(a) Certain materials are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the Federal Register and the material must be made available to the public. All approved material is on file for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division (G–MTH), 2100 Second Street, SW, Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part are the following appendices of the *Code of Safe Practice for Solid Bulk Cargoes*, 1991 Edition, published by the International Maritime Organization, 4 Albert Embankment, London SE1 7SR.

UK, and the sections affected are as follows:

Appendix B.....148.55
Appendix D.1.....148.450
Appendix D.4.....148.220
Appendix D.5.....148.205

§ 148.9 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with part 1, subpart 1.03 of this chapter.

§ 148.10 Permitted materials.

(a) A material listed in table 148.10 of this section may be transported as a bulk solid cargo on a vessel if it is carried according to the regulations in this part. A material that is not listed in table 148.10 of this section but which meets the definition of any hazard class in 49 CFR part 171 or 173, or which meets the definition of potentially dangerous material, may be transported on the navigable waters of the U.S. only if a Special Permit is issued by the Commandant (G–MTH) in accordance with § 148.15.

(b) Except as provided in paragraph (c) of this section, a mixture or blend of a material listed in table 148.10 of this section and a bulk solid material not listed therein must be transported under the requirements applying to the listed material.

(c) A mixture or blend containing any bulk solid material that is subject to the Special Permit provisions of § 148.15 must be transported under the terms of a Special Permit.

(d) A mixture or blend of materials, two or more of which are listed in table 148.10 of this section, will be treated as an unlisted material and a Special Permit, in accordance with § 148.15, is required for shipment in bulk.

(e) The requirements contained in part 4 of this chapter for providing notice and reporting of marine casualties and for retaining voyage records apply to shipments of the materials listed in table 148.10 of this section.

TABLE 148.10

Material	I.D. No.	Hazard class	Hazard description	Characteristics	Sections containing special requirements in part 148
Aluminum Dross[2,3]		PDM		Also: aluminum residues, aluminum skimmings.	155, 405(b), 420(b), 445.
Aluminum Ferrosilicon[2,3]	UN1395	4.3	Dangerous when wet, poison.	Powder	135, 255, 405(b), 407, 415(a)&(e), 420(b), 425, 430, 445.
Aluminum Nitrate[4]	UN1438	5.1	Oxidizer		140.
Aluminum Silicon[2,3]	UN1398	4.3	Dangerous when wet.	Powder, uncoated	135, 205, 405(b), 407, 415(a)&(e), 420(b), 425, 430, 445.
Ammonium Nitrate Fertilizer[5]	UN2067	5.1	Oxidizer		140, 205, 405(a), 407, 410.
Ammonium Nitrate Fertilizer[5]	UN2069	5.1	Oxidizer	With ammonium sulfate	140, 205, 405(a), 407, 410.
Ammonium Nitrate Fertilizer[5]	UN2068	5.1	Oxidizer	With calcium carbonate	140, 205, 405(a), 407, 410.
Ammonium Nitrate Fertilizer[5]	UN2070	5.1	Oxidizer	Nitrogen/Phosphate/Potash.	140, 205, 405(a), 407, 410.
Ammonium Nitrate Fertilizer[6]	UN2071	9		Nitrogen/Phosphate/Potash.	150, 220, 405(a), 407.
Barium Nitrate[4,7]	UN1466	5.1	Oxidizer, poison		140.
Calcined Pyrites[8,9,24]		PDM		Pyritic ash, Fly ash	155, 225, 450.
Calcium Nitrate[4]	UN1454	5.1	Oxidizer		140, 227.
Castor Beans[10]	UN2969	9		Whole beans	150, 235.
Charcoal[1,11,12]		PDM		Screenings, briquets	155, 425, 430.
Coal[11,12,13,14,24]		PDM			155, 240, 405(b), 407 415(b), 420(a)&(c), 425, 430, 440(c), 445, 450.
Copra[11,12]	UN1363	4.2	Spontaneously Combustible.	Dry	130, 425, 430.
Direct Reduced Iron (DRI)[1,2,12]		PDM		Lumps, pellets and cold molded briquets.	155, 245, 405(b), 407, 420(b), 425, 430, 445.
Direct Reduced Iron (DRI)[1,2,12]		PDM		Hot molded briquets	155, 250, 420(b), 425, 430.
Environmentally Hazardous Substance, Solid, N.O.S.[15]	UN3077	9	Hazardous substances listed in 40 CFR part 302.		150, 270.
Ferrophosphorus[2,3]		PDM		Including briquets	155, 415(e), 445.
Ferrosilicon[2,3]	UN1408	4.3	Dangerous when wet.	With 30–90% silicon	135, 255, 405(b), 407, 415(a)&(e), 420(b), 430, 445.
Ferrosilicon[2,3]		PDM		25%–30% silicon or 90% or more silicon.	155, 255, 405(b), 407, 415(a)&(e), 420(b), 430, 445.
Ferrous Metal, borings, shavings, turnings or cuttings[11,12]	UN2793	4.2	Spontaneously Combustible.	Iron swarf, steel swarf	130, 260, 425, 430.

TABLE 148.10—Continued

Material	I.D. No.	Hazard class	Hazard description	Characteristics	Sections containing special requirements in part 148
Fish Meal or Fish Scrap[11,12]	UN2216	9		Ground and pelletized (mixture), anti-oxidant treated..	150, 265, 425, 430.
Fluorspar[8]		PDM		Calcium fluoride	155, 440(b).
Iron Oxide or Iron Sponge[3,11,12,14]	UN1376	4.2	Spontaneously Combustible.	Spent	130, 275, 415(c), (d)&(f), 425, 430 440(c), 445.
Lead Nitrate[4,7,22]	UN1469	5.1	Oxidizer	Marine Pollutant	140, 270, 440(b).
Lime, unslaked[1]	UN1910	PDM		Calcium Oxide, quicklime.	155, 230.
Magnesia, unslaked[1]		PDM		Lightburned magnesia, calcined magnesite.	155, 280.
Magnesium Nitrate[4]	UN1474	5.1	Oxidizer		140.
Metal Sulfide Concentrates[11,12,22,24]		PDM		Solid, finely divided sulfide concentrates of copper, iron, lead, nickel, zinc, or other metalliferous ores.	155, 285, 425, 430, 440(b), 450.
Petroleum Coke[11]		PDM		Calcined or uncalcined at > 55 °C (131 °F).	155, 295.
Pitch Prill, Prilled Coal Tar, Pencil Pitch[16].		PDM			155, 440(b).
Potassium Nitrate[4]	UN1486	5.1	Oxidizer	Saltpeter	140.
Radioactive material[17]	UN2912	7	Radioactive	Low Specific Activity	145, 300.
Radioactive material[17]	UN2913	7	Radioactive	Surface Contaminated Objects.	145, 305.
Sawdust[12,18]		PDM			155, 405(a), 407, 425, 430, 440(a).
Seed Cake[12,19]	UN1386	4.2	Spontaneously Combustible.	Mechanically expelled or solvent extractions.	130, 310, 425, 430.
Seed Cake[12,19]	UN2217	4.2	Spontaneously Combustible.	Solvent extractions	130, 310, 425, 430.
Silicomanganese[2,3]		PDM			155, 405(b), 407, 415(a)&(d), 420(b), 425, 430, 445.
Sodium Nitrate[4]	UN1498	5.1	Oxidizer	Chili saltpeter, Chilean natural nitrate.	140.
Sodium Nitrate mixed with Potassium Nitrate[4].	UN1499	5.1	Oxidizer	Mixtures prepared as fertilizer.	140.
Sulfur[14,20]	UN1350	4.1	Flammable Solid	Lumps or coarse-grained powder.	125, 315, 405(a), 407, 435, 440(c).
Tankage[11]		PDM		Garbage tankage, Rough ammonia tankage, Tankage fertilizer.	155, 320.
Vanadium Ore[21]		PDM			155, 430.
Woodchips, Wood Pulp Pellets[12]		PDM			155, 325, 425, 430.
Zinc Ashes, Dross, Residues or Skimmings[2,3,23].	UN1435	4.3	Dangerous when wet.		135, 330, 405(b), 407, 420(b), 425, 430, 435, 445.

[1] Contact with water may cause heating.
[2] Contact with water may cause evolution of flammable gases, which may form explosive mixtures with air.
[3] Contact with water may cause evolution of toxic gases.
[4] If involved in a fire will greatly intensify the burning of combustible materials.
[5] A major fire aboard a vessel carrying this material may involve a risk of explosion in the event of contamination (e.g. by a fuel oil) or strong confinement. If heated strongly will decompose, giving off toxic gases which support combustion.
[6] These mixtures may be subject to self-sustaining decomposition if heated. Decomposition, once initiated, may spread throughout the remainder, producing gases which are toxic.
[7] Toxic if swallowed and by dust inhalation.
[8] Harmful and irritating by dust inhalation.
[9] Highly corrosive to steel.
[10] Powerful allergen. Toxic by ingestion. Skin contact or inhalation of dust may cause severe irritation of skin, eyes, and mucous membranes in some people.
[11] May be susceptible to spontaneous heating and ignition.
[12] Liable to cause oxygen depletion in the cargo space.
[13] Liable to emit methane gas which can form explosive mixtures with air.
[14] Dust forms explosive mixtures with air.
[15] May present substantial danger to the public health or welfare or the environment when released into the environment. Skin contact and dust inhalation should be avoided.
[16] Combustible. Burns with dense black smoke. Dust may cause skin and eye irritation.
[17] Radiation hazard from dust inhalation and contact with mucous membranes.
[18] Susceptible to fire from sparks and open flames.

[19] May self-heat slowly and, if wet or containing an excessive proportion of unoxidized oil, ignite spontaneously.
[20] Fire may produce irritating or poisonous gases.
[21] Dust may contain toxic constituents.
[22] Lead nitrate and lead sulfide are hazardous substances, see footnote 15 and sec. 148.270.
[23] Hazardous substance when consisting of pieces having a diameter less than 10 micrometers (0.004 in.), see footnote 15 and sec. 148.270.
[24] Cargo subject to liquefaction.

§ 148.12 Assignment and certification.

(a) The National Cargo Bureau, Inc. is authorized to assist the U.S. Coast Guard in administering the provisions contained in this part by—

(1) Inspecting vessels for suitability for loading solid materials in bulk;

(2) Examining stowage of solid materials loaded in bulk on board vessels;

(3) Making recommendations as to the stowage requirements applicable to the transportation of solid materials in bulk; and

(4) Issuing certificates of loading which verify that the stowage of the solid material in bulk is in accordance with the applicable regulations of this part.

(b) Certificates of loading from the National Cargo Bureau, Inc. are accepted as evidence of compliance with the applicable provisions regarding the transportation of solid materials in bulk on board vessels.

Subpart B—Special Permits

§ 148.15 Petition for Special Permit.

(a) Each person who wishes to ship a bulk solid material not listed in table 148.10 of this part shall determine whether the material proposed to be shipped meets the definition of any hazard class or the definition of potentially dangerous material.

(b) Each person to whom paragraph (a) of this section applies, must submit a petition in writing to the Commandant (G–MTH) for authorization to ship any hazardous material or potentially dangerous material not listed in table 148.10 of this part.

(c) If a petition for authorization is approved by the Commandant (G–MTH), the petitioner is issued a Coast Guard Special Permit allowing the material to be transported in bulk by vessel and setting requirements for the transport of the material.

§ 148.20 Information required when petitioning for a Special Permit.

(a) Each petition for a Special Permit must contain, as a minimum, the following information:

(1) A description of the material, including, if a hazardous material—

(i) The proper shipping name from the tables in 49 CFR 172.101 and the appendix to that section;

(ii) The hazard class and division of the material; and

(iii) The identification number of the material.

(2) A Material Safety Data Sheet (MSDS) for the material, or—

(i) The chemical name and any trade names or common names of the material;

(ii) The composition of the material, including the weight percent of each constituent;

(iii) Physical data, including color, odor, appearance, melting point and solubility;

(iv) Fire and explosion data, including autoignition temperature, any unusual fire or explosion hazards and any special fire fighting procedures;

(v) Health hazards, including any dust inhalation hazards and any chronic health effects;

(vi) The threshold limit value (TLV) of the material or its major constituents, if available, and any relevant toxicity data;

(vii) Reactivity data, including any hazardous decomposition products and any incompatible materials; and

(viii) Special protection information, including ventilation requirements and personal protection equipment required.

(3) Other potentially dangerous characteristics of the material not covered by paragraphs (a)(1) and (a)(2) of this section, including—

(i) Self-heating;

(ii) Depletion of oxygen in the cargo space;

(iii) Dust explosion; and

(iv) Liquefaction (See § 148.450).

(4) A detailed description of the proposed transportation operation, including—

(i) The type of vessel proposed for water movements;

(ii) The expected loading and discharge ports, if known;

(iii) Procedures to be used for loading and unloading the material;

(iv) Precautions to be taken when handling the material; and

(v) The expected temperature of the material at the time it will be loaded on the vessel.

(5) Test results (if appropriate).

(6) Previous approvals or permits.

(7) Any relevant shipping or accident experience (or any other relevant transportation history by any mode of transport).

(b) Requests for permit extensions or renewals must be submitted in writing to the Commandant (G–MTH) before the date of expiration of the permit. The request for extension or renewal must include the information prescribed in paragraphs (a)(1), (a)(6) and (a)(7) of this section.

(c) To permit timely consideration, a petition for a Special Permit or request for extension or renewal of a Special Permit, should be submitted at least 45 days before the requested effective date.

§ 148.25 Special Permits; standard conditions.

(a) Each person to whom a Special Permit has been issued under the terms of § 148.15 shall comply with all the requirements of this part unless specifically exempted by the terms of the Special Permit.

(b) Each Special Permit covers any shipment of the permitted material originated by the shipper noted on the Special Permit, and, also covers for each shipment—

(1) Each transfer operation;

(2) Each vessel involved in the shipment; and

(3) Each individual involved in any cargo handling operation.

(c) Each person to whom a Special Permit has been issued shall provide a copy of the Special Permit to the master of each vessel or person in charge of each barge carrying the material for which the Special Permit was issued, along with the information required in § 148.90.

(d) The master of a vessel transporting a material for which a Special Permit has been issued shall ensure that a copy of the Special Permit is on board the vessel. The Special Permit must be kept with the dangerous cargo manifest if such a manifest is required by § 148.70.

(e) The person in charge of a barge transporting any material for which a Special Permit has been issued shall ensure that a copy of the Special Permit is on board the tug or towing vessel. When the barge is moored, the Special Permit must be kept on the barge with the shipping paper as prescribed in § 148.60(b).

(f) Each Special Permit is valid for a period, not to exceed two years, determined by the Commandant (G–MTH) and is subject to suspension or revocation before its expiration date.

§ 148.30 List of Special Permits issued.

A list of all materials for which Special Permits have been issued and copies of Special Permits are available from the Commandant (G–MTH).

Subpart C—Minimum Transportation Requirements

§ 148.50 General.

(a) The regulations in this subpart apply to each bulk shipment of—

(1) A material listed in table 148.10 of this part; and

(2) Any solid material shipped under the terms of a Coast Guard Special Permit.

(b) When subpart D of this part sets a temperature limit for loading or transporting a material—

(1) The temperature of the material must be measured between 20 and 36 cm. (8 to 14 inches) below the surface at 3 meter (10 foot) intervals over the length and width of the stockpile or cargo hold;

(2) The temperature must be measured at any spot in the stockpile or cargo hold that shows any evidence of heating; and

(3) Prior to loading or transporting the material, all temperatures measured must be below the temperature limit as given in subpart D of this part.

§ 148.55 International shipments.

(a) Each person who imports a bulk solid cargo of a material requiring special handling into the United States shall provide the shipper in the country of origin and the agent at the place of entry with timely and complete information as to the requirements that will apply to the carriage, unloading, and handling of the material within the United States.

(b) The foreign shipper shall furnish the information provided pursuant to paragraph (a) of this section, as well as the shipper's certification required by § 148.60(a), either on the shipping paper or dangerous cargo manifest.

(c) Notwithstanding the requirements of this part, a bulk solid material may be transported in international commerce to or from the United States if it is classed, described, stowed, and segregated in accordance with Appendix B of the BC Code.

§ 148.60 Shipping papers.

(a) Except as provided in paragraph (d) of this section, the master of a vessel may not accept for transportation, nor transport by vessel in bulk, any material listed in table 148.10 of this part unless the material offered for such shipment is accompanied by a shipping paper prepared by the shipper on which the following information is provided:

(1) The shipping name and hazard class of the material as listed in table 148.10 of this part, or on the Special Permit under which the material is carried.

(2) The quantity of the material to be transported.

(3) The name and address of the U.S. shipper.

(4) A certification which bears the following statement, signed by the shipper: "This is to certify that the above named material is properly named, prepared, and otherwise in proper condition for bulk shipment by vessel in accordance with the applicable regulations of the U.S. Coast Guard".

(b) Whenever a provision of subpart E or F of this part requires the shipper to provide the master of a vessel or person in charge of a barge with a written certification or statement, the certification or statement must be on or attached to the shipping paper.

(c) The shipping paper required in paragraph (a) of this section must be kept on board the vessel along with the dangerous cargo manifest required by § 148.70. When the shipment is by unmanned barge the shipping paper must be kept on the tug or towing vessel. When an unmanned barge is moored, the shipping paper must remain on board the barge in a readily retrievable location.

(d) Unless specifically required in subpart D of this part, no shipping paper is required for shipments of materials designated as potentially dangerous materials in table 148.10 of this part.

§ 148.70 Dangerous cargo manifest.

(a) Except as provided in paragraphs (b) and (c) of this section, each vessel transporting materials listed in table 148.10 of this part must have on board a dangerous cargo manifest on which the following information is entered:

(1) The name and official number of the vessel. (If the vessel has no official number, the international radio call sign must be substituted.)

(2) The nationality of the vessel.

(3) The name of the material as listed in table 148.10 of this part.

(4) The hold(s) or cargo compartment(s) in which the material is being transported.

(5) The quantity of material loaded in each hold or cargo compartment.

(6) The date and signature of the master, acknowledging the correctness of the dangerous cargo manifest.

(b) No dangerous cargo manifest is required for—

(1) Shipments by unmanned barge, except on an international voyage; and

(2) Shipments of materials designated as potentially dangerous materials in table 148.10 of this part.

(c) When a dangerous cargo manifest is required for an unmanned barge on an international voyage, paragraph (a)(4) of this section does not apply, unless the barge has more than one cargo compartment.

(d) This document must be kept in a designated holder on or near the vessel's bridge, or when required for an unmanned barge, on board the tug or towing vessel.

§ 148.80 Supervision of cargo transfer.

The master shall ensure that cargo transfer operations are supervised by a responsible person as defined in 49 CFR 176.2 and 176.57.

§ 148.90 Prior to loading.

Prior to loading any material listed in table 148.10 of this part in bulk on board a vessel, the following conditions must be met:

(a) Each hold must be thoroughly cleaned of all residues of previous cargoes, loose debris, and dunnage, except that permanent wooden battens or sheathing may remain in the hold unless prescribed otherwise in subpart E of this part.

(b) Each hold and associated bilge must be as dry as practicable.

(c) The shipper shall provide the master with appropriate information on the cargo so that the precautions which may be necessary for proper stowage and safe carriage of the cargo may be put into effect. This information must include—

(1) Information on the stowage factor of the cargo and the recommended trimming procedure; and

(2) For a bulk material classified as a potentially dangerous material, the shipper shall also provide information on the chemical properties and related hazards, which may be provided in the form of a material safety data sheet.

(d) When any material covered by this part is shipped by unmanned barge, the shipper shall inform the person in charge of the barge of the safety precautions and emergency procedures associated with the transportation of the material.

§ 148.100 Log book entries.

During the transport in bulk of a material listed in table 148.10 of this part, each temperature measurement and analysis for toxic or flammable gases required by this part must be recorded in the vessel's log.

§ 148.110 After unloading.

After a material to which this part applies has been unloaded from a vessel, each hold or cargo compartment must be thoroughly cleaned of all residue of such material before another cargo is loaded.

§ 148.115 Report of incidents.

(a) When a fire or other hazardous condition occurs on a vessel transporting a material to which this part applies, the master or person in charge shall notify the nearest Captain of the Port as soon as possible and comply with any instructions given by the Captain of the Port.

(b) Any incident or casualty occurring while transporting a material to which this part applies must be reported in accordance with 49 CFR 171.15 with a copy to the Commandant (G–MTH–1), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001, at the earliest practicable moment.

(c) Any release to the environment of a hazardous substance in a quantity equal to or in excess of its reportable quantity must be reported immediately to the National Response Center at 1–(800) 424–8802 (toll free) or (202) 267–2675.

Subpart D—Stowage and Segregation

§ 148.120 Stowage and segregation requirements.

(a) Each material listed in table 148.10 of this part must be segregated from incompatible materials in accordance with—

(1) The requirements of tables 148.120A and 148.120B of this section that pertain to the hazard class to which the materials belong; and

(2) Any specific requirements in subpart D of this part.

(b) Materials which are required to be separated during stowage must not be handled simultaneously. Any residue from a material must be cleaned up before a material required to be separated from it is loaded.

TABLE 148.120A.—SEGREGATION BETWEEN INCOMPATIBLE BULK SOLID CARGOES

Solid bulk material	Class	4.1	4.2	4.3	5.1	6.1	7	8	9/PDM
Flammable Solids	4.1	X	2	3	3	X	2	2	X
Spontaneously Combustible Substances	4.2	2	X	3	3	X	2	2	X
Substances that are Dangerous When Wet	4.3	3	3	X	3	X	2	2	X
Oxidizers	5.1	3	3	3	X	2	2	2	X
Poisons	6.1	X	X	X	X	X	2	X	X
Radioactive Materials	7	2	2	2	2	2	X	2	2
Corrosives	8	2	2	2	2	X	2	X	X
Miscellaneous hazardous materials and potential dangerous materials.	9/PDM	X	X	X	X	X	2	X	X

Note.—Numbers and symbols relate to the following terms as defined in § 148.3 of this part:
2—"Separated from"
3—"Separated by a complete hold or compartment from"
X— No segregation required, except as specified in an applicable section of this subpart or subpart E of this part.

Table 148.120B.—SEGREGATION BETWEEN BULK SOLID CARGOES AND INCOMPITABLE PACKAGED CARGOES

Packaged hazardous material	Bulk solid cargoes								
	Class	4.1	4.2	4.3	5.1	6.1	7	8	9/PDM
Explosives	1.1 1.2 1.5	4	4	4	4	2	2	4	X
Explosives	1.3	3	3	4	4	2	2	2	X
Explosives	1.4	2	2	2	2	X	2	2	X
Flammable compressed gases	2.1	2	2	1	2	X	2	1	X
Other compressed gases	2.2 2.3	2	2	X	X	X	2	X	X
Flammable liquids	3	2	2	2	2	X	2	1	X
Flammable solids	4.1	X	1	X	1	X	2	1	X
Spontaneously combustible substances	4.2	1	X	1	2	1	2	1	X
Substances that are dangerous when wet	4.3	X	1	X	2	X	2	1	X
Oxidizers	5.1	1	2	2	X	1	1	2	X
Organic peroxides	5.2	2	2	2	2	1	2	2	X
Poisons	6.1	X	1	X	1	X	X	X	X
Infectious substances	6.2	3	3	2	3	1	3	3	X
Radioactive materials	7	2	2	2	1	X	X	2	X
Corrosives	8	1	1	1	2	X	2	X	X
Miscellaneous hazardous materials	9	X	X	X	X	X	X	X	X

Note.—Numbers and symbols relate to the following terms as defined in § 148.3 of this part:
1—"Away from"
2—"Separated from"
3—"Separated by a complete hold or compartment from"
4—"Separated longitudinally by an intervening complete hold or compartment from"
X—No segregation required, except as specified in an applicable section of this subpart or subpart E of this part.

§ 148.125 Stowage and segregation for materials of class 4.1.

(a) Class 4.1 materials listed in table 148.10 of this part must—

(1) Be kept as cool and dry as reasonably practicable prior to loading;

(2) Not be loaded or transferred between vessels during periods of rain or snow;

(3) Be stowed separate from foodstuffs; and

(4) Be stowed clear of sources of heat and ignition and protected from sparks and open flame.

(b) The bulkheads between a hold containing a class 4.1 material listed in

table 148.10 of this part and a hold containing a material required to be separated from such materials must have cable and conduit penetrations sealed against the passage of gas and vapor.

§ 148.130 Stowage and segregation for materials of class 4.2.

(a) Class 4.2 materials listed in table 148.10 of this part must—

(1) Be kept as cool and dry as reasonably practicable prior to loading;

(2) Not be loaded or transferred between vessels during periods of rain or snow;

(3) Be stowed clear of sources of heat and ignition and protected from sparks and open flame; and

(4) Except for copra and seed cake, be stowed separate from foodstuffs.

(b) The bulkhead between a hold containing a class 4.2 material listed in table 148.10 of this part and a hold containing a material required to be separated from such materials must have cable and conduit penetrations sealed against the passage of gas and vapor.

(c) *Copra* must be provided with good surface ventilation and must not be stowed against heated surfaces including fuel oil tanks which may require heating.

(d) *Ferrous metal* must be stowed in accordance with paragraph (a) of this section and the following requirements:

(1) It may not be carried if its temperature prior to loading exceeds 55 °C (131 °F).

(2) Prior to and after loading, it must be protected from moisture.

(3) If weather is inclement during loading, hatches must be covered or otherwise protected to keep the material dry.

§ 148.135 Stowage and segregation for materials of class 4.3.

(a) Class 4.3 materials listed in table 148.10 of this part which, in contact with water, emit flammable gases, must—

(1) Be kept as cool and dry as reasonably practicable prior to loading;

(2) Not be loaded or transferred between vessels during periods of rain or snow;

(3) Be stowed separate from foodstuffs and all class 8 liquids; and

(4) Be stowed in a mechanically ventilated hold, so arranged that the exhaust gases do not penetrate into accommodation, work or control spaces. Unmanned barges that have adequate natural ventilation need not be provided with mechanical ventilation.

(b) The bulkhead between a hold containing a class 4.3 material listed in table 148.10 of this part and a hold containing a material required to be separated from such materials must have cable and conduit penetrations sealed against the passage of gas and vapor.

(c) *Aluminum ferrosilicon, aluminum silicon,* and *ferrosilicon* must be stowed in a mechanically ventilated space.

(d) *Zinc ashes* must not be accepted for transport if wet or if known to have been wetted.

§ 148.140 Stowage and segregation for materials of class 5.1.

(a) Class 5.1 materials listed in table 148.10 of this part must—

(1) Be kept as cool and dry as reasonably practicable prior to loading;

(2) Be stowed away from all sources of heat or ignition; and

(3) Be stowed separate from foodstuffs and all readily combustible materials.

(b) Special care must be taken to ensure that holds containing class 5.1 material listed in table 148.10 of this part are clean, and that whenever reasonably practicable, only noncombustible securing and protecting materials are used.

(c) Class 5.1 material listed in table 148.10 of this part must be prevented from entering bilges or other cargo holds.

§ 148.145 Stowage and segregation for materials of class 7.

(a) Class 7 material listed in table 148.10 of this part must be stowed—

(1) Separate from foodstuffs; and

(2) In a hold or barge that is effectively closed or covered to prevent dispersal of the material during transportation.

(b) Skin contact, inhalation or ingestion of dusts generated by class 7 material listed in table 148.10 of this part must be minimized.

(c) Each hold used for the transportation of class 7 material (radioactive) listed in table 148.10 of this part must be surveyed by a qualified person using appropriate radiation detection instruments after the completion of off-loading. Such holds must not be used for the transportation of any other material until the non-fixed contamination on any surface when averaged over an area of 300 cm^2 does not exceed the following levels:

(1) *4.0 Bq/cm^2 (10–5 uCi/cm^2)* for beta and gamma emitters and low toxicity alpha emitters, natural uranium, natural thorium, uranium-235, uranium-238, thorium-232, thorium-228 and thorium-230 when contained in ores or physical or chemical concentrates, and radionuclides with a half-life of less than 10 days.

(2) *0.4 Bq/cm^2 (10–4 uCi/cm^2)* for all other alpha emitters.

§ 148.150 Stowage and segregation for materials of class 9.

(a) A bulk solid cargo of class 9 material (miscellaneous hazardous material) listed in table 148.10 of this part must be stowed and segregated as required by this section.

(b) *Ammonium nitrate fertilizer, Type B,* must be segregated as required in § 148.140 for class 5.1 materials and must be stowed—

(1) Separated by a complete hold or compartment from readily combustible materials, chlorates, hypochlorites, nitrites, permanganates, and fibrous materials (e.g. cotton, jute, sisal, etc.);

(2) Clear of all sources of heat, including insulated piping; and

(3) Out of direct contact with metal engine-room boundaries.

(c) *Castor beans* must be stowed separate from foodstuffs and class 5.1 materials.

(d) *Fish meal* must be segregated as required in § 148.10 for class 4.2 materials. In addition, its temperature at loading must not exceed 35 °C (95 °F) or 5 °C (9 °F) above ambient, whichever is higher.

§ 148.155 Stowage and segregation for potentially dangerous materials.

(a) A material that is potentially dangerous (PDM) must be stowed and segregated in accordance with table 148.155 of this part and with this section.

(b) When transporting coal—

(1) Coals must be stowed *separated from* materials of class/division 1.4 and classes 2, 3, 4, and 5 in packaged form; and *separated from* bulk solid materials of classes 4 and 5.1;

(2) No material of class 5.1, in either packaged or bulk solid form, may be stowed above or below a cargo of coal; and

(3) Coals must be *separated longitudinally by an intervening complete cargo compartment or hold from* materials of class 1 other than class/division 1.4.

(c) When transporting Direct Reduced Iron (DRI)—

(1) DRI lumps, pellets or Cold-molded briquettes and DRI hot-molded briquettes must be *separated from* materials of class/division 1.4, classes 2, 3, 4, 5, and class 8 acids in packaged form; and *separated from* bulk solid materials of classes 4 and 5.1; and

(2) No material of class 1, other than class/division 1.4, may be transported on the same vessel with DRI.

(d) Petroleum coke, calcined or uncalcined, must be—

(1) *Separated longitudinally by an intervening complete cargo compartment or hold from* materials of class/divisions 1.1 and 1.5; and

(2) *Separated by a complete cargo compartment or hold from* all hazardous materials and other potentially dangerous materials in packaged and bulk solid form.

TABLE 148.155.—SEGREGATION AND STOWAGE REQUIREMENTS FOR POTENTIALLY DANGEROUS MATERIALS

Potentially dangerous material	Segregate as for class listed [1]	"Separate from" foodstuffs	Load only under dry weather conditions	Keep dry	Mechanical ventilation required	"Separate from" material listed	Special provisions
Aluminum Dross	4.3	X	X	X	X	Class 8 Liquids.	
Calcined Pyrites		X	X	X	X		
Charcoal	4.1			X		Oily materials.	
Coal						See paragraph (b) of this section.	See paragraph (b) of this section.
Direct reduced iron—lumps, pellets, or cold-molded briquettes.						See paragraph (c) of this section.	See paragraph (c) of this section.
Direct reduced iron—hot-molded briquettes.						See paragraph (c) of this section.	See paragraph (c) of this section.
Ferrophosphorus	4.3	X	X	X	X	Class 8 liquids.	
Ferrosilicon	4.3	X	X	X	X	Class 8 liquids.	
Fluorospar		X				Class 8 liquids.	
Lime, unslaked				X		All packaged and bulk solid hazardous materials.	
Magnesia, unslaked				X		All packaged and bulk solid hazardous materials.	
Metal Sulfide Concentrates.	4.2	X				Class 8 liquids.	
Petroleum Coke		X					See section 148.155(d).
Pitch Prill	4.1						
Sawdust	4.1			X		All class 5.1 and 8 liquids.	
Silicomanganese	4.3	X	X	X	X	Class 8 liquids.	
Tankage	4.2	X	X				
Vanadium	6.1	X					
Wood chips	4.1						
Wood pulp pellets	4.1						

[1] See Tables 148.120 A and B.

Subpart E—Special Requirements for Certain Materials

§ 148.200 Purpose.

This subpart prescribes special requirements applicable to specific materials. These requirements are in addition to the Minimum Transportation Requirements of subpart C of this part which are applicable to all of the materials listed in table 148.10 of this part.

§ 148.205 Ammonium nitrate fertilizers.

(a) This section applies to the stowage and transportation in bulk of the following fertilizers composed of uniform, nonsegregating mixtures containing ammonium nitrate:

(1) Ammonium nitrate with added matter which is organic and chemically inert towards ammonium nitrate; containing not less than 90% of ammonium nitrate and not more than 0.2% of combustible material (including organic material calculated as carbon); or containing less than 90% but more than 70% of ammonium nitrate and not more than 0.4% combustible material.

(2) Ammonium nitrate with calcium carbonate and/or dolomite, containing more than 80% but less than 90% of ammonium nitrate and not more than 0.4% of total combustible material.

(3) Ammonium nitrate with ammonium sulfate containing more than 45% but not more than 70% of ammonium nitrate and containing not more than 0.4% of combustible material.

(4) Nitrogen phosphate or nitrogen/potash type fertilizers or complete nitrogen/phosphate/potash type fertilizers containing more than 70% but less than 90% of ammonium nitrate and not more than 0.4% of combustible material.

(b) No ammonium nitrate fertilizer to which this section applies may be transported in bulk unless it demonstrates resistance to detonation when tested as prescribed in appendix D.5 of the BC Code or an equivalent test satisfactory to the Administration of the country of origin.

(c) Prior to loading fertilizer to which this section applies—

(1) The shipper must provide the master of the vessel with a written certification that the ammonium nitrate fertilizer has met the test requirements of paragraph (b) of this section;

(2) The cargo hold must be inspected for cleanliness and must be free from readily combustible materials;

(3) Each cargo hatch must be weathertight as defined in § 42.13–10 of this chapter;

(4) The temperature of the fertilizer must be less than 55 °C (131 °F); and

(5) Each fuel tank situated under a cargo hold where the fertilizer is to be stowed must be pressure tested to ensure that there is no leakage of manholes or piping systems leading through the cargo hold.

(d) Bunkering or transferring of fuel may not be performed during cargo loading and unloading operations

involving fertilizer to which this section applies.

(e) When a fertilizer to which this section applies is transported on a cargo vessel—

(1) No other material may be stowed in the same hold with the fertilizer;

(2) In addition to the segregation requirements in § 148.140, the fertilizer must be separated by a complete cargo compartment or hold from readily combustible materials, chlorates, chlorides, chlorites, hypochlorites, nitrites, permanganates, and fibrous materials; and

(3) The bulkhead between a cargo hold containing the fertilizer and the engine room must be insulated to "A–60" class division or an equivalent arrangement to the satisfaction of the cognizant Coast Guard Captain of the Port or the Administration of the country of shipment.

§ 148.220 Ammonium nitrate-phosphate fertilizer.

(a) This section applies to the stowage and transportation of uniform, nonsegregating mixtures of nitrogen/phosphate or nitrogen/potash type fertilizers, or complete fertilizers of nitrogen/phosphate/potash type containing not more than 70% of ammonium nitrate and containing not more than 0.4% total added combustible material or containing not more than 45% ammonium nitrate with unrestricted combustible material.

(b) This part does not apply to a fertilizer mixture described in paragraph (a) of this section if—

(1) When tested in the trough test prescribed in Appendix D.4 of the BC code, it is found to be free from the risk of self-sustaining decomposition; and

(2) It does not contain an excess of nitrate calculated as potassium nitrate above the nitrate calculated as ammonium nitrate greater than 10% by weight of the mixture.

(c) No fertilizer to which this section applies may be transported in bulk if, when tested in the trough test prescribed in Appendix D.4 of the BC code, it has a self-sustaining decomposition rate that is greater than 0.25 m/h, or is liable to self-heating sufficient to initiate decomposition.

(d) Fertilizers to which this section applies must be stowed away from all sources of heat; and out of direct contact with a metal engine compartment boundary.

(e) Bunkering or transferring of fuel may not be performed during cargo loading and unloading operations involving fertilizer to which this section applies.

(f) Fertilizer to which this section applies must be segregated as prescribed in §§ 148.140 and 148.220(d).

§ 148.225 Calcined pyrites (pyritic ash, fly ash).

(a) This part does not apply to the shipment of calcined pyrites (pyritic ash, fly ash) that are the residual ash of oil or coal fired power stations.

(b) This section applies to the stowage and transportation of calcined pyrites (pyritic ash, fly ash) that are the residual product of sulfuric acid production or elemental metal recovery operations.

(c) Prior to loading calcined pyrites to which this section applies—

(1) The cargo space must be as clean and dry as reasonably practicable;

(2) The calcined pyrites must be dry; and

(3) Precautions must be taken to prevent the penetration of calcined pyrites into other cargo spaces, bilges, wells, and ceiling boards.

(d) After calcined pyrites to which this section applies have been unloaded from a cargo space, the cargo space must be thoroughly cleaned, preferably by hosing it down and drying it completely.

§ 148.227 Calcium nitrate fertilizers.

This part does not apply to commercial grades of calcium nitrate fertilizers consisting mainly of a double salt (calcium nitrate and ammonium nitrate) and containing not more 15.5% nitrogen and at least 12% of water.

§ 148.230 Lime, unslaked (calcium oxide).

(a) When transported by barge, unslaked lime (calcium oxide), must be carried in an unmanned, all steel, double-hulled barge equipped with weathertight hatches or covers. The barge must not carry any other cargo while unslaked lime (calcium oxide) is on board.

(b) The shipping paper requirements in § 148.60 and the dangerous cargo manifest requirements in § 148.70 do not apply to the transportation of unslaked lime (calcium oxide) under paragraph (a) of this section.

§ 148.235 Castor beans.

(a) This part applies only to the stowage and transportation of whole castor beans. Castor meal, castor pomace, and castor flakes may not be shipped in bulk.

(b) Persons handling castor beans shall wear dust masks and goggles.

(c) Care must be taken to prevent dust generated during cargo transfer operations of castor beans from entering accommodation, control or service spaces.

§ 148.240 Coal.

(a) The electrical equipment on each vessel carrying coal must meet the requirements of part 111, subpart 111.105 of this chapter or an equivalent standard approved by the administration of the vessel's flag state.

(b) Prior to loading, each cargo hold in which coal is to be stowed must be free of any readily combustible material, including the residue of previous cargoes.

(c) The master of each vessel carrying coal shall ensure that—

(1) The coal is not stowed adjacent to hot areas;

(2) The surface of the coal is trimmed to a reasonable level to the boundary bulkheads;

(3) Each casing leading into the cargo hold and all other openings to the cargo hold are sealed prior to loading the coal, and that, unless the coal is as described in paragraph (f) of this section, the hatches are sealed after the coal is trimmed;

(4) As far as reasonably practicable, no gases which may be emitted by the coal accumulate in enclosed working spaces such as storerooms, shops, or passageways, and that such spaces are adequately ventilated.

(5) The vessel has adequate ventilation as required by paragraph (f) of this section; and

(6) If paragraph (e) of this section requires the temperature of the coal to be monitored—

(i) The temperature of the coal to be loaded does not, at the time of loading exceed 15°C (27°F) above the ambient temperature or 41°C (105°F) whichever is greater; and

(ii) The vessel has on board appropriate instruments for measuring the temperature of the cargo in the range 0°–100°C (32°–212°F) without requiring entry into the cargo hold.

(d) A cargo hold containing coal must not be ventilated unless the conditions of paragraph (f) of this section are met, or unless methane is detected under paragraph (h) of this section.

(e) If the shipper, terminal operator, or the master of the vessel has any information pertaining to the coal that indicates that the coal to be loaded has been handled in such a manner as to increase its susceptibility to self-heating, has a history of self-heating, or has been observed to be heating, the temperature of the coal must be monitored prior to loading. The monitoring must be at intervals sufficient to determine whether the temperature of the coal is increasing.

(f) If the shipper, terminal operator, or the master of the vessel has any information pertaining to the coal that

indicates that the coal to be loaded, is freshly mined, or has a history of emitting dangerous amounts of methane, then surface ventilation, either natural or from fixed or portable nonsparking fans, must be provided.

(g) Electrical equipment and cables in a hold containing a coal described in paragraph (f) of this section must be suitable for use in an explosive gas atmosphere, or must be deenergized at a point remote from the hold. Electrical equipment and cables necessary for continuous safe operations, such as lighting fixtures, may not be deenergized. The master of the vessel shall ensure that the affected equipment and cables remain deenergized as long as this coal remains in the hold.

(h) For all coal loaded on a vessel, other than an unmanned barge, for a voyage with a duration of more than 72 hours, the atmosphere above the coal must be routinely tested for the presence of methane, carbon monoxide and oxygen. This testing must be performed in such a way that the cargo hatches are not opened and entry into the hold is not necessary.

(i) When carrying a coal described in paragraph (e) of this section, the atmosphere above the coal must be monitored for the presence of carbon monoxide as prescribed in paragraph (h) of this section. The results of this monitoring must be recorded at least twice in every 24 hour period, unless the conditions of paragraph (n) of this section are met. If the level of carbon monoxide is increasing rapidly or reaches 30% of the LFL, the frequency of monitoring must be increased.

(j) When carrying a coal described in paragraph (e) of this section, or when observation of the cargo hold indicates that the temperature of the coal is rising, the temperature should be measured at regular time intervals sufficient to determine whether the temperature of the coal is increasing.

(k) If the level of carbon monoxide monitored in accordance with paragraph (i) of this section continues to increase rapidly or the temperature of coal carried on board a vessel exceeds 55°C (131°F) and is increasing rapidly, the master must notify the nearest Coast Guard Captain of the Port of—

(1) The name, nationality, and position of the vessel;

(2) The most recent temperature and levels of carbon monoxide and methane;

(3) The port where the coal was loaded and the destination of the coal;

(4) The last port of call of the vessel and its next port of call; and

(5) What action has been taken.

(l) When carrying a coal described in paragraph (f) of this section, the atmosphere above the coal must be monitored for the presence of methane as prescribed in paragraph (h) of this section. The results of this monitoring must be recorded at least twice in every 24 hour period, unless the conditions of paragraph (n) of this section are met.

(m) If the level of methane as monitored in accordance with paragraph (h) of this section reaches 30% of the LFL or is increasing rapidly, ventilation of the cargo hold, as required by paragraph (f) of this section, must be initiated. If this ventilation is provided by opening the cargo hatches, care must be taken to avoid generating sparks.

(n) The frequency of monitoring required by paragraph (l) of this section may be reduced at the discretion of the master provided that—

(1) The level of gas measured is less than 30% of the LFL;

(2) The level of gas measured has remained steady or decreased over three consecutive readings; or has increased by less than 5% over four consecutive readings, spanning at least 48 hours; and

(3) Monitoring continues at intervals sufficient to determine that the level of gas remains within the parameters of paragraphs (n)(1) and (n)(2) of this section.

§ 148.245 Direct reduced iron (DRI); lumps, pellets and cold-molded briquets.

(a) Before loading DRI lumps, pellets, or cold-molded briquets—

(1) The master must have a written certification from the National Cargo Bureau or a competent person appointed by the shipper and recognized by the Commandant (G–MTH) that the DRI, at the time of loading, is suitable for shipment;

(2) The DRI must be aged for at least 72 hours, or be treated with an air passivation technique or some other equivalent method that reduces its reactivity to at least the same level as the aged DRI; and

(3) Each hold and bilge must be as clean and dry as reasonably practicable. Where possible, adjacent ballast tanks, other than double bottom tanks, must be kept empty. All wooden fixtures, such as battens, must be removed from the hold.

(b) Each boundary of a hold where DRI lumps, pellets, or cold-molded briquets are to be carried must be resistant to fire and passage of water.

(c) Except as provided in paragraph (f)(2) of this section, DRI lumps, pellets, or cold-molded briquets that are wet, or that are known to have been wetted, may not be accepted for transport.

(d) DRI lumps, pellets and cold-molded briquets must be protected at all times from contact with water, and must not be loaded or transferred from one vessel to another during periods of rain or snow.

(e) DRI lumps, pellets, or cold-molded briquets may not be loaded if their temperature is greater than 65°C (150°F).

(f) The shipper shall specify one of the two following methods for the shipment of DRI lumps, pellets, and cold-molded briquets in bulk:

(1) Maintenance throughout the voyage of an inert atmosphere containing less than 5% oxygen, and less than 1% hydrogen by volume, in any hold containing DRI lumps, pellets, or cold-molded briquets.

(2) Manufacture or treatment of the DRI lumps, pellets, or cold-molded briquets with an oxidation and corrosion inhibiting process which has been proven, to the satisfaction of the Commandant (G–MTH), to provide effective protection against dangerous reaction with seawater or air under shipping conditions.

(g) When carbon dioxide is used to inert a cargo hold containing DRI lumps, pellets, or cold-molded briquets, no person may enter that hold until it has been tested and found to be free from carbon monoxide and to contain sufficient oxygen to support life.

(h) Paragraph (f) of this section does not apply to—

(1) A voyage which meets the definition of "short international voyage" in § 70.10–43 of this chapter; or

(2) A voyage made entirely on the navigable waters of the U.S.

(i) When DRI lumps, pellets, or cold-molded briquets are loaded, precautions must be taken to avoid the concentration of fines (pieces less than 4mm. in size) in any one location in the cargo hold.

(j) Radar and RDF scanners must be protected against the dust generated during cargo transfer operations of DRI lumps, pellets, or cold-molded briquets.

§ 148.250 Direct reduced iron (DRI); hot molded briquets.

(a) Before loading DRI hot-molded briquets—

(1) The master must have a written certification from the National Cargo Bureau or a competent person appointed by the shipper and recognized by the Commandant (G–MTH) that the DRI hot molded briquets, at the time of loading, are suitable for shipment; and

(2) Each hold and bilge must be as clean and dry as reasonably practicable. Where possible, adjacent ballast tanks, other than double bottom tanks, must be kept empty. All wooden fixtures, such as battens, must be removed.

(b) Each boundary of a hold in which DRI hot-molded briquets are to be carried must be resistant to fire and passage of water.

(c) DRI hot-molded briquets must be protected at all times from contact with water, and must not be loaded or transferred from one vessel to another during periods of rain or snow.

(d) DRI hot-molded briquets may not be loaded if their temperature is greater than 65°C (150°F).

(e) When loading DRI hot-molded briquets, precautions must be taken to avoid the concentration of fines (pieces less than 4mm. in size) in any one location in the cargo hold.

(f) Adequate surface ventilation must be provided when carrying or loading DRI hot-molded briquets.

(g) When DRI hot-molded briquets are carried by unmanned barge:

(1) The barge must be fitted with vents adequate to provide natural ventilation; and

(2) The cargo hatches must be closed at all times after loading the DRI hot-molded briquets.

(h) Radar and RDF scanners must be adequately protected against dust generated during cargo transfer operations of DRI hot-molded briquets.

(i) During final discharge only, a fine spray of water may be used to control dust from DRI hot-molded briquets.

§ 148.255 Ferrosilicon, aluminum ferrosilicon, and aluminum silicon, containing more than 30% but less than 90% silicon.

(a) This part applies to the stowage and transportation of ferrosilicon, aluminum ferrosilicon, and aluminum silicon, containing more than 30% but less than 90% silicon.

(b) The shipper of material described in paragraph (a) of this section shall provide the master with a written certification stating that after manufacture the material was stored under cover, but exposed to the weather, in the particle size in which it is to be shipped, for not less than three days prior to shipment.

(c) Material described in paragraph (a) of this section must be protected at all times from contact with water, and must not be loaded or unloaded during periods of rain or snow.

(d) Except as provided in paragraph (e) of this section, each hold containing material described in paragraph (a) of this section must be ventilated by at least two separate fans. The total ventilation must be at least five air changes per hour, based on the empty hold. Ventilation must be such that no escaping gas can reach accommodation or work spaces, on or under deck.

(e) An unmanned barge which is provided with natural ventilation need not comply with paragraph (d) of this section.

(f) Each space adjacent to a hold containing material described in paragraph (a) of this section must be well ventilated with mechanical fans. No person may enter that space unless it has been tested to ensure that it is free from phosphine and arsine gases.

(g) Scuttles and windows in accommodation and work spaces adjacent to holds containing material described in paragraph (a) of this section must be kept closed while this material is being loaded and unloaded.

(h) Each cargo hold bulkhead containing material described in paragraph (a) of this section adjacent to accommodation and work spaces must be gas tight and adequately protected against damage from any unloading equipment.

(i) When a hold containing material described in paragraph (a) of this section is equipped with atmosphere sampling type smoke detectors with lines that terminate in accommodation or work spaces, those lines must be blanked off gas-tight.

(j) If a hold containing material described in paragraph (a) of this section must be entered at any time, the hatches must be open for two hours prior to entry to dissipate any accumulated gases. The atmosphere in the hold must be tested to ensure that there is no phosphine or arsine gas present.

(k) After unloading material described in paragraph (a) of this section, each cargo hold must be thoroughly cleaned and must be tested to ensure that no phosphine or arsine gas remains.

§ 148.260 Ferrous metal.

(a) This part does not apply to the stowage and transportation in bulk of stainless steel borings, shavings, turnings, or cuttings; nor does this part apply to an unmanned barge on a voyage entirely on the navigable waters of the United States.

(b) Ferrous metal may not be stowed or transported in bulk unless the following conditions are met:

(1) All wooden sweat battens, dunnage and debris must be removed from the hold before the ferrous metal is loaded.

(2) During loading and transporting, the bilge of each hold in which ferrous metal is stowed or will be stowed must be kept as dry as practical.

(3) During loading, the ferrous metal must be compacted in the hold as frequently as practicable with a bulldozer or other means that provides equivalent surface compaction.

(4) No other material may be loaded in a hold containing ferrous metal unless—

(i) The material to be loaded in the same hold with the ferrous metal is not a material listed in table 148.10 of this part or a readily combustible material;

(ii) The loading of the ferrous metal is completed first; and

(iii) The temperature of the ferrous metal in the hold is below 55°C (131°F) or has not increased in eight hours prior to the loading of the other material.

(5) During loading, the temperature of the ferrous metal in the pile being loaded must be below 55°C (131°F).

(6) Upon completion of loading the vessel may not leave the port unless—

(i) The temperature of the ferrous metal in each hold is less than 65°C (150°F) and, if the temperature of the ferrous metal in a hold has been more than 65°C (150°F) during loading, the temperature of ferrous metal has shown a downward trend for at least eight hours after completion of loading of the hold; or

(ii) The vessel intends to sail directly to another port that is no farther than 12 hours sailing time for the vessel concerned, for the purpose of loading more ferrous metal in bulk or to completely off-load the ferrous metal, and the temperature of the ferrous metal is less than 88°C (190°F) and has shown a downward trend for at least eight hours after the completion of loading.

(c) The master of a vessel that is loading or transporting a ferrous metal shall ensure that the temperature of the ferrous metal is taken—

(1) Before loading;

(2) During loading, in each hold and pile being loaded at least every twenty-four hours and, if the temperature is rising, as often as is necessary to ensure that the requirements of this section are met; and

(3) After loading, in each hold, at least every twenty-four hours.

(d) During loading, if the temperature of the ferrous metal in a hold is 93°C (200°F) or higher, the master or person in charge of the vessel shall notify the Coast Guard Captain of the Port and suspend loading until the Captain of the Port is satisfied that the temperature of the ferrous metal is 88°C (190°F) or less.

(e) After loading ferrous metal—

(1) If the temperature of the ferrous metal is 65°C (150°F) or above, the master shall notify the Coast Guard Captain of the Port, and ensure that the vessel remains in the port area until the Captain of the Port is satisfied that the conditions of paragraph (b)(6)(i) of this section are met; or

(2) In the case of a short duration voyage to which paragraph (b)(6)(ii) of this section applies, where the temperature of the ferrous metal in a hold is 88°C (190°F) or above, the master of the vessel or person in charge of the barge shall notify the Captain of the Port, and ensure that the vessel remains in the port area until the Captain of the Port is satisfied that the conditions of paragraph (b)(6)(ii) of this section are met.

(f) Except for shipments of ferrous metal in bulk which leave the port of loading under the conditions specified in paragraph (b)(6)(ii) of this section, if after the vessel leaves the port, the temperature of the ferrous metal in the hold rises above 65°C (150°F), the master shall notify the nearest Coast Guard Captain of the Port as soon as possible of—

(1) The name, nationality, and position of the vessel;

(2) The most recent temperature taken;

(3) The length of time that the temperature has been above 65°C (150°F) and the rate of rise, if any;

(4) The port where the ferrous metal was loaded and the destination of the ferrous metal;

(5) The last port of call of the vessel and its next port of call;

(6) What action has been taken; and

(7) Whether any other cargo is endangered.

§ 148.265 Fish meal or fish scrap.

(a) This part does not apply to fish meal or fish scrap that contains less than 5% moisture by weight.

(b) Fish meal or fish scrap may contain not more than 12% moisture by weight and not more than 15% fat by weight.

(c) At the time of production, fish meal or fish scrap must be treated with an effective antioxidant (at least 400 mg/kg (ppm) ethoxyquin or at least 1000 mg/kg (ppm) butylated hydroxytoluene).

(d) Shipment of the fish meal or fish scrap must take place not more than 12 months after the treatment prescribed in paragraph (c) of this section.

(e) Fish meal or fish scrap must contain at least 100 mg/kg (ppm) antioxidant at the time of shipment.

(f) At the time of loading, the temperature of the fish meal or fish scrap to be loaded may not exceed 35°C (95°F), or 5°C (8°F) above the ambient temperature, whichever is higher.

(g) For each shipment of fish meal or fish scrap, the shipper shall provide the master with a written certification that states—

(1) Total weight of the shipment;

(2) The moisture content of the material;

(3) The fat content of the material;

(4) The concentration of the antioxidant (ethoxyquin or butylated hydroxytoluene) at the time of shipment;

(5) The date of production of the material; and

(6) The temperature of the material at the time of shipment.

(h) During a voyage, temperature readings must be taken of fish meal or fish scrap three times a day and recorded. If the temperature of the material exceeds 55°C (131°F) and continues to increase, ventilation to the hold must be restricted.

§ 148.270 Hazardous substances.

(a) Each bulk shipment of a hazardous substance must—

(1) Be assigned a shipping name in accordance with 49 CFR 172.203(c); and

(2) If the hazardous substance is also listed as a hazardous solid waste in 40 CFR part 261, be in compliance with the applicable requirements of 40 CFR chapter I, subchapter I.

(b) Each release of a quantity of a hazardous substance in excess of its RQ must be reported as required in subpart B of 33 CFR part 153.

(c) A hazardous substance must be stowed in a hold or barge which is effectively closed or covered to prevent dispersal of the material during transportation.

(d) During cargo transfer operations, dispersal of a hazardous substance into the surrounding environment, including the water, must be minimized to the maximum extent possible. Each spill must be reported as required in paragraph (b) of this section.

(e) After a hazardous substance is unloaded, the hold in which it was carried must be cleaned thoroughly and the residue of the substance must be disposed of in accordance with the applicable regulations of 40 CFR chapter I, subchapter I.

§ 148.275 Iron oxide, spent; iron sponge, spent.

(a) Before spent iron oxide or spent iron sponge is loaded in a closed hold, the shipper must provide the master with a written certification that the material has been cooled and weathered for not less than eight weeks.

(b) Both spent iron oxide and spent iron sponge may be transported on all-steel barges having open holds after exposure to air for a period of not less than ten days.

§ 148.280 Magnesia, unslaked (lightburned magnesia, calcined magnesite, caustic calcined magnesite).

(a) When transported by barge, magnesia, unslaked, must be carried in unmanned, all-steel, double-hulled barges equipped with weathertight hatches or covers. The barge may not carry any other cargo while unslaked magnesia is on board.

(b) The shipping paper requirements in § 148.60 and the dangerous cargo manifest requirements in § 148.70 do not apply to the transportation of magnesia, unslaked, transported in accordance with the requirements of paragraph (a) of this section.

(c) This part does not apply to the transport of natural magnesite, magnesium carbonate, or magnesia clinkers.

§ 148.285 Metal sulfide concentrates.

(a) Prior to loading a metal sulfide concentrate, the shipper shall provide the master of the vessel or person in charge of the barge with detailed information concerning any specific hazards based on the history of the specific metal sulfide concentrate to be loaded, and precautions to be followed when transporting that concentrate.

(b) Except when the metal sulfide concentrate is carried by unmanned barge, where the information provided by the shipper in accordance with paragraph (a) of this section indicates that the metal sulfide concentrate may generate toxic or flammable gases, the appropriate gas detection equipment as specified in §§ 148.415 and 148.420 must be on board the vessel.

(c) After loading, a metal sulfide concentrate must be trimmed reasonably level to the boundaries of the cargo hold.

(d) No cargo hold containing a metal sulfide concentrate may be ventilated.

(e) No person may enter a hold containing a metal sulfide concentrate unless—

(1) The atmosphere in the cargo hold has been tested and contains sufficient oxygen to support life; and

(2) Where the shipper indicates that toxic gas(es) may be generated, the atmosphere in the cargo hold has been tested for the toxic gas(es) and the concentration of the gas(es) is found to be less than the TLV; or

(3) An emergency situation exists and the person entering the cargo hold is wearing the appropriate self-contained breathing apparatus.

§ 148.295 Petroleum coke, calcined or uncalcined, at 55°C (131°F) or above.

(a) This part does not apply to shipments of petroleum coke, calcined or uncalcined, on any vessel when the temperature of the material is less than 55°C (131°F).

(b) Petroleum coke, calcined or uncalcined, or a mixture of calcined and

uncalcined petroleum coke may not be loaded when its temperature exceeds 107°C (225°F).

(c) No other hazardous materials may be stowed in any hold adjacent to a hold containing petroleum coke except as provided in paragraph (d) of this section.

(d) In a hold over a tank containing fuel or material having a flashpoint of less than 93°C (200°F), before petroleum coke at 55°C (131°F) or above may be loaded into that hold, a 0.6 to 1.0 meter (2 to 3 foot) layer of the petroleum coke at a temperature not greater than 43°C (110°F) must first be loaded.

(e) Petroleum coke must be loaded as follows:

(1) For a shipment in a hold over a fuel tank, the loading of a cooler layer of petroleum coke in the hold as required by paragraph (d) of this section must be completed prior to loading the petroleum coke at 55°C (131°F) or above in any hold of the vessel.

(2) Upon completion of the loading described in paragraph (e)(1) of this section, a 0.6 to 1.0 meter (2 to 3 foot) layer of the petroleum coke at 55°C (131°F) or above must first be loaded into each hold, including those holds, if any, already containing a cooler layer of the petroleum coke.

(3) Upon completion of the loading described in paragraph (e)(2) of this section, normal loading of the petroleum coke may proceed to completion.

(f) The master of the vessel shall warn members of a crew that petroleum coke loaded and transported under the terms of this section is hot, and that injury due to burns is possible.

§ 148.300 Radioactive material; low specific activity.

Except as authorized under § 148.305, radioactive materials that may be stowed or transported in bulk are limited to those radioactive materials defined as low specific activity materials in 49 CFR 173.403(n).

§ 148.305 Radioactive material; surface contaminated objects.

Solid objects of nonradioactive material having radioactive material distributed on their surfaces are authorized for shipment only if—

(a) The nonfixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 0.0001 microcurie/cm^2 (4.0 Bq/cm^2) for beta and gamma emitters and low toxicity alpha emitters, or 10^{-5} microcurie/cm^2 (0.4 Bq/cm^2) for alpha emitters;

(b) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 1.0 microcurie/cm^2 (40,000 Bq/cm^2) for beta and gamma emitters and low toxicity alpha emitters, or 0.1 microcurie/cm^2 (4,000 Bq/cm^2) for alpha emitters; and

(c) The nonfixed contamination plus the fixed contamination on the inaccessible surface, averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 1.0 microcurie/cm^2 (40,000 Bq/cm^2) for beta and gamma emitters or 0.1 microcurie/cm^2 (4,000 Bq/cm^2) for alpha emitters.

§ 148.310 Seed cake.

(a) Seed cake, except as provided in paragraphs (h) and (i) of this section, must be carried in accordance with paragraphs (b) through (g) of this section.

(b) Prior to loading, the seed cake must be aged in accordance with the instructions of the shipper.

(c) If the seed cake is solvent extracted, it must be—

(1) Free from flammable solvent as far as reasonably practicable; and

(2) Stowed in a mechanically ventilated hold.

(d) Prior to loading, the shipper must provide the master of the vessel or person in charge of the barge with a certificate from a competent testing laboratory stating the oil and moisture content of the seed cake.

(e) The seed cake must be kept as dry as reasonably practicable at all times.

(f) For a voyage with a planned duration greater than 5 days, the vessel must be equipped with facilities for introducing carbon dioxide or another inert gas into the hold.

(g) Temperature readings must be taken at least once in every 24 hour period. If the temperature of the seed cake exceeds 55°C (131°F) and continues to increase, ventilation to the cargo hold must be discontinued. If heating continues after ventilation has been discontinued, carbon dioxide or the inert gas required under paragraph (f) of this section must be introduced into the hold; except, if the seed cake is solvent extracted, the use of inert gas must not be introduced until fire is apparent to avoid the possibility of igniting the solvent vapors by the generation of static electricity.

(h) Seed cake must be carried in accordance with the terms of a Special Permit issued by the Commandant (G-MTH) in accordance with subpart B of this part if—

(1) The oil was mechanically expelled; and

(2) It contains more than 10% vegetable oil or more than 20% vegetable oil and moisture combined.

(i) This part does not apply to solvent extracted rape seed meal pellets or soya bean meal that—

(1) Contains not more than 4% vegetable oil and not more than 15% vegetable oil and moisture combined; and

(2) As far as reasonably practicable, is free from flammable solvent.

§ 148.315 Sulfur.

(a) This part applies to sulfur in the form of lumps or coarse-grain powder only. Fine-grained powder ("flowers of sulfur") may not be transported in bulk.

(b) After the loading or unloading of sulfur to which this part applies has been completed, the vessel's decks, bulkheads, and overheads, if containing sulfur dust, must be swept clean or washed down with fresh water.

(c) A cargo space that contains sulfur or the residue of a sulfur cargo must be adequately ventilated, preferably by mechanical means. Each ventilator intake must be fitted with a spark-arresting screen.

§ 148.320 Tankage; garbage tankage; rough ammonia tankage; or tankage fertilizer.

(a) This part applies to rough ammonia tankage in bulk that contains 7% or more moisture by weight and garbage tankage and tankage fertilizer that contain 8% or more moisture by weight.

(b) Tankage to which this part applies may not be loaded in bulk if its temperature exceeds 38°C (100°F).

(c) During the voyage, the temperature of the tankage must be monitored at intervals sufficient to detect spontaneous heating.

§ 148.325 Wood chips; wood pulp pellets.

(a) This part applies to wood chips and wood pulp pellets in bulk that are subject to oxidation leading to depletion of oxygen and an increase in carbon dioxide in the cargo hold.

(b) No person may enter a cargo hold containing wood chips or wood pulp pellets, unless—

(1) The atmosphere in the cargo hold has been tested and contains sufficient oxygen to support life; or

(2) The person entering the cargo hold is wearing the appropriate self-contained breathing apparatus.

§ 148.330 Zinc ashes; zinc dross; zinc residues; zinc skimmings.

(a) The shipper shall inform the cognizant Coast Guard Captain of the Port in advance of any cargo transfer operations involving zinc ashes, zinc dross, zinc residues, or zinc skimmings (zinc material) in bulk.

(b) Zinc material must be aged by exposure to the elements for at least one year prior to shipment in bulk.

(c) Prior to loading in bulk, zinc must be stored under cover for a sufficient period of time to ensure that it is as dry as reasonably practicable. No zinc material that is wet may be accepted for shipment.

(d) Zinc material may not be loaded in bulk if its temperature is greater than 11.1°C (20°F) in excess of the ambient temperature.

(e) Paragraphs (e)(1) through (e)(5) of this section apply only when zinc materials are carried by a manned cargo vessel:

(1) Zinc material in bulk must be stowed in a mechanically ventilated hold which—

(i) Is designed for at least one complete air change every 30 minutes based on the empty hold;

(ii) Has explosion-proof motors approved for use in Class I, Division 1, Group B atmospheres or equivalent motors approved by the vessel's flag state administration for use in hydrogen atmospheres; and

(iii) Has nonsparking fans.

(2) Each hold into which zinc material is to be loaded must be fitted with permanently installed combustible gas detectors capable of measuring hydrogen concentrations of 0 to 4.1% by volume. If the concentration of hydrogen in the space above the cargo exceeds 1% by volume, the ventilation system must be run until the concentration drops below 1% by volume.

(3) Thermocouples must be installed approximately 6 inches below the surface of the zinc material or in the space immediately above the zinc material. If an increase in temperature is detected, the mechanical ventilation system required by paragraph (d) of this section must be used until the temperature of the zinc material is below 55 °C (131 °F).

(4) Except as provided in paragraph (e)(5) of this section, the cargo hatches of holds containing zinc material must remain sealed to prevent the entry of seawater.

(5) If the concentration of hydrogen is near 4.1% by volume and increasing, despite ventilation, or the temperature of the zinc material reaches 65°C (150°F) and the weather and sea conditions allow, the cargo hatches must be opened, taking care to prevent sparks and minimize the entry of water.

Subpart F—Additional Special Requirements

§ 148.400 Applicability.

The requirements of this subpart apply only to the shipment or loading of a material listed in table 148.10 of this part with a reference to a section or paragraph of this subpart.

§ 148.405 Sources of ignition.

(a) Except in an emergency, no welding, burning, cutting, chipping or other operations involving the use of fire, open flame, spark or arc producing equipment, may be performed in a cargo hold containing a material to which this paragraph applies under table 148.10 or in an adjacent space.

(b) Welding, burning, cutting, chipping or other operations involving the use of fire, open flame, spark or arc producing equipment, may be performed in a cargo hold containing a material to which this paragraph applies under table 148.10 of this part or in an adjacent space when approved by the master of the vessel after the hold or adjacent space has been tested to ensure that the concentration of any flammable gas that may be present does not exceed 10 percent of the LFL.

§ 148.407 Smoking.

When a material that is listed in table 148.10 of this part with a reference to this section is being loaded or unloaded, smoking is prohibited anywhere on board the vessel. While such a material is on board the vessel, smoking is prohibited in spaces adjacent to the cargo hold and on the vessel's deck in the vicinity of cargo hatches, ventilator outlets and other accesses to the hold containing the material. "NO SMOKING" signs must be displayed in conspicuous locations in the areas where smoking is prohibited.

§ 148.410 Fire hoses.

A fire hose, supplied with fresh water from a shore supply source, must be available at each hatch through which a material that is listed in table 148.10 of this part with a reference to this section is being loaded. When the material is being transferred between vessels, the hoses may be supplied with salt water if no fresh water is available.

§ 148.415 Toxic gas analyzers.

When transporting a material that is listed in table 148.10 of this part with a reference to a paragraph of this section, a gas analyzer appropriate for the toxic gas listed in that paragraph must be on board the vessel, except for unmanned barges. At least two members of the crew must be knowledgeable in the use of the equipment, which must be maintained in a condition ready for use. The atmosphere in the cargo hold and adjacent spaces must be tested before a person is allowed to enter these spaces. If toxic gases are detected, the space must be ventilated and retested prior to entry. The toxic gases for which the requirements of this section must be met when a paragraph of this section is referenced in table 148.10 of this part are as follows:

(a) Arsine.
(b) Carbon monoxide.
(c) Hydrogen cyanide.
(d) Hydrogen sulfide.
(e) Phosphine.
(f) Sulfur dioxide.

§ 148.420 Flammable gas analyzers.

When transporting a material listed in table 148.10 of this part with a reference to a paragraph of this section, a gas analyzer appropriate for the flammable gas listed in that paragraph must be on board the vessel, except for unmanned barges. At least two members of the crew must be knowledgeable in the use of the equipment, which must be maintained in a condition ready for use and capable of measuring 0–100% LFL for the gas indicated. The atmosphere in the cargo hold must be tested before any person is allowed to enter. If flammable gases are detected, the space must be ventilated and retested prior to entry. The flammable gases for which the requirements of this section must be met when a paragraph of this section is referenced in table 148.10 of this part are as follows:

(a) Carbon monoxide.
(b) Hydrogen.
(c) Methane.

§ 148.425 Oxygen analyzers.

When transporting material that is listed in table 148.10 of this part with a reference to this section, equipment capable of measuring atmospheric oxygen must be carried on board the vessel, except for unmanned barges. At least two members of the crew must be knowledgeable in the use of the equipment, which must be maintained in a condition ready for use. Before any person is allowed to enter the cargo space, the atmosphere in the space must be tested to ensure that there is sufficient oxygen to support life. If the oxygen content is below 19.5% the space must be ventilated and retested prior to entry.

§ 148.430 Self-contained breathing apparatus.

When transporting a material that is listed in table 148.10 of this part with a reference to this section, each U.S. flag vessel, except an unmanned barge, must

have on board at least two self-contained, pressure-demand-type, air breathing apparatus approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH), each having at least a thirty minute air supply. Each foreign flag vessel must have on board at least two such apparatus that are approved by the flag state administration. This apparatus must be in addition to that required to be part of the vessel's firemen's outfit under 46 CFR part 96, subpart 96.35 or by the flag state administration. The master shall ensure that the breathing apparatus is used only by persons trained in its use.

§ 148.435 Electrical circuits in cargo holds.

When transporting a material that is listed in table 148.10 of this part with a reference to this section, each electrical circuit terminating in a cargo hold containing the material must be electrically disconnected from the power source at a point outside of the cargo hold. The point of disconnection must be marked to prevent the circuit from being reenergized while the material is on board.

§ 148.440 Stowage precautions.

When transporting a material listed in table 148.10 of this part with a reference to a paragraph of this section, the following precautions contained in the referenced paragraph must be taken:

(a) The material must be stowed in a mechanically ventilated hold.

(b) Precautions must be taken to minimize exposure of persons to dust generated by the cargo.

(c) Suspension of the cargo dust in the air constitutes an explosive atmosphere; precautions must be taken to prevent ignition of the cargo dust.

§ 148.445 Adjacent spaces.

When transporting a material listed in table 148.10 of this part with a reference to this section the following requirements must be met:

(a) Each space adjacent to a cargo hold must be ventilated by natural ventilation or by ventilation equipment safe for use in an explosive gas atmosphere.

(b) Except for a cargo hold containing coal on a voyage with a duration of 72 hours or less, each space adjacent to a cargo hold containing the material must be regularly monitored for the presence of the flammable gas indicated by reference to § 148.420. If the level of flammable gas in any space reaches 30% of the LFL all electrical equipment that is not certified safe for use in an explosive gas atmosphere must be deenergized at a location outside of that space. This location must be labeled to prohibit reenergizing until the atmosphere in the space is tested and found to be less than 30% of the LFL.

(c) Each person who enters any space adjacent to a cargo hold or compartment containing the material must wear a self-contained breathing apparatus unless—

(1) The space has been tested, or is routinely monitored, for the appropriate flammable gas and oxygen;

(2) The level of flammable gas is less than 10% of the LFL;

(3) The level of toxic gas, if required to be tested, is less than the TLV; and

(4) The concentration of oxygen is at least 19.5%.

(d) Except in an emergency, no person may enter an adjacent space if the level of flammable gas is greater than 30% of the LFL. If emergency entry is necessary, each person who enters the space must wear a self-contained breathing apparatus and caution must be exercised to ensure that no sparks are produced.

§ 148.450 Cargoes subject to liquefaction.

(a) This section applies only to a material that is listed in table 148.10 with a reference to this section.

(b) This section does not apply to—

(1) Shipments by unmanned barge; or

(2) Coal that is not fine-particled coal.

(c) The following terms are defined as used in this section:

Cargo subject to liquefaction means a material which is subject to moisture migration and subsequent liquefaction if shipped with a moisture content in excess of the transportable moisture limit.

Moisture migration is the movement of moisture by settling and consolidation of a material, which may result in the development of a flow state in the material.

Transportable moisture limit (TML) of a cargo that may liquefy is the maximum moisture content which is considered safe for carriage on vessels.

(d) Except on a vessel that is specially constructed or specially fitted for the purpose of carrying such cargoes, a cargo subject to liquefaction may not be transported by vessel if its moisture content exceeds its TML.

(e) The shipper of a cargo subject to liquefaction shall provide the master with the material's moisture content and TML.

(f) The master of a vessel shipping a cargo subject to liquefaction shall ensure that—

(1) A cargo containing a liquid is not stowed in the same cargo space with a cargo subject to liquefaction; and

(2) Precautions are taken to prevent the entry of liquids into a cargo space containing a cargo subject to liquefaction.

(g) The moisture content and TML of a material may be determined by the tests described in appendix D.1 of the BC Code.

Dated: March 2, 1994.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

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Tuesday
April 12, 1994

Part III

Department of Justice

Office of the Attorney General
28 CFR Part 36

Architectural and Transportation Barriers Compliance Board

36 CFR Part 1191

Department of Transportation

Office of the Secretary
49 CFR Part 37

Americans With Disabilities Act Accessibility Guidelines; Detectable Warnings; Joint Final Rule

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 36

[A.G. Order No. 1852–94]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

[Docket 93–3]

RIN 3014–AA15

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 37

Americans With Disabilities Act Accessibility Guidelines; Detectable Warnings

AGENCIES: Architectural and Transportation Barriers Compliance Board, Department of Justice and Department of Transportation.

ACTION: Joint final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is conducting research during fiscal year 1994 on whether detectable warnings are needed at curb ramps and hazardous vehicular areas and their effect on persons with mobility impairments and other pedestrians. Depending on the results of this research, the Access Board may conduct additional research during fiscal year 1995 to refine the scoping provisions and technical specifications for detectable warnings at these locations. Because of the issues that have been raised about the use of detectable warnings at curb ramps and curbless entranceways to retail stores and other places of public accommodation, the Access Board, the Department of Justice, and the Department of Transportation are suspending temporarily until July 26, 1996 the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools in the Americans With Disabilities Act Accessibility Guidelines (ADAAG) so that the agencies can consider the results of the research and determine whether any changes in the requirements are warranted.

EFFECTIVE DATE: May 12, 1994.

FOR FURTHER INFORMATION CONTACT: Access Board: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. Telephone (202) 272–5434 (voice) or (202) 272–5449 (TTY).

Department of Justice: Stewart B. Oneglia, Chief, Coordination and Review Section, Civil Rights Division, Department of Justice, Post Office Box 66118, Washington, DC 20035. Telephone (202) 307–2222 (voice or TTY).

Department of Transportation: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., room 10424, Washington, DC 20590. Telephone (202) 366–9306 (voice) or (202) 755–7687 (TTY).

The telephone numbers listed above are not toll-free numbers.

This document is available in the following alternate formats: cassette tape, braille, large print, and computer disc. Copies may be obtained from the Access Board by calling (202) 272–5434 (voice) or (202) 272–5449 (TTY). The document is also available on electronic bulletin board from the Department of Justice at (202) 514–6193.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1993, the Access Board published a notice in the **Federal Register** announcing that it planned to conduct research during fiscal year 1994 on whether detectable warnings are needed at curb ramps and hazardous vehicular areas and their effect on persons with mobility impairments and other pedestrians.[1] 58 FR 37058. On the same day, the Access Board, the Department of Justice, and the Department of Transportation (hereinafter referred to as "the agencies") published a joint notice of the proposed rulemaking (NPRM) in the **Federal Register** to suspend temporarily the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) pending the research. 58 FR 37052. In issuing the NPRM, the agencies noted that blind persons and their organizations had taken differing positions regarding whether detectable warnings are needed at these locations; that persons with mobility impairments had expressed concern that installing detectable warnings on the entire length of curb ramps would adversely affect their ability to safely negotiate the sloped surfaces; and that a national association of retail stores had asserted that installing detectable warnings on curb ramps and curbless entranceways to the stores would pose a tripping hazard for their customers. The agencies stated in the NPRM that because of these potential safety issues they believed that it would be in the public interest to suspend temporarily the ADAAG requirements for detectable warnings at the locations noted above until the research provides additional information to address the issues.

Over 150 comments were received on the July 9, 1993 NPRM. Another 110 comments concerning detectable warnings were received in response to a NPRM published by the Access Board in the **Federal Register** on December 21, 1992 which proposed to reserve detectable warnings provisions for curb ramps installed in the public right-of-way by State and local governments. 58 FR 60612. The comments received in response to both the July 9, 1993 NPRM and the December 21, 1992 NPRM have been considered in this rulemaking. The comments came from blind persons and their organizations (132 comments); State and local government agencies (54 comments); manufacturers of detectable warnings (14 comments); professional and trade associations (11 comments); businesses (4 comments); organizations representing persons with mobility impairments (4 comments); mobility specialists (13 comments); and other individuals (17 comments) and entities (14 comments). About 25 persons submitted comments in response to both NPRM's.

The comments centered around three issues: whether detectable warnings are needed at curb ramps and other locations; their effect on persons with mobility impairments and other pedestrians; and their durability, maintainability, and cost. The comments are further discussed below.

Need for Detectable Warnings at Curb Ramps and Other Locations

The National Federation of the Blind (NFB), ten NFB chapters, and 31 blind individuals submitted comments supporting the proposed suspension of the ADAAG requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools.

[1] Detectable warnings are a pattern of closely spaced, small truncated domes that are built in or applied to a walking surface to alert persons who are blind or who have low vision of hazards on a circulation path. 36 CFR Part 1191, Appendix A, Section 4.29.2. Research has shown that the truncated dome pattern is highly detectable both by cane and under foot. The truncated dome pattern has been used as a detectable warning along transit platform edges for over five years by the Bay Area Rapid Transit (BART) system in California and by the Metro-Dade Transit Agency in Florida. The truncated dome pattern has also been used in Great Britain, Japan, and other countries as a detectable warning.

NFB further recommended that detectable warnings be eliminated eventually from ADAAG, including at transit platform edges. NFB asserted that blind persons are responsible for using effective travel methods (i.e., cane or guide dog) and that public policy should be based on an "individual responsibility" standard. NFB pointed out that blind persons move about safely every day without detectable warnings; and stated that fears of blind persons falling or being injured are based on emotional responses and not factual information. NFB claimed that there are sufficient cues already available in the environment to alert blind persons of hazards on a circulation path and that if only some hazards are marked by detectable warnings, the inconsistency is likely to defeat their intended purpose and could create a threat rather than an aid to safe mobility for blind persons.

The American Council of the Blind (ACB), 18 ACB chapters, the Council of Citizens with Low Vision International and two of its chapters, the Guide Dog Users of Massachusetts and Pennsylvania, the National Alliance of Blind Students, the American Foundation for the Blind, the Association for Education and Rehabilitation of the Blind and Visually Impaired, 15 other State and local organizations representing persons who are blind or who have vision impairments, 49 blind individuals, and eight mobility specialists submitted comments opposing the suspension. These commenters recounted incidents of blind persons approaching curb ramps and stepping into the street without stopping; walking into reflecting pools; and falling from transit platforms. News articles were submitted reporting the deaths of three blind persons who fell from subway platforms in Boston and New York and from a commuter rail platform in Maryland during 1993.[2] Another news article reported an incident of a blind person who was severely injured from falling in front of an oncoming train in Baltimore in December 1992.

ACB submitted a report of a recent research project which studied cues used by blind persons to detect streets. Barlow, J. and Bentzen, B.L., *Cues Blind Travelers Use to Detect Streets*, Washington, DC: American Council of the Blind (1993). Eight cities were included in the research project. In each city, ten blind persons who use canes to travel approached ten unfamiliar intersections with curb ramps without detectable warnings. They were asked to stop when they believed their next step would be into the street and to report the cues which they used to determine where to stop. Of the 80 blind persons who participated in the research project, 75% were considered good-to-excellent travellers by self-report and through assessment by orientation and mobility specialists; and two-thirds reported travelling independently a minimum of five times a week.

Of the 800 street approaches, the participants walked down the center of the curb ramps in 557 instances and stopped before the street in 360 cases (65%). Of the 22 cues reportedly used to detect the street, the two most frequently mentioned cues were the downslope of the ramp and the presence of traffic on the street perpendicular to the participant's line of travel. Other cues frequently mentioned were the upslope or texture change at the street, the end of the building line or shoreline, and the presence of traffic on the street parallel to the participant's line of travel. The participants stated that they usually used a combination of cues to identify the street.

In the 197 instances (35%) where the participants walked down the curb ramp and did not stop before the street:

- There was traffic on the street perpendicular to the participant's line of travel in 116 cases (59%). The traffic was moving in 75 cases and idling in 41 cases.
- The participants took two or more steps into the street in 151 cases (76%).

Although the participants reported the presence of the traffic on the street perpendicular to their line of travel and the upslope or texture change at the street as frequently used cues to detect the street, the research data indicate that these cues are not sufficient to consistently and dependably identify the street.[3]

The research data suggest that there is a strong relationship between the slope of the curb ramp and the detection of the street.[4]

- Where the slope was 6° or more (1:10 or more), the participants stopped before the street in 172 of 194 instances (89%).
- Where the slope was 5° (1:11 to 1:13), the participants stopped before the street in 31 of 44 instances (70%).
- Where the slope was 4° or less (1:14 or less), the participants stopped before the street in 157 of 319 instances (49%).[5]

The report made the following recommendations for additional research:

> [F]uture research could more precisely measure the curb ramps included in this project, and analyze performance with relationship to these more accurate measurements. It may be possible that ramps which have 1:12 slopes facilitate high detection rates, while ramps of lesser slopes (e.g., 1:15) may be clearly associated with low detection rates. If ramps of 1:12 facilitate high street detection rates, then it is possible that the [ADAAG] requirement for detectable warnings on curb ramps could be limited, e.g., to ramps having slopes less than 1:12. The requirement that detectable warnings extend over the entire surface of curb ramps is not supported by empirical evidence that such an extensive tactile cue is necessary to alert blind travellers to the end of a curb ramp and the beginning of a street. It is possible that a lesser amount of warning (24" or 36") may be sufficient. If so, the optimal placement of the warning still remains to be determined. Suggested locations are (1) on the lower end of the ramp, immediately adjoining the street; (2) on the upper end of the ramp; and (3) around the sides and at the top of the ramp. Dimensions and location of detectable warnings need further empirical research.

Effect of Detectable Warnings on Persons With Mobility Impairments and Other Pedestrians

Eastern Paralyzed Veterans Association, Paralyzed Veterans of America, and two State organizations representing persons with mobility impairments expressed concern that detectable warnings could have an adverse effect on persons who use wheelchairs and other mobility aids,

[2] None of the transit platform edges had detectable warnings that conform to the ADAAG requirements. The New York subway platform edge was marked by a yellow stripe and an abrasive material.

[3] The research project also analyzed participant variables such as frequency of travel, travel proficiency, cane lengthen In relation to stride length, cane technique, hearing, and organizational membership. Travel proficiency and cane technique were found to be marginally significant factors In detecting the street. The other factors were not significant.

[4] The research data also suggest that there is a strong relationship between the rate of change In slope between the walkway leading up to the curb ramp and the ramp itself. The participants had a greater rate (85%) of detecting the street were the change in slope was abrupt and a lower rate (57%) where the change in slope was gradual.

[5] The ten most difficult streets to detect (i.e., where most participants stepped into the street without stopping) had a ramp with a slope of 4° or less and at least one of the following characteristics: a curb ramp parallel to the participant's line of travel; a very quiet street or busy street with surges of traffic and gaps in traffic cues; no building line or a building line that was different from others on the route; and little or no texture change or upslope at the street or a change which was considered gradual. At one blended curb, all ten participants stepped into the street without stopping and five of them crossed the entire street without detecting it despite an abrupt end to the shore line, a surface texture change, and a slight lip where the street pavement overlapped the sidewalk.

especially on sloped surfaces.[6] They generally supported suspending the ADAAG requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools while additional research is conducted.

The International Mass Retail Association, the National Grocers Association, the Food Marketing Association, the Building Owners and Managers Association International, a regional commercial real estate association, 37 State and local government agencies, and four businesses expressed concern that detectable warnings would pose a tripping hazard to other pedestrians and supported the suspension. Commenters who opposed the suspension stated that concerns about the safety of others are speculative and unsubstantiated. Several manufacturers commented that there have been no reported incidents of trips or falls attributable to their products. A bank and a retail store chain stated that they had installed detectable warnings on curb ramps at their sites and had received complaints from wheelchair users and elderly customers. Only one commenter, a local school district, reported that an adult and some students had tripped while running over a curb ramp with detectable warnings.

The Federal Transit Administration and Project ACTION of the National Easter Seal Society have recently sponsored a research project on detectable warnings which among other things tested detectable warnings on curb ramps for safety and negotiability by persons with mobility impairments. Bentzen, B.L., Nolin, T.L., Easton, R.D., and Desmarais, L., Detectable Warning Surfaces: Detectability by Individuals with Visual Impairments, and Safety and Negotiability for Individuals with Physical Impairments, Cambridge, MA: Transportation Systems Center (1993). The study tested a variety of detectable warning materials with 40 persons having a wide range of physical disabilities. The participants included 15 persons who use mobility aids with wheels (power and manual wheelchairs, and three- and four-wheeled scooters); 18 persons who use mobility aids with tips (canes, crutches and walkers); and seven persons who do not use any mobility aid. The participants travelled up and down ramps that were six feet long and four feet wide with a 1:12 slope, the maximum slope permitted by ADAAG for new construction. Detectable warnings were installed on the entire six foot length of the ramps. For comparison, participants also travelled up and down a brushed concrete ramp of the same dimensions. Subjective and objective measurements were collected.

Of the 40 participants, the objective data showed that:

- 14 participants (35%) exhibited no difficulty negotiating the ramp;
- 19 participants (47.5%) exhibited few difficulties; and
- 7 participants (17.5%) exhibited numerous difficulties.

The latter group included four persons who used manual wheelchairs; two persons who used walkers with wheels (rollators); and one person who wore leg braces and used a quad cane.

A physical therapist who observed the participants reported that persons using no mobility aids performed consistently well on all the ramps with detectable warnings and that even those with protheses or braces showed good negotiability. Persons using power wheelchairs, and three- and four-wheeled scooters demonstrated few, if any difficulties, on any of the ramps with detectable warnings. However, four of the five manual wheelchair users exhibited numerous difficulties negotiating the ramps with detectable warnings, including exerting additional effort to go up the ramps, and the small, narrow front wheels getting caught in the groves between the domes. Participants using canes, crutches, or walkers were observed to have the most difficulties on the ramps with detectable warnings. Mobility aids with small tips (canes or walkers) appeared to get caught between the domes or lay on an angle between the grove and the dome, causing the participant to feel less stable. Participants who used crutches with larger tips appeared more safe and generally negotiated the ramps with detectable warnings better than those who used canes or walkers.

The research project report recommended that "given even the moderately increased level of difficulty and decrease in safety which detectable warnings on slopes pose for persons with physical disabilities, it is desirable to limit the width of detectable warnings to no more than that required to provide an effective warning for persons with visual impairments." The report suggested that a standard width of 24, 30 or 36 inches be established for detectable warning surfaces and indicated that such widths would provide an effective stopping distance for 90 to 95% of blind persons and persons with low vision.

Durability, Maintainability, and Cost

Many of the commenters who supported suspending the ADAAG requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools also expressed concern about the durability and maintainability of detectable warning materials, especially under certain climatic conditions (e.g., snow and ice, and the need for snow and ice removal).

One commenter stated that a member of the ANSI A117 Committee recently visited the Bay Area Rapid Transit (BART) system and observed a 50 to 60% "failure rate" with the corners of the detectable warning titles "turning up and creating tripping hazards." The commenter also cited a magazine article on the use of detectable warnings in Japan as evidence that they are prone to breakage and deterioration.

Manufacturers of various detectable warning materials responded with information about their products. Carsonite International, the manufacturer of the detectable warning materials used in the BART system, stated that in its ten years of experience, it is rare that the product or the adhesive fails. Where loosening or delamination has occurred, it was due to a failure to properly prepare the substrate. Carsonite International also submitted a letter from BART stating that annual costs for maintaining the detectable warnings at its 34 stations are $10,800 for materials and 8,160 hours of labor.

Another detectable warning manufacturer stated that its product has been in use for the past two winters in

[6] Eastern Paralyzed Veterans Association (EPVA) initially supported the ADAAG requirements for detectable warnings and expleined that it had changed its position after reviewing the data from the earlier Bay Area Rapid Transit (BART) and Metro-Dade Trensit Agency studies. The BART study conducted tests on level platform surfaces with 24 persons with mobility impairments, including four manual wheelchair users. Five participants (21%) responded that the detecteble warnings would be helpful; eight (33%) responded that they were "not affected"; seven (29%) responded that they would be "insignificantly effected"; four (17%) responded thet they would be "moderately impaired"; and none responded that they would be "seriously impeired." Three of the manual wheelchair users responded that they would be "insignificantly affected" and the other one responded thet he or she would be "moderately impaired." Peck, A.F. and Bentzen, B.L., Tectile Warnings to Promote Safety in the Vicinity of Transit Platform Edges, Cambridge, MA: Transportation Systems Center (1987). The Metro-Dade Transit Agency conducted tests with seven wheelchair users on level platform surfaces. Five of the participants responded that they were "not affected" or "insignificantly effected." The other two had difficulty with the detectable warnings but their specific responses are not reported in the study. Mitchell, M., Pathfinder Tectile Tile Demonstration Test Project, Miami, FL: Metro-Dade Transit Agency (1988). Carsonite International, the manufacturer of the detectable warning materials used in the BART and Metro-Dade Transit Agency systems, submitted a letter from BART stating that in over five years experience with detectable warnings on its rail system, no problems have been observed with wheelchair users entering or exiting the trains.

the Boston area and that there have been no notable difficulties with snow and ice removal. The commenter also mentioned sites in Ontario, Canada where detectable warnings have been installed and have performed well under tough winter conditions. Other commenters who opposed the suspension noted that there were snow and ice removal techniques that could be used with detectable warnings without adversely affecting the efficiency of the overall snow removal operation such as hot-air blowers, stiff brooms, and de-icing materials.

A few commenters who supported the suspension objected to the cost of detectable warnings but did not provide any specific data. There are currently a variety of detectable warning products on the market, including ceramic, hard composite, and resilient tiles; cast pavers; pre-cast concrete and concrete stamping systems; stamped metal; rubber mats; and resilient coatings. The costs of these products range from three to twenty dollars per square foot. One commenter mentioned that a university had installed detectable warnings on 25 to 30 new curb ramps on its campus at an added cost of $5,000 for the entire project.

Other Issues

The Washington Metropolitan Area Transit Authority (WMATA) submitted comments on the July 9, 1993 NPRM stating that based on a comparison of trackbed falling accidents for the WMATA and BART systems, it believed that the granite edges on its platforms are superior to truncated domes. Based on this analysis, WMATA requested that the ADAAG requirements for detectable warnings be changed from truncated domes to granite edges. The truncated dome pattern was adopted in ADAAG because research has shown that it is highly detectable both by cane and underfoot. WMATA did not submit any information showing that its granite edge is equally detectable both by cane and underfoot. As WMATA noted in its comments, the number of trackbed falling accidents involving blind persons and persons with low vision are relatively small in comparison to the millions of passenger miles traveled annually on our nation's rail systems to do any statistically meaningful analysis.

WMATA also recommended that research be conducted on the safety of the truncated dome pattern for other passengers and that the ADAAG requirements for detectable warnings in key stations and in newly constructed and altered rail stations be suspended indefinitely. The truncated dome pattern has been used as a detectable warning on the platform edges of all rail stations in the BART and Metro-Dade Transit Agency systems for over five years and no safety problems have been reported by persons with mobility impairments or other passengers. The Access Board is conducting additional research because questions have been raised whether experience from the rail station environment is transferable to sloped curb ramps and curbless entranceways to retail stores. Additional research on the use of the truncated dome pattern in rail stations is not necessary.

The New York Metropolitan Transportation Authority (MTA) and the Southeastern Pennsylvania Transportation Authority (SEPTA) referenced a NPRM published by the Department of Transportation on November 17, 1992 (57 FR 54210) which proposed to extend the deadline for retrofitting key rail stations with detectable warnings until January 26, 1995. MTA and SEPTA stated that they did not believe that the proposed extension provided sufficient time for them to complete testing products and to purchase and install the detectable warnings. MTA and SEPTA requested that the deadline for retrofitting key rail stations with detectable warnings be delayed until the Access Board's research on use of detectable warnings on curb ramps and hazardous vehicular areas is completed.

The Department of Transportation published a final rule on November 30, 1993 (58 FR 63092) extending the deadline for retrofitting key rail stations with detectable warnings until July 26, 1994. In the final rule, the Department of Transportation stated that "[t]he drop-offs at the edges of rail station platforms create a clear, documented, and unacceptable hazard to persons with visual impairments" and that detectable warnings as specified in ADAAG will mitigate this hazard. The Department of Transportation noted that many rail systems have been working with detectable warning manufacturers to address concerns about durability and maintainability and that the extension provided for in the final rule was adequate to permit an aggressive effort by rail systems to address concerns about installation.

The American Public Transit Association (APTA) submitted a comment stating that, if as a result of the additional research conducted by the Access Board on the use of detectable warnings at curb ramps and hazardous vehicular areas, the technical specifications for detectable warnings should be changed, rail systems could be placed in a position of installing material which could be found to be unsafe in other applications, and having to replace the material later. If the research shows that detectable warnings are needed at curb ramps and hazardous vehicular areas, it is possible that some refinements may be made to the scoping provisions and technical specification for detectable warnings (e.g., the location and width of detectable warnings for curb ramps; the types of hazardous vehicular areas where detectable warnings will be required). However, substantial change to the basic pattern of raised truncated domes is not anticipated. The Department of Transportation has indicated in its final rule extending the deadline for retrofitting key rail stations with detectable warnings that if the technical specifications for detectable warnings change in the future, the grandfathering provision in its regulations (49 CFR 37.9) could apply in appropriate situations to avoid making rail systems reinstall detectable warnings meeting the revised specifications.

Final Common Rule

This rulemaking raises some difficult issues. It involves making decisions about the safety needs of blind persons and persons with low vision and considering their needs in light of the concerns expressed by persons with mobility impairments and other commenters. The task is all the more complicated by the fact that blind persons and their organizations have taken differing positions on the matter.

After carefully reviewing the comments received on the July 9, 1993 and December 21, 1992 NPRM's and the reports of the two recent research projects discussed above, the agencies believe that it is in the public interest to suspend temporarily the ADAAG requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools while additional research is conducted on the need for detectable warnings at these locations and their effect on persons with mobility impairments and other pedestrians.

The July 9, 1993 NPRM proposed that the suspension remain in effect until January 26, 1995. This date was first proposed by the Access Board in November 1992. At the time, the Access Board envisioned that the additional research would be completed in fiscal year 1994 and that the agencies would have an opportunity to review the results of the research and, if necessary, initiate further rulemaking on detectable warnings before January 26, 1995. In subsequent planning for the research project, the Access Board has divided

the project into two phases. The first phase, which is scheduled for completion in fiscal year 1994, will focus on whether detectable warnings are needed at curb ramps and hazardous vehicular areas and their effect on persons with mobility impairments and other pedestrians. Depending on the results of the first phase, an optional second phase may be conducted during fiscal year 1995 to refine the scoping provisions and technical specifications for detectable warnings at these locations. If the second phase of the research project is conducted, the agencies will conduct further rulemaking to amend the scoping provisions and technical specifications based upon the recommendations of the research project. Allowing nine months for the rulemaking process from the end of fiscal year 1995, the joint final rule provides for the suspension to remain in effect until July 26, 1996. Of course, depending on the results of the first phase of the research project, the agencies could decide to conduct further rulemaking earlier. The July 26, 1996 date is the outside period by which the agencies expect to complete all rulemaking on this matter.

Several commenters requested that the agencies provide guidance in this rulemaking on whether entities may be required to retrofit existing curb ramps, hazardous vehicular areas, and reflecting pools with detectable warnings at a future date under the program accessibility requirements for State and local governments (28 CFR 35.150) and the readily achievable barrier removal requirements for public accommodations (28 CFR 36.304). At this time, it is premature to provide such guidance. The agencies will further address these questions after the research project is completed and further rulemaking on the matter is conducted.

Regulatory Analyses and Notices

The agencies have independently determined that this final rule is not a significant regulatory action and that a regulatory assessment is not required under Executive Order 12866. It is a significant rule under the Department of Transportation's Regulatory Policies and Procedures since it amends the agency's ADA regulations, which are a significant rule. The Department of Transportation expects the economic impacts to be minimal and has not prepared a full regulatory evaluation.

The agencies hereby independently certify that this proposed rule is not expected to have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

The agencies have also independently determined that there are no Federalism impacts sufficient to warrant the preparation of a Federalism assessment under Executive Order 12612.

Text of Final Common Rule

The text of the final common rule appears below.

§ ____ Temporary suspension of certain detectable warning requirements.

The requirements contained in sections 4.7.7, 4.29.5, and 4.29.6 of Appendix A to this part are suspended temporarily until July 26, 1996.

Adoption of Final Common Rule

The agency specific proposals to adopt the final common rule, which appears at the end of the common preamble, are set forth below.

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 36

List of Subjects in 28 CFR Part 36

Administrative practice and procedure, Alcoholism, Buildings and facilities, Business and industry, Civil rights, Consumer protection, Drug abuse, Historic preservation, Individuals with disabilities, Reporting and recordkeeping requirements.

Authority and Issuance

By the authority vested in me as Attorney General by 28 U.S.C. 509, 510; 5 U.S.C. 301; and 42 U.S.C. 12186(b), and for the reasons set forth in the common preamble, part 36 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

1. The authority citation for 28 CFR part 36 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12186(b).

2. Section 36.407 is added to read as set forth at the end of the common preamble.

Dated: February 23, 1994.

Janet Reno,

Attorney General.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

List of Subjects in 36 CFR Part 1191

Buildings and facilities, Civil rights, Individuals with disabilities.

Authority and Issuance

For the reasons set forth in the common preamble, part 1191 of title 36 of the Code of Federal Regulations is amended as follows:

PART 1191—AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

1. The authority citation for 36 CFR part 1191 continues to read as follows:

Authority: Americans with Disabilities Act of 1990 (42 U.S.C. 12204).

2. Section 1191.2 is added to read as set forth at the end of the common preamble.

Authorized by vote of the Access Board on November 10, 1993.

Judith E. Heumann,

Chairperson, Architectural and Transportation Barriers Compliance Board.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 37

List of Subjects in 49 CFR Part 37

Buildings and facilities, Buses, Civil rights, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

Authority and Issuance

For the reasons set forth in the common preamble, part 37 of title 49 of the Code of Federal Regulations is amended as follows:

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

1. The authority citation for 49 CFR part 37 continues to read as follows:

Authority: Americans with Disabilities Act of 1990 (42 U.S.C. 12101–12213); 49 U.S.C. 322.

2. Section 37.15 is added to read as set forth at the end of the common preamble.

Dated: April 6, 1994.

Federico Peña,

Secretary of Transportation.

[FR Doc. 94–8676 Filed 4–11–94; 8:45 am]

BILLING CODE 4410–01–P; 8150–01–P; 4910–62–P

federal register

Tuesday
April 12, 1994

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Temporary Restriction of Instrument Approaches and Certain Visual Flight Rules Operations in High Barometric Weather Conditions; Final Rule

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26806; Amdt. 91–240]

RIN 2120–AD75

Temporary Restriction of Instrument Approaches and Certain Visual Flight Rules Operations in High Barometric Weather Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends part 91 of the Federal Aviation Regulations (FAR) to provide for the issuance of temporary flight restrictions on certain operations when accurate altitude information is not available. The rule is warranted because barometric pressure higher than 31.00 inches of mercury (inHg) (1049.8 millibars) exceeds the capability of standard aircraft pressure altimeters and prevents the display of accurate altitude information. The rule provides restrictions on certain flight operations during periods of abnormal atmospheric pressure conditions and is necessary to promote flight safety during certain operations for which accurate altitude information is critical.

EFFECTIVE DATE: May 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Youngblut, Regulations Branch (AFS–240), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 267–3755.

SUPPLEMENTARY INFORMATION:

Background

For several days in January 1989, weather observers in various locations in the State of Alaska recorded record-breaking barometric pressure higher than 31.00 inHg (1049.8 millibars). These extremely high barometric pressures exceeded the capability of standard aircraft pressure altimeters and prevented the display of accurate altitude information on aircraft pressure altimeters. This condition occasionally extends to northern portions of the contiguous United States.

Aircraft altimeters indicate altitude based on a reading of the air pressure surrounding the aircraft. These altimeters incorporate an adjustment for environmental barometric pressure that permits pilots manually to set the correct pressure reading in the instrument. If the pressure setting is incorrect, the altitude readout also will be incorrect. Because barometric readings of 31.00 inHg, or higher, seldom occur, standard altimeters do not permit barometric pressures to be set above that level and are not calibrated to indicate accurate aircraft altitude when the surface pressure exceeds 31.00 inHg. As a result, many altimeters cannot be set to display accurate altitude readouts to pilots in conditions such as those that were experienced during the high pressure conditions in Alaska.

It is possible to estimate the error in altitude for pressures above 31.00 inHg by adding 100 feet in aircraft altitude for each .10 inHg. However, significant recurring training would be required to ensure all pilots correctly apply the appropriate correction during the appropriate phase of flight. If two pilots flying aircraft in the same vicinity are not applying the same correction, a highly dangerous situation is created when they are at the same altitude although they believe they are at different altitudes relative to each other.

Accurate altitude information is essential for normal flight operations and critical to certain phases of flight. Without an accurate altitude reading, a pilot cannot safely execute an instrument approach in instrument weather conditions unless certain restrictions are followed.

Proposed Rulemaking and Discussion of Comments

On March 12, 1992, the FAA published a notice of proposed rulemaking (NPRM) inviting all persons to submit written comments on the proposed amendment to § 91.92 of the Federal Aviation Regulations (FAR) (57 FR 8830). The FAA received comments to the NPRM from the Air Traffic Control Association, the Air Transport Association (ATA), the Airline Pilots Association, KLM Royal Dutch Airlines (KLM), and the Canadian Airline Pilots Association (CALPA). All five commenters responded favorably to the amendment; however, the ATA, KLM, and CALPA had additional comments.

ATA requested, for purposes of clarification, that the final rule state that the restrictions are to be applied in *any* region when the barometric pressure exceeds 31.00 inHg. The FAA disagrees that the suggested additional language is needed. The application of this rule is not intended to be limited to any geographical area, and discussion of regions may lead to confusion concerning the rule's applicability. The final rule clearly states the rule is applicable to any route of flight.

KLM Royal Dutch Airlines (KLM) suggested that a note addressing the Outer Marker (OM) crossing altitude as published on the applicable instrument approach procedure be added either to the rule or as part of the NOTAM implementing the rule. It argued that very low temperatures require an increase of the published (standard atmosphere) crossing altitude, while extremely high barometric pressures would call for a decrease in the crossing altitude and that, in most cases, both effects would cancel out each other. KLM stated, however, that if flight crewmembers only increased the crossing altitude for temperature, as is the normal procedure, an incorrect crossing altitude would be computed that would not provide an accurate check for intercepting the instrument landing system (ILS) glidepath.

The FAA agrees with KLM that extremely cold temperatures and high barometric pressures, which usually accompany one another, normally cancel out the effects of each other in altitude computations. The FAA does not believe, however, that a note concerning this phenomenon is appropriate for the FAR. An appropriate note might be included in the Airman's Information Manual (AIM). CALPA also commented that the NPRM contained no reference to corrections for extremely cold air temperatures. It stated that Canadian airline procedure compensates for lower than normal ambient temperatures. CALPA suggested adding to the final rule instrument approach procedures that contain tabulations allowing the pilot to make corrections when very cold temperatures are experienced.

The FAA is aware of the Canadian procedures on altimetry and recently completed a study entitled "Extreme Cold Weather Altimetry." At this time, however, the FAA has not developed any procedures as a result of the study. The FAA will amend the rule should procedures formulated from this study dictate an amendment.

Temporary Restrictions on Flight Operations

On the basis of the above discussion, the FAA finds that the occurrence of abnormally high barometric pressure conditions creates an operational situation that requires immediate action to maintain safety of flight in the affected areas. It is necessary for the FAA to issue temporary restrictions on certain instrument flight rules (IFR) approaches and visual flight rules (VFR) operations while extreme weather conditions exist.

The specific restrictions authorized by this rule will be issued in a Notice to Airmen (NOTAM) by each affected FAA region when any information indicates the barometric pressure will exceed

31.00 inHg. Paragraph 7–531 of the FAA Airman's Information Manual contains the procedures that will be put into effect by NOTAM when the pressure is above 31.00 inHg.

These restrictions may include, but are not limited to, the following:

1. All aircraft: Set the altimeter to 31.00 inHg for en route operations below 18,000 feet mean sea level (MSL). Maintain this setting until the aircraft is beyond the affected area or until reaching the final approach segment. At the beginning of the final approach segment, set the altimeter to the current barometric pressure, if possible. If not possible, leave the altimeter set at 31.00 inHg throughout the approach. Altimeters on departing aircraft or on aircraft on missed approach will be set to 31.00 inHg before the aircraft reaches any mandatory/crossing altitude, or 1,500 feet above ground level (AGL), whichever is lower.

2. During preflight, altimeters shall be checked, to the extent possible, for normal operation.

3. If the aircraft is being operated into or out of airports with the capability of measuring the current barometric pressure and the aircraft is equipped with an altimeter that has the capability to be set to the current barometric pressure, no additional restrictions apply.

4. For aircraft operating under VFR, there are no additional restrictions; however, extra diligence is essential in flight planning.

5. Airports without the capability for accurate measurement of barometric pressures above 31.00 inHg will report the barometric pressure as "in excess of 31.00 inHg." Flight operations to and from those airports are restricted to VFR weather conditions.

6. For aircraft operating under IFR and equipped with an altimeter that does not have the capacity to be set at the current barometric pressure, the following restrictions apply:

a. To determine the suitability of takeoff airports, destination airports, and alternate airports, increase ceiling requirements by 100 feet and visibility requirements by ¼ mile for each .10 inHg of pressure, or any portion thereof, over 31.00 inHg. These adjusted values are to be applied in accordance with the requirements of the applicable operating regulations and operations specifications.

b. On approach, 31.00 inHg will remain set on the altimeter. Decision height or minimum descent altitude shall be deemed to have been reached when the published minimum altitude is displayed on the altimeter.

c. These restrictions do not apply to authorized Category II and Category III ILS operations, nor do they apply to certificate holders using approved QFE (absolute altitude) altimetry systems.

7. The Regional Flight Standards Division manager of the affected area is authorized to approve temporary waivers to permit emergency resupply or emergency medical services operations.

The NOTAM issuing the temporary restrictions will incorporate a reference to the rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

Regulatory Evaluation Summary

The FAA has determined that this rulemaking is not "significant" as defined by Executive Order 12866. Therefore, no Regulatory Impact Analysis is required. Nevertheless, in accordance with Department of Transportation policies and procedures, the FAA has evaluated the anticipated costs and benefits, which are summarized below. For more detailed economic information, see the full regulatory evaluation contained in the docket.

The rule involves additional costs to aviators through delays in flying to airports experiencing extremely high barometric pressure. The cost of the rule varies by the number of hours of delay, by the level of activity at the restricted airports, and by the type of aircraft delayed. Data from the National Weather Service (NWS) was used to estimate the amount of time airports will experience extreme high pressure. The discounted 10 year cost of this rule due to delays resulting from the restrictions is estimated to be $3.0 million.

Benefits of the rule are avoidance of midair collisions during periods of extremely high barometric pressure. These meteorological conditions increase the risk of midair collision resulting from the inconsistency of altitude measurement.

Although the FAA searched and did not find any midair collisions occurring under high barometric pressure, the combination of low visibility conditions, such as at night or in fog, and lack of consistent altitude measurement increases the risk for all aircraft in the airspace system under high barometric conditions. The rule will reduce that risk during such weather conditions by establishing uniform procedures to reduce confusion and to prevent inadequately equipped aircraft from flying into these conditions.

Pilots always risk a midair collision in busy airspace, and high barometric pressure heightens that risk. In Alaska, the FAA recorded 28 near midair collisions from 1987 through 1989. Although the FAA cannot precisely quantify the increase in risk, it is apparent that the risk of midair collisions increases substantially when pilots do not know their precise altitude as under high barometric pressure. Additionally, the FAA estimates that the number of aircraft flying in such conditions will increase by 30 percent over the next 10 years. The combination of increased risk due to high barometric pressure and a nearly one-third increase in aircraft operating under these conditions makes a midair collision much more likely. Without restrictions under high barometric conditions, there is a potential for at least one midair collision. The discounted value of avoiding just one midair collision over the next 10 years is $5.0 million.

The FAA estimates the discounted 10-year cost of the rule to be $3.0 million. This cost is the highest possible cost assuming that all landings during extremely high barometric pressure are restricted. Aircraft with more sophisticated avionics will be able to land even with restrictions in effect. Also, aircraft could land under VFR conditions. The benefit of avoiding just one midair collision over the next ten years has a discounted value of $5.0 million, greater than the estimated cost of the rule during that period.

International Trade Impact Analysis

All foreign and domestic aircraft would be equally affected by this rule. Hence, this rule will have no effect on the sale of foreign aviation products or services in the United States. The rule also does not affect the sale of United States products of services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires FAA to review each rule that may have a "significant economic impact on a substantial number of small entities."

The FAA criteria set "a substantial number" as not less than 11 and at least one-third of the small entities subject to the rule. Among air carriers, a small entity is defined as one that owns, but does not necessarily operate, 9 or fewer

aircraft. The criteria set "a significant economic impact" as follows: $101,988 for scheduled air carriers with 60 or more seats; $57,011 for scheduled air carriers with fewer than 60 seats; and $4,011 for unscheduled operators.

It is possible that in certain cases the cost of delays to small entities might exceed the threshold. However, the number of small entities that this rule might affect is difficult to estimate. At any rate, only those small entities in Alaska are likely to be affected by the rule since almost all extremely high pressure occurrences take place in Alaska. Of the 77 part 135 commuters with 9 or fewer aircraft in the United States, 15 (or 19 percent) are located in Alaska. In the case of unscheduled part 135 operators (air taxis) with 9 or fewer aircraft, only 6 percent of the 2,634 such operators in the United States operate in Alaska. In each instance, the proportion of small entities exposed to costs under the rule is considerably less than one-third.

Thus, the FAA determines that the rule will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulation 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 rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, the FAA certifies that this regulation 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. The regulations is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 91

Aviation safety, Instrument flight rules, Special visual flight rules, Visual flight rules.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of the Federal Aviation Regulations (14 CFR part 91) as follows:

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq*; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Section 91.92 is added to read as follows:

§ 91.92 Temporary Restriction on Flight Operations During Abnormally High Barometric Pressure Conditions.

(a) *Special flight restrictions.* When any information indicates that barometric pressure on the route of flight currently exceeds or will exceed 31 inches of mercury, no person may operate an aircraft or initiate a flight contrary to the requirements established by the Administrator and published in a Notice to Airmen issued under this section.

(b) *Waivers.* The Administrator is authorized to waive any restriction issued under paragraph (a) of this section to permit emergency supply, transport, or medical services to be delivered to isolated communities, where the operation can be conducted with an acceptable level of safety.

Issued In Washington, DC., on April 6, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–8775 Filed 4–11–94; 8:45 am]

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Federal Register

Vol. 59, No. 70

Tuesday, April 12, 1994

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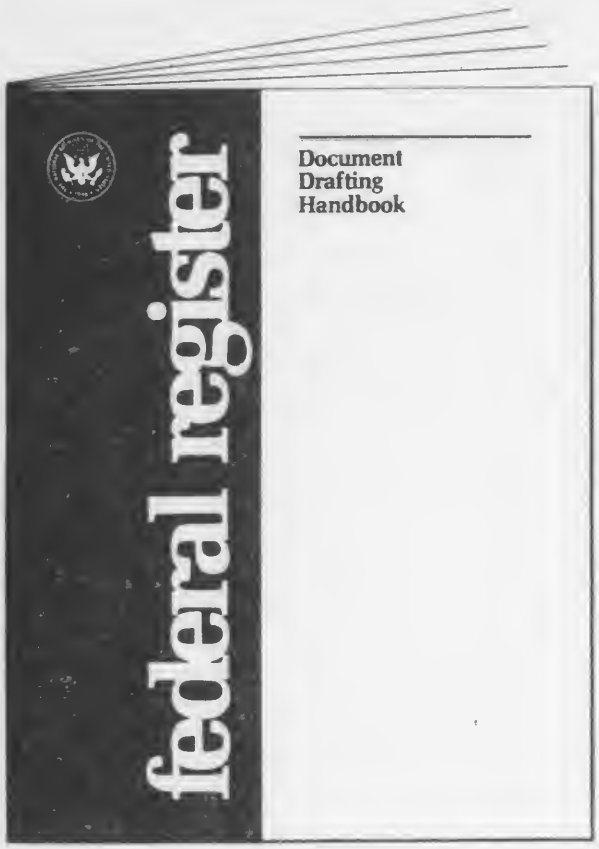

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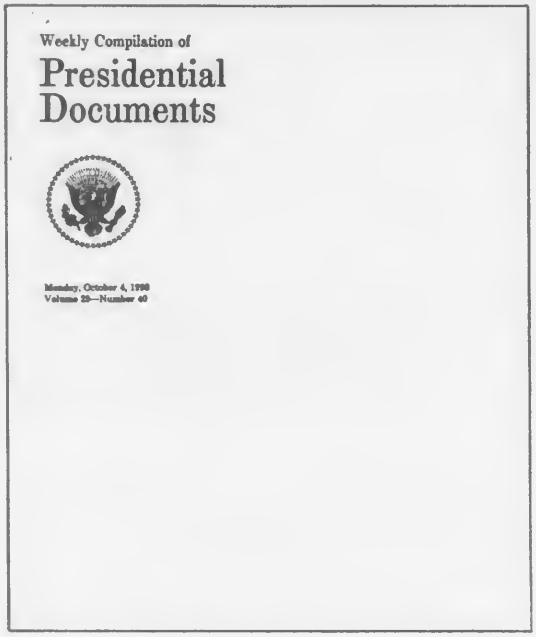

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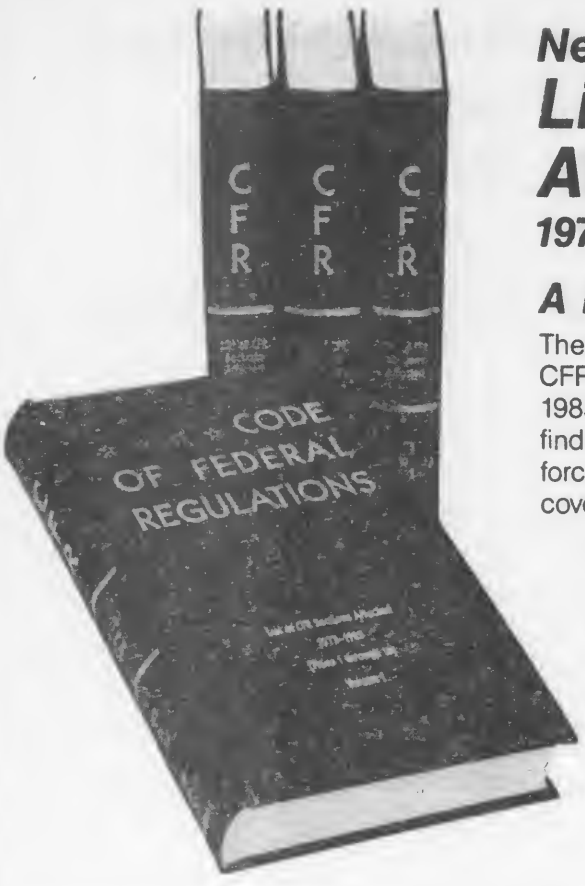

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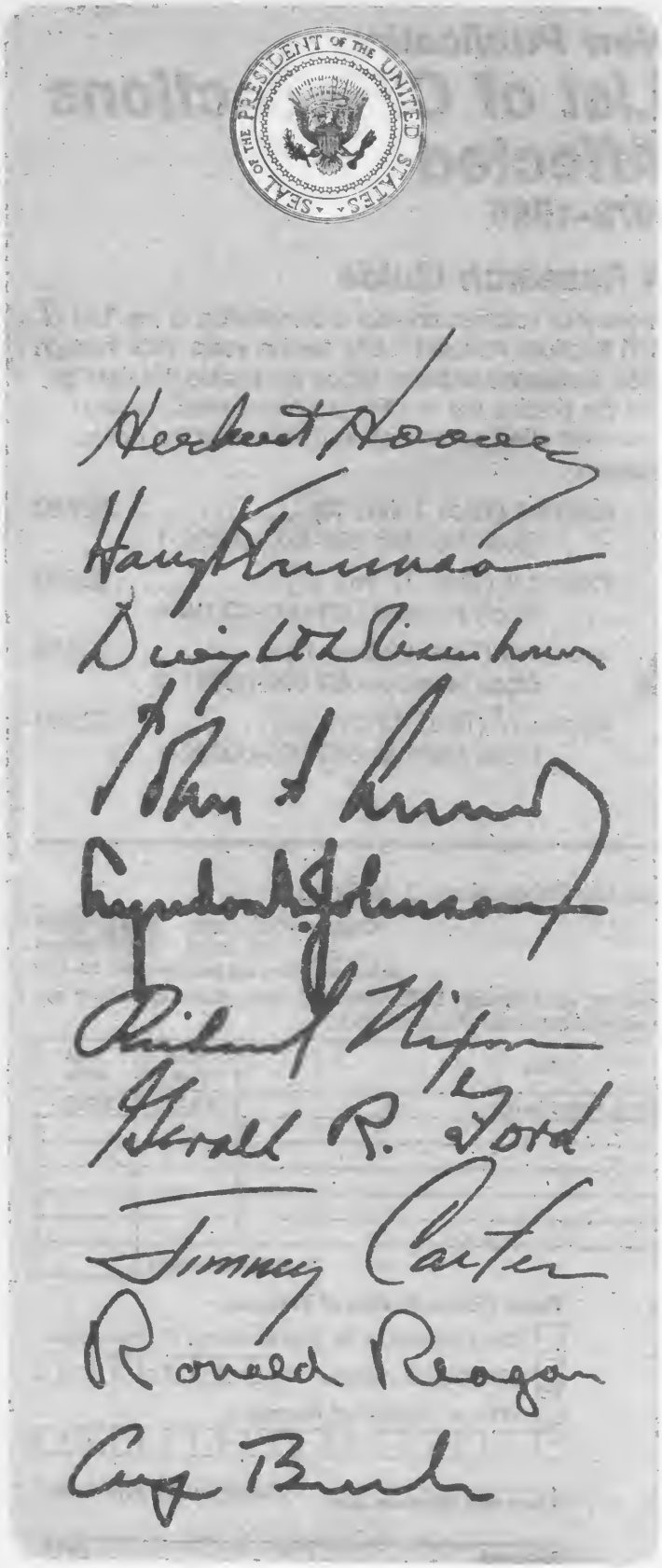

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