3–22–93
Vol. 58 No. 53

federal register

Monday
March 22, 1993

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

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SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

3–22–93
Vol. 58 No. 53
Pages 15261–15414

federal register

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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:
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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.

NEW YORK, NY

WHEN: March 26, at 12:30 pm
WHERE: 26 Federal Plaza
Conference Room 305C
New York, NY
RESERVATIONS: Federal Information Center
1–800–347–1997

LOS ANGELES, CA

WHEN: March 31, at 9:00 am
WHERE: 300 North Los Angeles Street
Conference Room 8041
Los Angeles, CA
RESERVATIONS: Federal Information Center
1–800–726–4995

INDEPENDENCE, MO

WHEN: April 27, at 9:30 am
WHERE: Harry S. Truman Library
U.S. Highway 24 and Delaware St.
Multipurpose Room
Independence, MO
RESERVATIONS: Federal Information Center
1–800–735–8004 or
1–800–366–2998 for the St. Louis area.

WASHINGTON, DC

WHEN: April 8 and May 12 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

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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, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560–AC55

Cotton Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On September 4, 1992, the Commodity Credit Corporation (CCC) issued an interim rule with respect to the cotton price support program which is conducted by the CCC in accordance with The Agricultural Act of 1949, as amended (the 1949 Act). The interim rule amended the regulations with respect to the price support loan programs for upland and extra long staple cotton which are conducted by the CCC in accordance with the 1949 Act. The interim rule provided greater clarity, enhanced the administration of CCC programs by providing uniformity between CCC price support programs, eliminated obsolete provisions, and more appropriately, reflected loan eligibility quality requirements for the 1992 and subsequent year crops. This rule adopts as final the interim rule published on September 4, 1992.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Philip Sharp, Program Specialist, Cotton, Grain, and Rice Price Support Division (CGRD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–7988.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and it has been determined "nonmajor" because these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Federal Assistance Program

The title and number of the Federal assistance program, as found in the catalogue of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. To the extent State and local laws are in conflict with the provisions of this final rule, the provisions of this final rule shall prevail. This final rule is not retroactive. Before any judicial action may be brought with respect to the provisions of this final rule, administrative appeal remedies at 7 CFR part 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, and 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1427 set forth in this final rule do not contain any new or revised information collection requirements that require clearance through the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35. The information collection requirements contained in the current regulations at 7 CFR part 1427 and have been approved through August 31, 1994, by the OMB under the provisions of 44 U.S.C. chapter 35, and assigned OMB No. 0560–0074, 0560–0087, and 0560–0129. Public reporting burden for these collections is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the information collection requirements, including suggestions for reducing the burden, to the Department of Agriculture, Clearance Office, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, paperwork reduction Project (OMB No. 0560–0074, 0087, 0129), Washington, DC 20503.

Discussion of Comments

Four letters were timely received in response to the interim rule published on September 4, 1992, requesting public comments on the interim regulations for implementing the price support loan programs for upland and extra long staple cotton which are conducted by the CCC.

All respondents opposed CCC's proposal to allow cotton graded by entities other than Agricultural Marketing Service (AMS) to be eligible to be pledged as collateral for CCC price support loans, if such entities are approved by CCC. Commenters believed classing consistency and quality assurance standards can be best maintained using AMS personnel and classing facilities. Commenters also believed that allowing non-government classing may result in increased classing costs for producers using AMS and potential fraudulent and inconsistent of classing results. Although this provision is opposed by all commenters, CCC believes that non-government entities

could provide accurate classing information in some areas and result in lower cost to producers in those areas. However, CCC will only approve non-government entities that conform with terms and conditions set forth by AMS. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on CCC's definition of "authorized loan servicing agent (LSA)" to clarify that authorized LSA's may make loan deficiency payments (LDP's) to eligible producers. The respondents agreed with CCC's definition. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on CCC's removal of the provisions that did not allow producers to delegate to a person, who has an interest in storing, processing, or merchandising cotton which is eligible for price support or an LDP, authority to exercise on the behalf of the producer any of the producer's rights or privileges under such program, including the authority to execute any note and security agreement, LDP request, or any other applicable price support document. The respondents agreed with CCC's removal. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on CCC's clarification that the quantity of cotton for which an LDP has been made cannot be pledged as collateral for a price support loan. The respondents agreed with CCC's clarification. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on the changing of the referenced year from 1991 to 1992 for the Specifications for Cotton Bale Packaging Materials published by the Joint Cotton Industry Bale Packaging Committee. The respondents agreed with CCC's change. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on the clarification that the producer must retain control, title, and risk of loss in the commodity to be considered eligible to receive a CCC price support commodity loan or LDP, as applicable, on an eligible commodity. The respondents agreed with CCC's clarification. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on the provision that CCC will accept a gin bale listing and gin weights in lieu of requiring a warehouse receipt for an LDP. The respondents agreed with the interim rule. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on the provision to provide that the producer may file a request for LDP before or on the day the cotton is ginned and receive an LDP based on the date of ginning. The respondents agreed with the interim rule. CCC has determined that this provision of the interim rule is adopted without change.

Two respondents commented on the provision to provide that an LDP made on cotton pledged under a seed cotton loan must be applied to the applicable outstanding seed cotton loan balance. The respondents agreed with the interim rule. CCC has determined that this provision of the interim rule is adopted without change.

Accordingly, the interim rule amending 7 CFR part 1427 that was published at 57 FR 40593 on September 4, 1992, is adopted as a final rule without change.

Signed this 17th day of March, 1993 in Washington, DC.

Bruce R. Weber,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93-6483 Filed 3-19-93; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 35

[Docket No. 92-ANE-47; Special Conditions No. SC-92-03-NE]

Special Conditions: Hartzell Propeller, Inc., Model HD-E6C-3( )/E13482K Dual Acting Propeller

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Hartzell Propeller, Inc., Model HD-E6C-3( )/E13482K Dual Acting Propeller, installed on Dornier DO-328 aircraft. This propeller uses a dual acting, pitch control system and has propeller blades constructed using composite material. These design features are novel and unusual. Part 35 of the Federal Aviation Regulations (FAR) does not currently address the airworthiness considerations associated with dual acting, pitch control systems, or propellers constructed using composite blades. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 35 of the FAR.

EFFECTIVE DATE: April 21, 1993.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, Engine and Propeller Standards Staff, ANE-110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5229; (617) 273-7079; Fax (617) 270-2412.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1989, Hartzell Propeller, Inc., applied for type certification for Model HD-E6C-3( )/E13482K propeller. This propeller uses a dual acting, pitch control system and has propeller blades constructed using composite material. These design features are novel and unusual. Part 35 of the FAR does not provide airworthiness standards for propellers using a dual acting, pitch control system or composite blades.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Hartzell Propeller, Inc., must show that the Model HD-E6C-3( )/E13482K propeller meets the requirements of the applicable regulations in effect on the date of the application. Those Federal Aviation Regulations are § 21.21 and part 35, effective February 1, 1965, as amended.

The Administrator finds that the applicable airworthiness regulations in part 35, as amended, do not contain adequate or appropriate safety standards for the Hartzell Propeller, Inc., Model HD-E6C-3( )/E13482K propeller. Therefore, the Administrator prescribes special conditions under the provisions of Section 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with Section 11.49 of the FAR after public notice and opportunity for comment, as required by Sections 11.28 and 11.29(b), and become part of the type certification basis in accordance with Section 21.101(b)(2).

Novel or Unusual Design Features

The Hartzell Propeller Model HD-E6C-3( )/E13482K propeller uses a dual acting, pitch control system with hydraulic components and a pitchlock. This dual-acting system can be susceptible to failures and, when followed by improper commands, may result in, for example: rapid increase in propeller RPM, extremely high disk

drag, or high asymetric disk drag. Rapid increases in propeller RPM at high airspeeds can result in massive propeller overspeeds. Extremely high disk drag or high asymetric disk drag can result in rapid slowing of the aircraft below the speed necessary for flight, especially on wing-mounted turbo-propeller aircraft.

Dual acting, pitch control systems must, therefore, demonstrate structural integrity of all mechanical and hydraulic components, maintain hydraulic capacity at all times, and demonstrate pitchlock system integrity.

This model propeller also uses blades of composite materials having additional airworthiness considerations not currently addressed by part 35 of the FAR. Those additional airworthiness considerations associated with propellers constructed using composite materials are propeller integrity following a bird strike, propeller integrity following a lightning strike, and propeller fatigue strength when exposed to the deteriorating effects of in-service use and the environment. Composite materials have fibers that are woven or aligned in specific directions to give the material directional strength properties. These properties depend on the type of fiber, the orientation and concentration of fiber, and the matrix material. Composite materials can exhibit multiple modes of failure. Propellers constructed of composite materials must demonstrate continued airworthiness when considering these novel design features not associated with propeller blades constructed using other materials.

The requirements of part 35 of the FAR were established to address the airworthiness considerations associated with wood and metal propellers used primarily on reciprocating engines. Propeller blades of those types are generally thicker than composite blades and have demonstrated good service experience following a bird strike. Propeller blades constructed using composite materials are generally thinner when used on turbine engines, and are typically installed on high-performance aircraft. Further, high-performance aircraft generally fly at high airspeeds with correspondingly high-impact forces associated with a bird strike. Thus, composite propellers must demonstrate propeller integrity following a bird strike.

In addition, part 35 of the FAR does not currently require a demonstration of propeller integrity following a lightning strike. No safety considerations arise from lightning strikes on propeller blades constructed of metal because the electrical current is safely conducted through the metal blade, without damage to the propeller. Fixed-pitch, wooden propellers are generally used on engines installed on small, general-aviation aircraft that typically do not encounter flying conditions conducive to lightning strikes. Composite-propeller blades, however, may be used on turbine engines and high-performance aircraft which have an increased risk of lightning strikes. Composite blades may not safely conduct or dissipate the electrical current from a lightning strike. Severe damage can result if the propellers are not properly protected. Therefore, composite-propeller blades must demonstrate propeller integrity following a lightning strike. Information on testing for lightning protection is contained in SAE Report AE4L, entitled, "Lightning Test Waveforms and Techniques for Aerospace Vehicles and Hardware," dated June 20, 1978.

Lastly, the current certification requirements only address fatigue evaluation of metal propeller blades or hubs and those metal components of non-metallic blade assemblies. Allowable design stress limits for composite blades must consider the deteriorating effects of the environment and in-service use, particularly those effects from temperature and erosion. Composite blades also present new and different considerations for retention of the blades in the propeller hub.

Discussion of Comments

Interested persons have been afforded the opportunity to participate in the making of these special conditions. Due consideration has been given to the comments received.

One commenter supports the special conditions as proposed.

One commenter supports the special conditions as proposed and provided the following comments to which the FAA agrees. In addition, this commenter requested information on how the auxiliary feathering pump was selected to give a feathering capability up to 141 percent overspeed. This is also explained below.

(a) Feathering Capability: The propeller manufacturer calculated the maximum propeller overspeed that can be attained with the aircraft air speed at V_{mo} and a flat propeller pitch. The propeller manufacturer proposed a feathering capability at 141 percent overspeed, and this was accepted by the FAA.

(b) The commenter agreed with the intent of the special conditions to prevent the capacity of the propeller overspeed system from being exceeded due to a failure in the pitch control system, or due to an inadvertent command to blade fine pitch.

(c) The commenter noted that damage resulting from a lightning strike on Hartzell's propeller control system be acceptable, provided no unsafe condition results. The FAA agrees, provided it can be shown that no critical function is affected.

(d) The commenter noted that the HERF testing of Hartzell's propeller control system be conducted at the intended airplane HERF environmental levels.

The FAA has changed the reference to High Intensity Radio Frequencies (HIRF) in paragraph (1) of the proposed rule to High Energy Radio Frequency (HERF).

After careful review of the available data, including the comments noted above, the FAA determined that air safety and the public interest require the adopting of the special conditions as proposed, with the change noted.

Conclusion

This action affects only the Hartzell Propeller, Inc., Model HD–E6C–3()/E13482K Dual Acting Propeller, installed on Dornier DO–328 aircraft. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 35

Air transportation, Aircraft, Aviation safety, Safety.

The authority citations for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Hartzell Propeller, Inc., HD–E6C–3()/E13482K Dual Acting Propeller installed on Dornier DO–328 airplanes:

(a) *Propeller Pitch Control System—Variable Pitch Propellers Strength, Deformation, and Fatigue Evaluation:*

(1) The control system must be able to support limit loads without detrimental permanent deformation. At any load up to limit load through V_{nc}, the control system deformation may not interfere with safe operation. The control system must support ultimate loads without failure.

(2) Each component of the control system whose structural failure can cause loss of propeller pitch control must be fatigue evaluated for the defined loading spectra expected in service. Environmental effects and

service deterioration must be included. Each established mandatory replacement time and inspection interval must be included in the Airworthiness Limitations Section of the Instructions for Continued Airworthiness as required by FAR 35.4.

(b) *Propeller Pitch Control:*

(1) The auxiliary feathering pump unit shall maintain feathering capability up to maximum propeller overspeed, or 141 percent overspeed limitation and an airspeed limitation of V_{mo}, for the intended aircraft installation, that can be attained in service with the propeller overspeed protection system inoperative.

(2) A failure in the propeller pitch-control system or an inadvertent command toward fine blade pitch shall not result in overspeeding the propeller, such that the capacity of the overspeed protection system is exceeded. This is to be demonstrated for propeller loadings up to V_{mo} of the intended aircraft installation.

(3) It must be shown that the propeller pitch-control system has the hydraulic capacity, with sufficient margin, to control propeller pitch for all normal category operating conditions.

(c) *Hyraulic Systems Tests:*

All components that must withstand hydraulic pressure, and whose structural failure or leakage could cause loss or deterioration of propeller control, must be tested as follows:

(1) Show that the components can withstand a pressure of 1.5 times the design operating pressure without deformation that would prevent them from performing their intended functions.

(2) Burst pressure test 2.0 times the maximum operating pressures.

(3) Fatigue tests and evaluation to demonstrate that the components can withstand the number of cyclic pressures (defined loading spectra) expected in service. Each established mandatory replacement time and inspection interval must be included in the Airworthiness Limitation Section of the Instructions for Continued Airworthiness as required by FAR section 35.4

(d) *Pitchlock:*

A pitchlock system must maintain a fixed position, and its structural integrity, under all expected conditions of applied loading and vibration frequencies. The pitchlock system cannot interfere with the normal pitch control system operation.

(e) *Hydraulic Pump-Warning Light/Indicator:*

A provision must be available to install a warning light/indicator to show when the hydraulic pump pressure is at its lowest acceptable level. It shall indicate when a maintenance check of the system is required.

(f) *Fatigue Evaluation for Composite Propeller Blades:*

The procedures for the fatigue evaluation must be approved (a fatigue Methodology Report is required for approval).

(g) *Propeller Hub to Shaft Connection:*

Verify that the deflections of the propeller shaft and its connecting flange are such that unacceptable axial loads are not applied to the hub to shaft connection.

(h) *Failure Analysis:*

(1) A failure mode and effects analysis of the propeller and its control system shall be carried out in order to assess all failures that can be reasonably expected to occur.

(2) Catastrophic failure conditions must be extremely improbable. No identified single failure, or combination of failures (likely combinations including dormant failures), shall have a probability of greater than 10 to the minus 9th power per propeller hour that can result in a catastrophic failure. Catastrophic failure conditions are those which would prevent continued safe flight and landing.

(i) *Bird Strike*

The propeller can withstand a 4 pound bird strike at its critical radial location, when rotating to takeoff RPM and liftoff speed of a representative aircraft, without giving rise to the following hazardous conditions, while maintaining the capability to be feathered:

(1) Loss of propeller, a blade, or a major portion thereof;

(2) Propeller overspeed; or

(3) Unintended movement of the blades to an angle that would cause excessive drag, or that is below the established minimum inflight blade angle.

(j) *Lightning Strike-Propeller:*

A lightning strike on a propeller shall not result in the following hazardous conditions, and the propeller must be capable of continued operation:

(1) Loss of propeller, a blade, or a major portion thereof;

(2) Propeller overspeed; or

(3) Losing the capability to be feathered;

(4) Unintended movement of the blades to an angle that would cause excessive drag, or that is below the established minimum inflight blade angle.

(k) *Lightning Strike-Propeller Control System:*

(1) Multiple-stroke and multiple-burst testing must be conducted on the propeller control system and demonstrate no adverse effects on the control system performance or resultant damage.

(2) All the electro-mechanical components of the propeller system shall be pin-injected tested to appropriate wave forms and levels with no resultant damage.

(l) *High Energy Radio Frequencies (HERF) Protection-Propeller System:*

HERF susceptibility tests are to be conducted on the propeller-control system with no adverse effects on control system performance.

Issued in Burlington, Massachusetts, on March 4, 1993.

Jack A. Sain,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 93–6492 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–AGL–20]

Transition Area Modification; Brookings, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the transition area near Brookings, SD, to accommodate a new ILS/DME runway 30 instrument approach procedure to Brookings Municipal Airport, Brookings, SD. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, December 11, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the control zone and transition area near Brookings, SD, (57 FR 58754). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. The control

zone description, however, has been withdrawn from this final rule. The terminal airspace reclassification docket which became effective on October 15, 1992, contains the same legal description that was proposed in the notice of proposed rulemaking. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the transition area near Brookings, SD, to accommodate a new ILS/DME runway 30 instrument approach procedure to Brookings Municipal Airport, Brookings, SD.

The development of a new instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation of Transition Areas

* * * * *

AGL SD TA Brookings, SD [Revised]
Brookings Municipal Airport, SD
(lat. 44° 18′ 15″ N., long. 90° 48′ 58″ W.)
BARTT Outer Marker
(lat. 44° 14′ 20″ N., long. 96° 42′ 06″ W.)

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Brookings Municipal Airport and within 4 miles northeast and 8 miles southwest of the 129° bearing from the BARTT outer marker extending from the outer marker to 16 miles southeast of the outer marker and within 8 miles north and 4 miles south of the 118° bearing from the airport to 16 miles east of the airport, and within 8 miles southwest and 4 miles northeast of the 322° bearing from the airport extending from the airport to 16 miles northwest of the airport, excluding that airspace within the Brookings, SD, Control Zone during the specific dates and times that it is effective.

* * * * *

Issued in Des Plaines, Illinois, on February 23, 1993.

Harold G. Hale,

Acting Manager, Air Traffic Division.

[FR Doc. 93–6490 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27203; Amdt. No. 1537]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 97.20 of the Federal Aviation Regulations (FAR) The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–

4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instruction approaches, Weather.

Issued in Washington, DC, on March 12, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing; amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective May 27, 1993*

San Luis Obispo, CA, San Luis Obispo County-McChesney Field, LOC RWY 11, Amdt. 4
Tulare, CA, Mefford Field, VOR/DME RWY 13, Orig. Crystal River, FL, Crystal River-Homosassa Air Terminal, VOR/DME–A, Orig.
Asheville, NC, Asheville Regional, NDB RWY 34, Amdt. 18 Stillwater, OK, Stillwater Muni, VOR/DME RWY 35, Orig.

* * * *Effective April 29, 1993*

Little Rock, AR, Adams Field, VOR/DME RNAV RWY 22R, Amdt. 10
Burbank, CA, Burbank-Glendale-Pasadena, VOR RWY 8, Amdt. 10
Burbank, CA, Burbank-Glendale-Pasadena, LOC RWY 8, Amdt. 2
Burbank, CA, Burbank-Glendale-Pasadena, NDB RWY 8, Amdt. 2
Burbank, CA, Burbank-Glendale-Pasadena, ILS RWY 8, Amdt. 35
Stockton, VA, Stockton Metropolitan, VOR RWY 29R, Amdt. 18
Taylorville, IL, Taylorville Muni, NDB RWY 18, Amdt. 3
Roswell, NM, Roswell Industrial Air Center, LOC BC RWY 3, Amdt. 8

* * * *Effective April 1, 1993*

Spencer, IA, Spencer Muni Airport, NDB RWY 12, Orig.
Spencer, IA, Spencer Muni Airport, ILS RWY 12, Orig.
Nantucket, MA, Nantucket Memorial, VOR RWY 24, Amdt. 12
Nantucket, MA, Nantucket Memorial, LOC BC RWY 6, Amdt. 7
Nantucket, MA, Nantucket Memorial, NDB RWY 24, Amdt. 10
Nantucket, MA, Nantucket Memorial, ILS RWY 24, Amdt. 14
Worcester, MA, Worcester Muni, LOC RWY 29, Orig.
Grand Marais, MN, Devils Track Municipal, NDB RWY 27, Amdt. 6, Cancelled
Grand Marais, MN, Grand Marais-Cook County, NDB RWY 27, Orig. Orr, MN, Orr Regional, NDB RWY 13, Amdt. 7
New Richmond, WI, New Richmond Muni, NDB RWY 13, Amdt. 2, Cancelled
New Richmond, WI, New Richmond Muni, NDB RWY 14, Orig.

[FR Doc. 93–6489 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27204; Amdt. No. 1538]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions. Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW.; Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description on each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC, on March 12 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURE

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC Nos.	SIAP
02/18/93	LA	New Orleans	New Orleans INTL/ MOISANT FLD.	3/0846	ILS RWY 10 (CAT III) AMDT ORIG–A...
02/26/93	AL	Selma	Craig Field	3/1042	NDB RWY 32 AMDT 2...
02/26/93	AL	Selma	Craig Field	3/1043	ILS RWY 32 ORIG...
02/26/93	KS	Phillipsburg	Phillipsburg Muni	3/1033	NDB RWY 31 AMDT 5...
02/26/93	LA	Slidell	Slidell	3/1030	VOR/DME RWY 17 AMDT 2...
02/26/93	LA	Slidell	Slidell	3/1031	NDB RWY 17 ORIG...
02/26/93	PA	Monongahela	Rostraver	3/1024	VOR–A AMDT 4...
02/26/93	SC	North Myrtle Beach	Grand Strand	3/1025	NDB RWY 23 AMDT 10...
02/26/93	SC	North Myrtle Beach	Grand Strand	3/1026	ILS RWY 23 AMDT 9...
03/02/93	AL	Butler	Butler-Choctaw County.	3/1100	NDB RWY 11, AMDT 2...
03/02/93	AL	Centre	Centre Muni	3/1099	VOR/DME RWY 27, AMDT 1...
03/02/93	IA	Perry	Perry Muni	3/1106	NDB RWY 31 AMDT 4...
03/02/93	IA	Perry	Perry Muni	3/1147	NDB RWY 13 AMDT 1...
03/02/93	MA	Bedford	Laurence G. Hanscom Field.	3/1112	ILS RWY 29 AMDT 3...
03/02/93	MA	Bedford	Laurence G. Hanscom Field.	3/1113	NDB RWY 29 AMDT 5...
03/02/93	MA	New Bedford	New Bedford Muni	3/1114	NDB RWY 5, AMDT 11...
03/03/93	TX	Houston	William P. Hobby	3/1129	VOR/DME RWY 22 AMDT 23...
03/03/93	TX	Houston	William P. Hobby	3/1132	ILS RWY 12R AMDT 11..
03/03/93	TX	Houston	William P. Hobby	3/1133	LOC BC RWY 22 AMDT 3
03/05/93	AK	Delta Junction/Ft. Greely.	Allen AAF	3/1202	VOR/DME OR TACAN RWY 18 AMDT 2B
03/05/93	AK	Delta Junction/Ft. Greely.	Allen AAF	3/1203	VOR RWY 18 AMDT 7A...
03/05/93	AK	Delta Junction/Ft. Greely.	Allen AAF	3/1204	NDB–A AMDT 3A...
03/05/93	AL	Montgomery	Dannelly Field	3/1190	RNAV RWY 3 AMDT 5...
03/05/93	AL	Montgomery	Dannelly Field	3/1191	NDB RWY 9 AMDT 18...
03/05/93	AL	Montgomery	Dannelly Field	3/1192	ILS RWY 9 AMDT 23...
03/05/93	AL	Montgomery	Dannelly Field	3/1193	ILS RWY 27, AMDT 8...
03/05/93	AL	Montgomery	Dannelly Field	3/1194	VOR–A, AMDT 3...
03/05/93	IA	Harlan	Harlan Muni	3/1175	NDB RWY 33 AMDT 3...
03/05/93	IN	Nappanee	Nappanee Muni	3/1198	VOR/DME–A AMDT 3...
03/05/93	NJ	Newark	Newark Intl	3/1180	ILS RWY 4R AMDT 8...
03/05/93	NJ	Newark	Newark Intl	3/1181	ILS RWY 4L AMDT 11...
03/10/93	OH	Cincinnati	Cincinnati Muni Airport-Lunken Field.	3/1243	ILS RWY 20L AMDT 14...
03/10/93	OH	Cincinnati	Cincinnati Muni Airport-Lunken Field.	3/1244	NDB RWY 20L AMDT 11...

[FR Doc. 93–6488 Filed 3–19–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27182; Amdt. No. 1535]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC, on February 26, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC Nos.	SIAP
02/12/93	AK	Nome	Nome	3/0739	VOR/DME RWY 9 ORIG...
02/12/93	ME	Pittsfield	Pittsfield Muni	3/0738	NDB RWY 1 AMDT 3...
02/12/93	TN	Columbia/Mt Pleasant.	Maury County	3/0748	NDB RWY 23 AMDT 3A... this corrects NOTAM 3/0527.
02/16/93	MO	St. Louis	Spirit of St. Louis	3/0793	NDB RWY 26L ORIG A...
02/16/93	MO	St. Louis	Spirit of St. Louis	3/0794	LOC RWY 26L AMDT 3A...
02/18/93	ST	Charlotte Amalie	Cyril E. King	3/0843	THOMAS, VI. ILS RWY 10 ORIG A...
02/19/93	AR	Walnut Ridge	Walnut Ridge Regional.	3/0867	LOC RWY 17 AMDT 2A...
02/19/93	AR	Walnut Ridge	Walnut Ridge Regional.	3/0868	NDB RWY 17 AMDT 3A...

NFDC TRANSMITTAL LETTER—Continued

Effective	State	City	Airport	FDC Nos.	SIAP
02/19/93	NY	Dunkirk	Dunkirk/Chautauqua County.	3/0858	VOR RWY 24 AMDT 6...
02/19/93	NY	Dunkirk	Dunkirk/Chautauqua County.	3/0859	VOR RWY 6 AMDT 1...
02/22/93	IN	Lowell	Lowell	3/0912	VOR–A ORIG...
02/22/93	IN	Rensselaer	Jasper County	3/0911	NDB RWY 18 AMDT 3...
02/22/93	IN	South Bend	Michina Regional	3/0910	VOR RWY 18 AMDT 7...
02/22/93	IN	Valparaiso	Porter County Muni	3/0907	RNAV RWY 9 AMDT 2...
02/22/93	IN	Valparaiso	Porter County Muni	3/0908	NDB RWY 27 AMDT 5...
02/22/93	IN	Valparaiso	Porter County Muni	3/0909	ILS RWY 27 AMDT 2A...
02/22/93	NJ	Linden	Linden Airport	3/0922	VOR/DME–D ORIG...
02/23/93	NJ	Linden	Linden Airport	3/0968	VOR–C ORIG...
02/23/93	PA	Johnstown	Johnstown-Cambria County.	3/0987	ILS RWY 33 AMDT 2...
02/24/93	NE	Aurora	Aurora Muni	3/0991	NDB RWY 16 AMDT 1...
02/24/93	NE	Aurora	Aurora Muni	3/0992	VOR–A AMDT 4...
02/24/93	TN	Savannah	Savannah-Hardin County.	3/0996	SDF RWY 18 AMDT 3...
02/24/93	TN	Savannah	Savannah-Hardin County.	3/0997	VOR/DME RWY 18 AMDT 5...
02/24/93	TN	Savannah	Savannah-Hardin County.	3/0998	NDB RWY 18 AMDT 3...
02/25/93	IN	Gary	Gary Regional	3/1004	VOR/DME RWY 2 AMDT 5...
02/25/93	IN	Gary	Gary Regional	3/1006	NDB RWY 30 AMDT 6...
02/25/93	IN	Gary	Gary Regional	3/1008	ILS RWY 30 AMDT 3...

[FR Doc. 93–6487 Filed 3–19–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27181; Amdt. No. 1534]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents in unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather. Issued in Washington, DC on February 26, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective May 27, 1993*

Scottsdale, AZ, Scottsdale, VOR–B, Orig.
Torrance, CA, Zamperini Field, ILS RWY 29R, Amdt. 2
Bainbridge, GA, Decatur County Industrial Airpark, VOR–A, Amdt. 3
Kenton, OH, Hardin County, VOR/DME RNAV RWY 22, Amdt. 1
Mansfield, OH, Mansfield Lahm Nuni, RADAR–1 Amdt. 4
North Kingstown, RI, Quonset State, ILS RWY 16, Amdt. 5
Rapid City, SD, Rapid City Regional, VOR or TACAN RWY 32, Amdt. 24
Rapid City, SD, Rapid City Regional, VOR/DME or TACAN RWY 14, Amdt. 15, CANCELLED
Rapid City, SD, Rapid City Regional, VOR or TACAN RWY 14, Orig.
Rapid City, SD, Rapid City Regional, NDB RWY 32, Amdt 3
Rapid City, SD, Rapid City Regional, ILS RWY 32, Amdt. 17
Madisonville, TN, Monroe County, NDB RWY 5, Amdt. 4
Follett, TX, Follett-Lipscomb County, NDB RWY 35, Amdt. 1, Cancelled

** * * Effective April 29, 1993*

Eagle Lake, TX, Eagle Lake, VOR RWY 17, Amdt. 4

** * * Effective April 1, 1993*

Gulf Shores, AL, Jack Edwards, RADAR–1, Amdt. 1, CANCELLED
Bainbridge, GA, Decatur County Industrial Air Park, NDB RWY 27, Orig.
Angola, NY, Angola, VOR/DME–A, Orig.
Roxboro, NC, Person County, NDB RWY 6, Amdt. 2
North Myrtle Beach, SC, Grand Strand, VOR/DME or TACAN RWY 23, Amdt. 3, CANCELLED
North Myrtle Beach, SC, Grand Strand, VOR RWY 23, Amdt. 18
North Myrtle Beach, SC, Grant Strand, VOR/DME or TACAN RWY 5, Amdt. 4, CANCELLED
North Myrtle Beach, SC, Grand Strand, VOR RWY 5, Amdt. 19
Conroe, TX, Montgomery County, LOC RWY 14, Amdt. 1, CANCELLED
Conroe, TX, Montgomery County, ILS RWY 14, Orig.
Sinton, TX, San Patricio County, VOR/DME RWY 14, Orig.
Sinton, TX, San Patricio County, VOR RWY 32, Amdt. 7
Tacoma, WA, Tacoma Narrows, NDB RWY 35, Amdt. 5
Wenatchee, WA, Pangborn Field, VOR–B, Amdt. 4

** * * Effective February 15, 1993*

St. Charles MO, St. Charles, VOR RWY 9, Amdt. 4.

[FR Doc. 93–6486 Filed 3–19–93; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 944

[Docket No. 930361–306]

Monterey Bay National Marine Sanctuary: Petition to Suspend, Reconsider and Repeal Those Portions of the Monterey Bay National Marine Sanctuary Regulations Restricting the Use of Motorized Personal Water Craft

AGENCY: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: NOS announces its decision to deny a petition for a rulemaking received pursuant to section 553(e) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) from the Personal Watercraft Industry Association (Petitioner). The petition requested NOS to "suspend, reconsider and repeal" those portions of the Monterey Bay National Marine Sanctuary (Sanctuary) regulations (57 FR 43310, to be codified at 15 CFR part 944) that restrict the use of motorized personal water craft (MPWC) to four areas within the Sanctuary. NOS has determined that, at present, there is no basis for suspending or repealing the MPWC regulation. If upon completion of an 18-month vessel traffic study, new findings arise with regard to the impact of MPWC on Sanctuary resources and qualities, NOS will at that time determine if it is necessary to revise the regulation.

EFFECTIVE DATE: March 16 1993.

FOR FURTHER INFORMATION CONTACT: Michael L. Weber, Deputy Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, NOS, NOAA, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235; (202/606–4122).

SUPPLEMENTARY INFORMATION: On September 18, 1992, NOS published final implementing regulations for the Monterey Bay National Marine Sanctuary (57 FR 43310, to be codified at 15 CFR part 944). The regulations became effective January 1, 1993 (57 FR 55444, November 25, 1992). One of the regulations restricts the operation of MPWC to four areas and access routes within the Sanctuary (57 FR 43325, 43328, 43329, to be codified at 15 CFR 944.5(a)(8) and Appendix III).

The regulations define MPWC as:

> Any motorized vessel that is less than fifteen feet as manufactured, is capable of exceeding a speed of fifteen knots, and has the capacity to carry not more than the operator and one other person while in operation. The term includes, but is not limited to, jet skis, wet bikes, miniature speed boats, air boats and hovercraft.

57 FR 43324, to be codified at 15 CFR 944.3(a).

On November 17, 1992, NOAA received a petition from Petitioner, whose member companies include Arctco, Inc., Kawasaki Motor Corp., U.S.A., Yamaha Motor Corp., U.S.A., WetJet International Ltd., and SurfJet International Ltd., requesting that NOAA:

> [i]nitiate rulemaking proceedings to reconsider and repeal those provisions of the recently-promulgated rule which restrict only the use of personal watercraft with the Monterey Sanctuary; [e]xpressly acknowledge that (1) there is currently no basis for distinguishing between personal watercraft and other motorized vessels with respect to any potential threat posed to Sanctuary resources, and (2) there is no basis for concluding that personal watercraft pose any actual threat to the Sanctuary; and [a]ct expeditiously to suspend the application of the recently-promulgated personal watercraft restrictions, pending completion of the requested rulemaking proceedings.

Petition, p. 2.

The petition also states that:

> Petitioner requests that NOAA act to suspend the personal watercraft restrictions before the agency completes its report to Congress on vessel traffic generally. Specifically, Petitioner urges that a proposal to suspend the personal watercraft regulation be published in response to this petition, together with notice of NOAA's intent to reconsider the personal watercraft restrictions and to undertake a rulemaking regarding vessel traffic in general. Petitioner submits that final action on the suspension proposal would be appropriate after a public comment period, but before NOAA makes any determination whether general vessel traffic regulations are necessary.

Petition, p. 8, footnote 6.

On December 14, 1992, NOS published a notice of receipt of the petition (57 FR 59086).

NOS has reviewed the petition and denies it for the following reasons. First, the existing regulation was promulgated after consideration of the threat posed by MPWC operation to Sanctuary resources and qualities based upon the characteristics of these craft and incidents involving them and numerous comments in favor of prohibiting their operation in the Sanctuary. The combination of small size, maneuverability and high speed of these craft is what causes them to pose a threat to resources. NOS determined that these combined characteristics distinguish MPWC from other vessels and necessitated restrictions on MPWC to protect Sanctuary resources. Resources such as sea otters and seabirds either are unable to avoid these craft or are frequently alarmed enough to modify their behavior significantly, such as cessation of feeding or abandonment of young. In addition, other uses of the Sanctuary such as sailing, surfing and diving are interfered with during the operation of MPWC. Also, restriction of MPWC to specified zones and access routes reduces esthetic disturbance.

Further, the existing regulation does not ban MPWC from the Sanctuary. Rather, it regulates them by allowing their use in specified areas. Petitioner has introduced no new facts to warrant initiation of a rulemaking to suspend or repeal the existing regulation.

As Petitioner itself points out, Public Law 102–587 requires the Secretaries of Commerce and Transportation, by May 4, 1994, and in consultation with the State of California and with adequate opportunity for public comment, [to] report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect sanctuary resources. Pub. L. 102–587 § 2203(d); see also Pub. L. 102–368, § 102(d). MPWC will be included in the study. If the study produces new facts with regard to MPWC, NOS will also determine if it is necessary to revise the MPWC regulation. It would be premature at this time to grant Petitioner's request to "reconsider and repeal" the existing regulation before the outcome of the study.

(Federal Domestic Assistance Catalog Number 11.429; National Marine Sanctuaries Program)

Dated: March 16, 1993.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 93–6417 Filed 3–19–93; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1311

Registration and Reregistration Application Fees

AGENCY: Drug Enforcement Administration (DEA).

ACTION: Final rule.

SUMMARY: This final rule establishes the application fee schedule for DEA registration to adequately recover the Federal costs associated with the Diversion Control Program as mandated in the Department of Justice and Related Agencies Appropriations Act, 1993.

EFFECTIVE DATE: March 22, 1993. The new fee schedule will be in effect for all new applications postmarked on April 21, 1993 or later and on all renewal applications with an expiration date of May 21, 1993 or later.

FOR FURTHER INFORMATION CONTACT: Mr. Terrance Woodworth, Chief, Drug Operations Section, Office of Diversion Control, Washington, DC 20537, Telephone (202) 307–8569.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on December 18, 1992 (57 FR 60148) to adjust the registration application fees as required by the Department of Justice and Related Agencies Appropriations Act, 1993 (Pub. L. 102–395). The Act requires that the Drug Enforcement Administration (DEA) collect fees to ensure the recovery of the full costs of operating the Diversion Control Program. Section 111(b) of that Act requires that there be established an account in the general fund of the Treasury, and in section 111(b)(1) there shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of $15,000,000, for the operation of its diversion control program. In addition, section 111(b)(3) requires fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.

There were 23 comments received, all objecting to the proposed rule. Twenty

of the comments (18 of which were submitted by pharmacies and their associations) centered around four main points: (1) The increase was unreasonable and excessive, (2) DEA should look to violators and traffickers to cover the costs through fines and penalties, (3) DEA should look to administrative efficiencies rather than increased fees, and (4) any fee increase would be passed on to the patient which would add to health care costs in the United States. While the issues raised by the commentors are of concern to DEA, the comments relate to issues which are not within the scope of DEA's discretion in implementing the legislation upon which the rule was based.

The legislation specifically provides that fees charged by DEA shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program. The legislation does not give DEA discretion to set the fees at a lower level than that necessary to recover the full costs of the Diversion Program.

Fines and penalties collected as a result of DEA investigations are returned to the U.S. Treasury, not to DEA. Since DEA does not control the disposition of these funds, such an application is not within DEA's jurisdiction. Additionally, DEA is bound by the legislation in which Congress clearly directed DEA to recover the costs specifically through fees.

DEA works diligently to achieve administrative efficiencies. Through a scheduled, periodic review process, virtually all aspects of the Diversion Control Program are inspected to detect any waste, fraud or abuse. This process was instituted long before the proposed rule was published, and will continue in the future.

Three additional comments challenge the proposed rule on the basis that it imposes an unconstitutional tax on registrants to support activities which are not related to their registrations. One of these comments was submitted on behalf of the American Medical Association, the National Association of Retail Druggists, the National Wholesale Druggists Association, the Pharmaceutical Manufacturers Association and the American Pharmaceutical Association. This comment contended that the rule was arbitrary and capricious because it did not provide adequate information on how DEA arrived at the increased fee figures and what programs the fees would support. The comment called upon DEA to withdraw the proposal until an administrative hearing could be held on a reduced fee schedule. The commentor discusses in great detail the provisions of the Office of Management and Budget (OMB) Circular A–25 regarding "user fees" and the provisions of the Independent Offices Appropriations Act (IOAA) regarding the criteria to be applied when imposing a fee.

Regarding the latter comment, Circular A–25 establishes guidelines for Federal agencies to assess fees. The circular was not intended to override statutorily mandated charges. Despite the previous basis for the DEA registration application fee (21 U.S.C. 821) and the 1984 fee increase based on that authority, the current proposal is based upon a new statutory mandate in the Department of Justice and Related Agencies Appropriations Act and must be guided by the specific language of that act.

The commentor also represents that the rule imposes an unconstitutional tax on registrants to support activities which are not related to their registrations. The Congress obviously determined otherwise and would not intentionally promulgate unconstitutional legislation. The legislation identifies the funding basis as the "operation of the diversion control program." In light of the comment, DEA re-reviewed the costs associated with the registration and control of the manufacture, distribution and dispensing of controlled substances contained in the budget of the Attorney General as appropriated by Congress under the budget category "Diversion Control Program." Activities frequently associated with the Diversion Control Program, such as the chemical control efforts, clandestine laboratory efforts, overseas efforts, the support by the DEA Office of Chief Counsel and executive direction were also reexamined. This review confirmed that the above items, with the exception of certain chemical control costs, are not included in the Attorney General's budget delineation for the category of "Diversion Control," and were not included in the determination of the fees.

Diversion Investigators and other personnel of DEA which staff the Diversion Control Program are responsible for enforcing provisions of the Chemical Diversion and Trafficking Act (CDTA), and additional resources for this program have been proposed and adopted in the 1994 Department of Justice budget process. In the implementation of the domestic chemical control program, Diversion Control Program resources devoted to the registration and control of pharmaceutical controlled substances were assigned these additional investigative tasks. Although, in general, these resources were originally authorized for the control of pharmaceutical controlled substances, there is an identifiable segment of the current and 1994 resources which are now conducting reassigned duties separate from the control of controlled substances. This shift, although clearly established and documented in DEA internal policy and tracking systems, was not specifically addressed in the Congressionally adopted use of the Department of Justice budget category "Diversion Control Program."

Upon consideration of the comments, DEA determined that it was Congress' intention that DEA implement the legislatively mandated fee account in a Constitutionally consistent manner, i.e., that Congress did not intend for DEA to include the costs associated with the enforcement of the CDTA which had been reassigned within the budget category "Diversion Control Program" from activities associated with the registration and control of controlled substances. Therefore, DEA has conducted a review of all investigative work hours, support staff hours, and management hours related to the enforcement of the CDTA and their associated costs, i.e., rent, utilities, and equipment, for the current and 1994 projected efforts. It has been determined that the current costs associated with the enforcement of the CDTA are not funded through registration application fees. The amount associated with the 1994 projected efforts has been deducted from the calculation for the Diversion Control Program fee account and will not be included in the future. This amount is $8.1 million.

The activities contained in the program which give rise to the fees consist of Diversion Investigators, analysts, technicians, and clerical personnel salaries and expenses; and travel, rent, utilities, supplies, equipment and services associated with these positions for the registration and control of the manufacture, distribution and dispensing of controlled substances.

The commentor was concerned that DEA did not provide adequate information on how it arrived at the increased fee figures. As stated in the proposed rule, the amount to be recovered is established by the Congressional appropriation process. The legislation specifically mandates that the amount to be recovered shall be in accordance with estimates made in the budget request of the Attorney General. Within that budget request, the budget category "Diversion Control Program" is clearly delineated. The

budget figures are those listed in that category of the budget for the activities outlined above, minus the CDTA activities mentioned previously.

This final rule establishes the fee structure under the existing registration system to recover the costs mandated by the Justice Appropriation Act. The amount required to be recovered for fiscal year 1993 will be $12 million, and $57.1 million will be required for fiscal year 1994.

A correction is also being made to § 1301.11(d) to include reregistration which was inadvertently omitted in a previous change to the section.

Pursuant to sections 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this action has been submitted for review to the Office of Management and Budget, and approval of that office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.*

This rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981. The vast majority of DEA registrants are considered to be small entities whose interests are to be considered under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* However, these registrants are predominantly practitioners and pharmacies whose individual registration fees would be increased by $150 once every three years. Therefore, the Administrator has concluded that the fee increase will have no significant impact on small entities.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the rule has no implications which would warrant the preparation of a Federalism Assessment.

List of Subjects

21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Security measures.

21 CFR Part 1311

Administrative practice and procedure, Drug traffic control, Exports, Imports.

For reasons set out above, 21 CFR part 1301 and 21 CFR part 1311 are amended as follows:

PART 1301—[AMENDED]

1. The authority citation for part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 871(b), 875, 877.

2. Section 1301.11 is revised to read as follows:

§ 1301.11 Fee amounts.

(a) For each registration or reregistration to manufacture controlled substances, the registrant shall pay an application fee of $875 for an annual registration.

(b) For each registration or reregistration to distribute controlled substances, the registrant shall pay an application fee of $438 for an annual registration.

(c) For each registration or reregistration to dispense, or to conduct instructional activities with, controlled substances listed in Schedules II through V, the registrant shall pay an application fee of $210 for a three-year registration equating to an annualized fee of $70 per annum.

(d) For each registration or reregistration to conduct research or instructional activities with a controlled substance listed in Schedule I, or to conduct research with a controlled substance in Schedules II through V, the registrant shall pay an application fee of $70 for an annual registration.

(e) For each registration or reregistration to conduct chemical analysis with controlled substances listed in any schedule, the registrant shall pay an application fee of $70 for an annual registration.

(f) For each registration or reregistration to engage in a narcotic treatment program, including a compounder, the registrant shall pay an application fee of $70 for an annual registration.

PART 1311—[AMENDED]

1. The authority citation for part 1311 continues to read as follows:

Authority: 21 U.S.C. 952, 956, 957, 958, unless otherwise noted.

2. Section 1311.11 is revised to read as follows:

§ 1311.11 Fee amounts.

(a) For each registration or reregistration to import controlled substances, the registrant shall pay an application fee of $438 for an annual registration.

(b) For each registration or reregistration to export controlled substances, the registrant shall pay an application fee of $438 for an annual registration.

Dated: February 22, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6437 Filed 3–19–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8449]

RIN 1545–AE26

Election, Revocation, Termination, and Tax Effect of Subchapter S Status; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to Treasury Decision 8449, which was published in the **Federal Register** for Wednesday, November 25, 1992 (57 FR 55445). The final regulations relate to small business corporations and the election, revocation, termination, and corporate effect of electing subchapter S treatment.

EFFECTIVE DATE: November 25, 1992.

FOR FURTHER INFORMATION CONTACT: Andrea Tucker (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction provide rules under sections 1362 and 1363 of the Internal Revenue Code.

Need for Correction

As published, T.D. 8449 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8449), which was the subject of FR Doc. 92–28193, is corrected as follows:

1. On page 55450, column 1, in the middle of the column, the paragraph designated as § 1.1362–2(c)(4)(ii)(b) entitled "(b) *Sales of stock or securities*" is correctly designated as § 1.1362–2(c)(4)(ii)(B), to read "(B) *Sales of stock or securities*".

2. On page 55451, column 2, in the middle of the column, the paragraph designated as § 1.1362–2(c)(5)(iii)(c) entitled "(c) *Payment to a patron of a cooperative.*" is correctly designated as § 1.1362–2(c)(5)(iii)(C), to read "(C) *Payment to a patron of a cooperative.*".

3. On page 55451, column 3, § 1.1362–2(c)(6), in *Example 4*, third line from the bottom of the paragraph, the language "stock or securities held by PRS if PRS sold all" is corrected to read

"stock or securities held by PRS if PRS had sold all".

Dale D. Goode,

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

[FR Doc. 93–5887 Filed 3–6–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Abandoned Mine Lands Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Maryland Abandoned Mine Lands Reclamation Plan (hereinafter referred to as the Maryland Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231 *et seq.*, as amended. The amendment provides for a new program that will allow Maryland to expend up to ten percent of Title IV funds provided under sections 402(g)(1) and 402(g)(5) of the SMCRA for the abatement and treatment of acid mine drainage (AMD). The amendment was submitted in response to changes in the abandoned mine lands program that resulted from the Abandoned Mine Land (AML) Reclamation Act of 1990 (Pub. L. 101–508) enacted on November 5, 1990.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement. Harrisburg Transportation Center, Third Floor, suite 3C, 4th and Market Streets, Harrisburg, PA 17101, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

The Secretary of the Interior approved the Maryland Plan effective July 16, 1982. Information on the background of the Maryland Plan including the Secretary's findings, and the disposition of comments can be found in the June 16, 1982, **Federal Register** (47 FR 25955–25957).

II. Submission of Amendment

By letter dated September 4, 1992, the Maryland Department of Natural Resources Bureau of Mines (BOM) submitted to OSM a proposed amendment to revise the Maryland Plan (Administrative Record No. MD–560). The proposal would change the Plan to allow for a program initiative made available under the AML Reclamation Act of 1990. This new initiative would allow for the establishment of an acid mine drainage (AMD) abatement and treatment fund under Maryland State law from which amounts (including all interest earned on such amounts) are expended to implement AMD abatement and treatment plans. In addition, the amendment proposes to update the organizational structure contained in the original plan.

The amendment consists of revisions to chapters 1, 5, and 11 of the original plan, as well as supplementary information in support of those changes. Chapter 1, Program Authority, provides information on the AMD abatement and treatment fund established under Maryland State law. Chapter 5, Maryland Ranking and Selection Procedures, provides information on the ranking, selection, and reclamation priorities of AML problems under the Maryland program. Chapter 11, Description of Bureau of Mines and Relationships to Other Participating State Organizations, contains a discussion and organizational charts showing the structure of Maryland State government, the Department of Natural Resources, the Water Resources Administration, and the Bureau of Mines.

Other information submitted in support of the amendment included an addition to appendix A containing Maryland House Bill 1263, an evaluation of the amendment with respect to AML program requirements under 30 CFR 884.13, a revised legal opinion by the Maryland Assistant Attorney General, and information on the public review opportunity provided by Maryland prior to submission of the amendment.

OSM announced the receipt of the proposed amendment in the October 28, 1992, **Federal Register** (57 FR 48762–48764) and in the same notice opened the public comment period and provided the opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on November 27, 1992. The public hearing scheduled for November 23, 1992, was not held because no one requested an opportunity to testify.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR part 884, are the Director's findings concerning the proposed amendment to the Maryland Plan. Nothing in the amendment affects the State's authorization to conduct the Maryland Plan as originally approved effective July 16, 1982 (47 FR 25955–25957). Only those revisions to the original plan approved by OSM that substantively amend the Maryland Plan will be discussed in this final rule. Minor revisions not specifically discussed are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions that are not discussed below contain language similar to the corresponding rules, concern non-substantive word changes, or revise cross-references and paragraph notation to reflect organizational changes resulting from this amendment. In addition to the information submitted in support of the new AMD program and the revisions in State government organization, Maryland provided an analysis of the proposed changes with respect to the requirements for plan amendments contained under 30 CFR part 884.13.

1. Acid Mine Drainage Abatement and Treatment Fund

Maryland is revising the AML Plan to enable the State to receive and retain up to 10 percent of its total grants awarded under paragraphs (1) and (5) of section 402(g) of SMCRA to be deposited in an Acid Mine Drainage Abatement and Treatment Fund (AMD Fund). To accomplish the revision, Maryland provided changes to Chapters 1 and 5, a revised legal opinion from the State Assistant Attorney General, and an addition to Appendix A containing Maryland House Bill 1263.

The changes to Chapter one, Program Authority, of the Maryland Plan consist of a discussion of the October 1990 amendment to SMCRA and the Maryland legislation that authorized the establishment of an AMD Fund. The changes to chapter 5, Maryland Ranking and Selection, consist of the addition of the AMD hydrologic unit plan criteria specified in the 1990 AML Reclamation Act (section 402(g)(7)(B)) and a redefining of the subpriorities under the Priority 3 category. The changes in the Priority 3 category provide for sub-categories that elevate the importance of addressing water quality impacts of mine drainage. The Director finds the

State's revisions to its Plan to be substantively identical to and therefore no less stringent than the counterpart provisions in section 402(g) (6) and (7) of SMCRA as amended in 1990. In addition, and with respect to the changes in sub-priorities of the Priority 3 category, the Director finds that the revisions are no less stringent than the provisions in section 403(a)(3) of SMCRA.

2. Administration and Management

Maryland is revising the Maryland Plan to reflect changes in the State government organizational structure. The new organization structure is contained in a revised chapter 11, Description of Bureau of Mines and Relationships to Other Participating State Organizations, and includes both narrative descriptions and diagrams. The Federal regulations at 30 CFR 884.13(d)(1) require that the State provide a description of the administration and management structure, including the organization of the designated agency conducting the reclamation activity. The Director finds the State's organizational changes to be consistent with the provisions of the cited Federal regulation.

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the October 28, 1992, **Federal Register** (57 FR 48762–48764) ended on November 27, 1992. No public comments were received and since no one requested an opportunity to testify at a public hearing, the scheduled hearing was not held.

Agency Comments

In accordance with 30 CFR 884.14(a)(2), OSM solicited the views of other Federal agencies having an interest in the amendment. The U.S. Department of the Interior, Bureau of Mines, and the Department of the Army, U.S. Army Corps of Engineers, responded without providing comments. The U.S. Department of the Interior, U.S. Fish and Wildlife Service advised by telephone that they had no comments on the proposal. The Environmental Protection Agency, Advisory Council on Historic Preservation, Maryland Historic Trust, and the U.S. Department of Agriculture, Soil Conservation Service, did not respond to requests for comments.

One commenter responded that nothing in the amendment should be interpreted or construed as providing relief from the Mine Safety and Health Act. In response, the Director notes that the proposed amendment relates to the use of AML funds to address acid mine drainage problems throughout the coal fields of Maryland, and does not in any way relieve responsibilities under the Federal Mine Safety and Health Act. No changes to the amendment are necessary.

V. Director's Decision

Based on the above findings, the Director is approving the program amendment to the Maryland Plan submitted by Maryland on September 4, 1992.

The Federal rules at 30 CFR part 920 codifying decisions concerning the Maryland program are being amended to implement this decision. This amendment to the Federal rules is being made effective immediately to expedite the State amendment process and to encourage states to bring their programs in conformity with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a state program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.). The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary.

VI. Procedural Determinations

Executive Order 12291

On March 30, 1992, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or disapproval of State and Tribal abandoned mine land reclamation plans and revisions thereof. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and adopted by a specific State or Tribe, not by OSM. Decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1231–1243) and the Federal regulations at 30 CFR parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior [516 DM 6, appendix 8, paragraph 8.4B(29)].

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 920

Abandoned Mine Land Plans, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 13, 1993.

Alfred Whitehouse,

Acting Assistant Director, Eastern Support Center.

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

PART 920—MARYLAND

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

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

2. Section 920.25 is added to read as follows:

§ 920.25 Approval of Maryland Abandoned Mine Reclamation Plan (AMLR) amendments.

The Maryland AMLR Plan amendment submitted September 4, 1992, is approved effective March 22, 1993.

[FR Doc. 93–6525 Filed 3–19–93; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–041–5501; FRL–4559–1]

Approval and Promulgation of Implementation Plans; Florida: Vehicle Inspection Maintenance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Florida State Implementation Plan (SIP). These revisions were submitted to EPA through the Florida Department of Environmental Regulation on March 25, 1991, and will revise the regulation approved on September 24, 1990. This plan has been submitted by the Florida Department of Environmental Regulation (FDER) as an integral part of the program to achieve and maintain the National Ambient Air Quality Standard (NAAQS) for ozone. These regulations meet all EPA requirements and therefore EPA is approving the SIP revisions.

EFFECTIVE DATE: This action will be effective May 21, 1993 unless notice is received by April 21, 1993 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the material submitted by Florida may be examined at the following locations during normal business hours:

Public Information Reference Unit, Attn: Jerry Kurtzweg (AN443), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

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

Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

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

SUPPLEMENTARY INFORMATION: On June 5, 1987, the Florida Legislature created the Motor Vehicle Emissions Study Commission. The Commission was charged with the responsibility of recommending an Inspection/Maintenance (I/M) program design that would be effective at both reducing vehicular emissions and protecting the health of the citizens of Florida. This was in response to two key issues: (1) Continued ozone nonattainment in various Florida counties, and (2) an FDER study that demonstrated that over 70% of the emissions of volatile organic compounds (VOCs) in Florida result from mobile sources.

The commission members visited various I/M programs throughout the country to evaluate alternative program designs. Public hearings were also conducted in the nonattainment counties to solicit citizen input. The Florida Motor Vehicle Study Commission delivered its report to the Governor of Florida on March 1, 1988. The report concluded that "A contralized, contractor-operated I/M program is best suited to Florida's needs." The report also addressed tampering, enforcement, compliance, fleets, waivers, and public education elements.

Following the study, the 1988 Florida Legislature passed Chapter 88–129, Laws of Florida, entitled the Clean Outdoor Air Law (COAL). The law was amended by the 1989 Florida Legislature and is codified in Chapter 325, Florida Statutes (F.S.), and Section 316.2935, F.S. The FDER was charged by the COAL to develop test procedures, regulations and emission standards. After a series of public hearings, the Florida Environmental Regulation Commission, on December 7, 1988, approved Florida Administrative Code, Chapter 17–242 (Mobile Source—Motor Vehicle Emissions Standards and Test Procedures). That rule was adopted by FDER by filing with the Florida Secretary of State on January 31, 1989, and was submitted to EPA on March 20, 1989. That program began operation in April 1991. Chapter 17–242 was approved on March 3, 1992 (55 FR 7550). All counties that are nonattainment for ozone or carbon monoxide are required to implement the program.

During the ensuing years, following the adoption of Rule 17–242, F.A.C., the FDER realized that some changes to the regulation were necessary to ensure smooth operation of the program. Workshops were held on August 30 and October 30, 1990, and changes were discussed. Some of the changes were procedural in nature and did not require approval of the environmental commission. No objections to these rules which dealt with emissions testing equipment performance specifications were voiced at the public hearing in Tallahassee, Florida, held on December 3, 1990.

On January 10, 1991, a public hearing was held to discuss revisions which required the approval of the environmental commission. The changes discussed involved strengthening of the training criteria for motor vehicle inspectors (two Florida Department of Highway Safety and Motor Vehicle rules, Rules 15C–6.001 and 15C–6.002, were adopted by reference for this purpose); change in requiring proof of catalytic converter operation only at the time of waiver application rather than upon reinspection following a fuel inlet restrictor failure; and the changing of the waiver criteria for 1975–1979 vehicles.

The FDER chose to modify the requirements pertaining to the operation of the catalytic converter because it would cause an operational and public relations problems. These problems would arise because EPA has not established or approved a method to test operation of a catalytic converter at an inspection lane. The inspector would therefore be required to pass judgment as to whether the catalytic converter was operating, which could cause real and perceived inequities.

The fuel inlet restrictor check requirements were also amended. Since lead fuel is no longer sold commercially, the State found it difficult to require replacement of a damaged inlet restrictor if its only purpose is to prevent misfueling of the vehicles. Therefore, FDER removed the requirement for automatic failure of the emissions test based solely on failure to meet fuel restrictor requirements. This amendment to the rule is expected to save Florida consumers approximately

$5 million dollars based on predicted failure rates and repair costs.

The State also amended the waiver requirements pertaining to 1975–1979 vehicles to reduce the economic shock on owners of old vehicles. Instead of a full scale emission controls inspection upon failure, these vehicles will only be required to demonstrate that the vehicle has an unvented gas cap and an operating catalytic converter. The Rule still requires a reduction in emissions from the original test and this waiver is only good for one year.

Final Action

EPA is today approving revisions to the Florida SIP incorporating revisions to the inspection and maintenance program. All of the revisions being approved are consistent with Agency policy. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective May 21, 1993. However, if notice is received by April 21, 1993 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a comment period.

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

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget temporarily waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

The Agency has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with the requirements of the Act.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 16, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(75) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(75) Revisions to F.A.C. Chapter 17–242 (Motor Vehicle Emission Standards and Testing Procedures) which were submitted to EPA on March 25, 1991.

(i) Incorporation by reference.

(A) Revision to F.A.C. 17–242 (Motor Vehicle Emission Standards and Testing Procedures) which were adopted March 1, 1991.

Revision to F.A.C. Chapter 17–242 as follows:

17–242.100; and
17–242.200 (1), (6), (9), (11), (12), (15), (18), (26), (29) and (30); and
17–242.300; and
17–242.400; and
17–242.500; and
17–242.600 (1–3(a)(3)), 3(a)(6–10), 5(a–f), 5(h), 6 and
17–242.700; and
17–242.800; and
17–242.900 (1), (2)(a), (2)(b), (2)(d) through (2)(g), (3), (4) and (5)

(ii) Other material.

(A) Letter of March 25, 1991, from the Florida Department of Environmental Regulation.

[FR Doc. 93–6451 Filed 3–19–93; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[OH39–1–5714; FRL–4605–1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving, in final, a revision request to the ozone portion of the Ohio State Implementation Plan (SIP) for Ludlow Flexible Packaging, Inc. (Ludlow), in Mt. Vernon, Ohio. The revision was submitted by the Ohio Environmental Protection Agency (OEPA) on September 30, 1983, as an emissions trade (bubble) with monthly averaging. The revision consists of variances and permits for 22 printing and paper coating lines (sources K001–K022), which exempts these lines from the control requirements contained in the Ohio Administrative Code (OAC) Rules 3745–21–09(Y) and 3745–21–09(F), with a compliance date extension to June 30, 1987.

This revision does not meet the requirements of USEPA's emissions trading policy statement (ETPS) and, therefore, cannot be approved as a bubble. However, USEPA is approving this revision, in final, as a relaxation from the reasonably available control technology (RACT) requirements, because the source is located in Knox County, which is currently designated as an attainment area for ozone and, thus, the existing control requirements are not required by the Clean Air Act (Act). Approval of this SIP revision cancels the accommodative SIP for Knox County.

EFFECTIVE DATES: This final rulemaking becomes effective on April 21, 1993.

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Richard Schleyer at (312) 353–5089, before visiting the Region 5 Office).

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of today's revision to the Ohio SIP is available for inspection at: U.S. Environmental Protection Agency, Jerry Kurtzweg (ANR–443), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Schleyer, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604, (312) 353–5089.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1983, the OEPA submitted a revision request to the ozone portion of the Ohio SIP for Ludlow. The revision, a bubble with monthly averaging between 10 printing lines (sources K001–K010) and 12 paper coating lines (sources K011–K022), and a compliance date extension to June 30, 1987, for all 22 lines, consists of variances and permits.

The printing lines are subject to the control requirements contained in the OAC Rule 3745–21–09(Y), and to the compliance schedule contained in OAC Rule 3745–21–04(C)(32). The paper coating lines are subject to the control requirements contained in OAC Rule 3745–21–09(F), and to the compliance schedule contained in OAC Rule 3745–21–04(C)(5). In lieu of these requirements, the terms and conditions for the variances and permits for these lines limit the volatile organic compounds (VOC) emissions to 0.27 pounds per pound of solids, as applied, as a monthly average. In addition, there is a limit of 4.8 pounds of VOC per pound of solids, as applied (based on 2.9 pounds of VOC per gallon of coating, excluding water) on a daily average for seven of the paper coating lines (K016–K022).

On January 13, 1987, the OEPA submitted additional information concerning this revision. In this submittal, the OEPA stated that several of the printing lines have been or will be permanently shut down and the remaining lines will be controlled by thermal incineration in accordance with OAC Rule 3745–21–09(Y), thereby removing the ten printing lines from the bubble. In addition, 4 of the 12 paper coating lines K017–K019, K022) have been removed from the plant. Therefore, only 8 paper coating lines (K011–K016, K020–K021) remain under the bubble. The compliance date extension to June 30, 1987, still applies to all 22 lines.

A proposed rulemaking approving this revision request was published in the September 25, 1992 **Federal Register** (57 FR 44351). The public comment period ended October 26, 1992. No public comments were received.

II. Current SIP

Under the existing federally approved SIP, Ludlow's printing lines are subject to the control requirements contained in the OAC Rule 3745–21–09(Y). This rule limits the VOC content in the coatings and inks to 40 percent by volume, excluding water, or 25 percent by volume of the volatile content. Ludlow's paper coating lines are subject to the control requirements contained in OAC Rule 3745–21–09(F), which limits the VOC content to 4.8 pounds per pound of solids, as applied (based on 2.9 pounds per gallon of coating, excluding water).[1] In lieu of these requirements, the terms and conditions for the variances and permits for these lines limit the VOC emissions to 0.27 pounds per pound of solids, as applied, as a monthly average. In addition, there is a limit of 4.8 pounds of VOC per pound of solids, as applied (based on 2.9 pounds of VOC per gallon of coating, excluding water) on a daily average for seven of the paper coating lines (K016–K022).

III. Knox County Attainment Status

These lines are located in Knox County, Ohio. Knox County was originally designated as a nonattainment area of the NAAQS for ozone.[2] This designation was based on the assumption that nonattainment of the 0.08 ppm ozone standard (the level of the standard prior to 1979) was widespread around major urban areas. As requested by OEPA, USEPA designated Knox County as a nonattainment area although no in-county monitoring data was available. After the ozone standard was changed to 0.12 ppm, OEPA recognized that the assumption of widespread ozone nonattainment was no longer valid and initiated the redesignation of Knox County to attainment of the ozone standards. USEPA approved this request, and in 1984 redesignated Knox County as an attainment area for ozone.[3]

IV. Compliance with the Clean Air Act Amendments of 1990

This request for a revision to the Ohio SIP for ozone has been reviewed for conformance with the provisions of the Clean Air Act Amendments of 1990 (CAAA of 1990), enacted on November 15, 1990. It has been determined that this action does conform with the General Savings Clause stated in Subpart 6, Section 193 of the CAAA of 1990 which prohibits, in nonattainment areas, any relaxation of SIP requirements, without at least offsetting emission reductions. Ludlow is located in Knox County which is designated as an attainment area for ozone.

V. Conclusion

In order to have a revision to the ozone SIP approved as a plan that is equivalent to the RACT requirements, the revision must meet the criteria contained in USEPA's policies on bubbles and long-term averaging. The Ludlow revision does not meet these criteria. However, as discussed below, this revision request can be approved as a relaxation from the RACT requirements.

USEPA is also approving the request for a compliance date extension to June 30, 1987, because: (1) Ludlow is located in an area that is designated attainment for ozone; (2) approval of this revision will not increase historical VOC emissions from the source; and (3) RACT is not required by the Act in an area designated as attainment of the ozone standard.

Although the requested revision does not satisfy USEPA's bubble policy and

[1] In the October 31, 1980 **Federal Register** (45 FR 72122), and in the June 29, 1982 **Federal Register** (47 FR 28097), USEPA approved OAC Rule(s) 3745–21–09 (Y) and (F) as part of the SIP as meeting the RACT requirements of Part D of the Act.

[2] This designation was published in the March 13, 1978 **Federal Register** (43 FR 8962), and in the October 5, 1978 **Federal Register** (43 FR 45993).

[3] This designation was published in the June 12, 1984 **Federal Register** (49 FR 24124), and in the November 6, 1991 **Federal Register** (56 FR 56694).

monthly averaging requirements within the context of the RACT requirements, as stated above, the revision is approved, in final, as a relaxation from the RACT requirements because Knox County is a rural attainment area for ozone. The revision will not cause an increase in actual historical VOC emissions from this source. Additionally, the Act does not require RACT level control in attainment areas. Approval of this revision eliminates the accommodative ozone SIP in Knox County. This means that all new major VOC sources and major modifications in this county must comply with all the PSD monitoring requirements.

These variances and permits were issued by the State of Ohio and issued to Ludlow Flexible Packaging, Inc., and expire on April 22, 1996. Therefore, this SIP revision is only effective until these variances and permits expire.

Final Action

USEPA is approving this SIP revision, in final, as a relaxation from the RACT requirements of section 172 of the Act, for Ludlow Flexible Packaging, Inc. Ludlow is located in Knox County which is designated as an attainment area for ozone. This revision can be approved because the Act does not require RACT level control in areas designated as attainment of the NAAQS for ozone.

Approval of this SIP revision cancels the accommodative SIP for Knox County. USEPA is also approving the request for a compliance date extension to June 30, 1987.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table Two and Three SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table Two and Table Three revisions. The Office of Management and Budget (OMB) has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2).]

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 23, 1993.

Valdas V. Adamkus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Ohio—Subpart KK

2. Section 52.1870 is amended by adding new paragraph (c)(91) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(91) On September 30, 1983, the Ohio Environmental Protection Agency (OEPA) submitted a revision request to the ozone SIP for Ludlow Flexible Packaging, Inc. (Ludlow), located in Mt. Vernon (Knox County), Ohio. This revision was in the form of variances and permits that established a bubble with monthly averaging between 22 paper coating and printing lines (sources K001–K022) and a compliance date extension to June 30, 1987. On January 13, 1987, the OEPA submitted additional information concerning this revision stating that several of the printing lines have been or will be permanently shut down and the remaining lines will be controlled by thermal incineration in accordance with OAC Rule 3745–21–09(Y). In addition, four of the paper coating lines (K017–K019, K022) have been removed from the plant. Therefore, only eight paper coating lines (K011–K016, K020 and K021) remain under the bubble. This revision exempts these lines from the control requirements contained in Ohio Administrative Code (OAC) Rules 3745–21–09(F) and 3745–21–09(Y). These variances and permits expire on April 22, 1996.

The accommodative SIP for Knox County will be canceled upon approval of this SIP revision.

(i) Incorporation by reference.

(A) Condition Number 8 (which references Special Terms and Conditions Numbers 1–7 within each of the 5 "State of Ohio Environmental Protection Agency Variance to Operate an Air Contaminant Source," Application Numbers 0342010111K011–0342010111K015, as they apply to Ludlow Flexible Packaging, Inc., located in Mt. Vernon, Ohio. The Date of Issuance is September 23, 1983.

(B) Condition Number 8 (which references Special Terms and Conditions Numbers 1–7) within each of the 3 "State of Ohio Environmental Protection Agency Permit to Operate an

Air Contaminant Source," Application Numbers 0342010111K016, 0342010111K020, and 0342010111K021, as they apply to Ludlow Flexible Packaging, Inc., located in Mt. Vernon, Ohio. The Date of Issuance is September 23, 1983.

(ii) Additional material.

(A) January 13, 1987, letter from Patricia P. Walling, Chief, Division of Air Pollution Control, Ohio Environmental Protection Agency; to Steve Rothblatt, Chief, Air and Radiation Branch, U.S. Environmental Protection agency.

[FR Doc. 93–6450 Filed 3–19–93; 8:45 am]
BILLING CODE 4605–1–M

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40 CFR Part 52

[ME–2–1–5673; A–1–FRL–4599–8]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Capture Efficiency Test Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision corrects deficiencies in the State's volatile organic compound (VOC) regulations in response to EPA's May 25, 1988 Ozone SIP call and the Clean Air Act requirement, section 182(a)(2)(A), that States "fix-up" their reasonably available control technology (RACT) rules. The intended effect of this action is to approve of Maine's Chapter 126 "Capture Efficiency Test Procedures" which incorporates the current Federal RACT requirements for VOC. These RACT corrections are a requirement of the Clean Air Act (CAA) as amended in 1990. This action is being taken under section 110 and part D of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on April 21, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Jerry Kurtzweg, U.S. Environmental Protection Agency, 401 M Street, SW., (ANR–443), Washington, DC 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565–3166.

SUPPLEMENTARY INFORMATION: On June 5, 1991; the Maine Department of Environmental Protection (DEP) submitted a revision to its SIP. This revision corrects deficiencies in Maine's VOC regulations. On August 12, 1992 (57 FR 36040), EPA published a Notice of Proposed Rulemaking (NPR) which proposed approval of this revision. No public comments were received on the NPR.

Maine's Revision

In response to EPA's May 25, 1988 Ozone SIP call, EPA's June 16, 1988 follow-up letter, and requirements of the Clean Air Act, as amended in 1990, on May 22, 1991, Maine adopted a new regulation entitled "Capture Efficiency Test Procedures" (Chapter 126). This regulation specifies the test procedures required to measure how much of the total VOC emissions from a regulated source is captured and delivered to a control system.

EPA has evaluated this revision and found that it corrects the deficiencies listed in EPA's SIP call follow-up letter and is consistent with the applicable EPA guidance as discussed in EPA's NPR (57 FR 36040). Therefore, EPA believes Maine has met the section 182(a)(2)(A) requirement that it correct its SIP by including a capture efficiency test method. Maine's regulation and EPA's evaluation are detailed in a memorandum, dated May 27, 1992, entitled "Technical Support Document—Maine—Capture Efficiency Test Procedures." Copies of that document are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Final Action

EPA is approving Chapter 126 "Capture Efficiency Test Procedures" as a revision to the Maine SIP. Today's action makes final the action proposed at 57 FR 36040 (Aug. 12, 1992).

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

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

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214).

EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP Revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: February 5, 1993.

Patricia L. Meaney,

Acting Regional Administrator, Region I.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(32) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(32) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on June 5, 1991.

(i) Incorporation by reference.

(A) Letter from the Maine Department of Environmental Protection dated June 3, 1991 submitting a revision to the Maine State Implementation Plan.

(B) Chapter 126 of the Maine Department of Environmental Protection Regulations, "Capture Efficiency Test Procedures" effective in the State of Maine on June 9, 1991.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

In § 52.1031 Table 52.1031 is amended by adding a new entry to read as follows:

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by state	Date approved by EPA	Federal Register citation	52.1020
•	•	•	•	•	•
Chapter 126	Capture Efficiency Test Procedures	5/22/91	March 22, 1993	[FR page citation from published date].	(c)(32)
•	•	•	•	•	•

[FR Doc. 93–6453 Filed 3–19–93; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[CA–22–2–5682; FRL–4561–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of direct final rulemaking.

SUMMARY: EPA is approving revisions to the California State Implementation Plan (SIP) for the San Joaquin Unified Air Pollution Control District (SJVUAPCD). These revisions were submitted to EPA by the California Air Resources Board (CARB) on January 28, 1992. This approval action will incorporate a rule that controls organic compounds from non-assembly line motor vehicle and mobile equipment refinishing operations into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clear Air Act, as amended (CAA or the Act). EPA is approving this revision under section 110(k)(3) as meeting the requirements of section 110 and part D of the CAA.

DATES: This action will be effective on May 21, 1993 unless notice is received by April 21, 1993 that adverse or critical comments will be submitted. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Comments may be sent to: Esther Hill, Rulemaking Section I (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

A copy of the rule and EPA's evaluation report is available for public inspection at EPA's Region 9 office during normal business hours. A copy of the submitted rule is also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814.

San Joaquin Valley Unified, Air Pollution Control District, 1745 West Shaw, Suite 104, Fresno, CA 93711.

Jerry Kurtzweg ANR–443, Environmental Protection Agency, 401 "M" Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section II (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1195, Fax: (415) 744–1076.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act), that included the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD,[1] Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. 43 FR 8964, 40 CFR 81.305. Because Fresno, San Joaquin, and Stanislaus Counties were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.[2] On May 26, 1988, EPA notified the Governor of California that the above districts' portions of the California State Implementation Plan (SIP) were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182 (a)(2)(A), Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology

[1] At that time, Kern County included portions of two air basins: The San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

[2] This extension was not requested for Kern, Kings, Madera, Merced, and Tulare Counties. The attainment date for these counties remained December 31, 1982.

(RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

On March 20, 1991, the SJVUAPCD was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County. Thus, Kern County Air Pollution Control District (KCAPCD) still exists, but only has authority over the Southeast Desert Air Basin portion of Kern County.

Section 182 (a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. APCDs found in the San Joaquin Valley Air Basin (now collectively known as the SJVUAPCD) were subject to the RACT fix-up requirement and the May 15, 1991 deadline.[4]

The State of California submitted many revised RACT rules for incorporation into its SIP on May 30, 1992, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for SJVUAPCD's Rule 460.2, Motor Vehicle and Mobile Equipment Refinishing Operations. This submitted rule was found to be complete on April 3, 1992 pursuant to EPA's completeness criteria set forth in section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991) and is being granted approval.

Rule 460.2 controls VOC emissions from non-assembly line motor vehicle and mobile equipment refinishing operations. This rule was originally adopted as part of SJVUAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following is EPA's evaluation for San Joaquin's Rule 460.2.

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[4] The San Joaquin Valley Air Basin was redesignated nonattainment and classified as serious by operation of law pursuant to section 107(d) and section 181(a) on November 15, 1990. See 56 FR 56694 (November 6, 1991).

EPA Evaluation

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (RACT) for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

EPA has evaluated San Joaquin's submitted rule 460.2 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address suggestions made previously by EPA. The rule will achieve greater enforceability through the inclusion of the newly referenced capture efficiency test method, utility body coating operations requirements, and a compliance schedule. A brief description of the rule change is provided below.

SJVUAPCD's rule 460.2 applies to the coating and refinishing operations of non-assembly line vehicles (i.e., not original equipment manufacturers). The rule was revised to cite the EPA recommended reference to capture efficiency: "Capture efficiency shall be determined using methods in the **Federal Register** at 55 FR 26865 (June 29, 1990) as described under (a)(4)(iii)—Capture System Efficiency Test Protocols and Appendix B—Volatile Organic Material Measurement Techniques for Capture Efficiency. The procedure described under (a)(4)(iii)(2) of the above referenced FR has been modified as follows: If a source owner or operator uses a control device designed to collect and recover VOC (e.g., a carbon adsorber), an explicit measurement of capture efficiency is not necessary if the conditions described in 55 FR 26865 are met. The overall emission reduction efficiency shall be determined each day by directly comparing the input liquid VOC to the recovered liquid VOC. The procedure for use in this situation is specified in 40 CFR 60.433 with additional modifications described in 55 FR 26865." Also, a utility body coating requirement was added to provide standards for operations that coat less than 20 utility bodies per day. Finally, a compliance section was added for sources installed or constructed on or after April 11, 1991. A few minor revisions were made and are described in the technical support document.

EPA Action

EPA has concluded that the submitted rule is consistent with the CAA, EPA regulations, and EPA policy. Moreover, this submitted rule revision will improve and strengthen the current SIP Therefore, EPA is approving the submitted rule under section 110(k)(3) as meeting the requirements of section 110 and part D of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment action and anticipates no adverse comments. This action will be effective May 21, 1993, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this notice will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective May 21, 1993.

Regulatory Process

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant

impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: February 12, 1993.

John C. Wise,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(187)(i)(A)(2) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(187) * * *

(i) * * *

(A) * * *

(2) Rule 460.2, adopted on September 19, 1992.

[FR Doc. 93–6454 Filed 3–19–93; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[FRL–4606–6]

Clarification of the Regulatory Determination for Wastes From the Exploration, Development and Production of Crude Oil, Natural Gas and Geothermal Energy

AGENCY: Environmental Protection Agency.

ACTION: Clarification.

SUMMARY: This document provides additional clarification of the Resource Conservation and Recovery Act (RCRA) *Regulatory Determination for Oil and Gas and Geothermal Exploration, Development and Production Wastes* dated June 29, 1988 (53 FR 25446; July 6, 1988). This document clarifies the regulatory status of wastes generated by the crude oil reclamation industry, service companies, gas plants and feeder pipelines, and crude oil pipelines. Since this document only further clarifies the status of these wastes under the RCRA Subtitle C hazardous waste exemption discussed in EPA's 1988 Regulatory Determination, and does not alter the scope of the current exemption in any way, comments are not being solicited by the Agency on this notice.

FOR FURTHER INFORMATION CONTACT: For general information on the scope of the RCRA Subtitle C exemption for wastes from the exploration, development and production of crude oil, natural gas and geothermal energy, contact the RCRA/Superfund hotline at (800) 424–9346 (toll free) or (703) 412–9810. For technical information, contact Mike Fitzpatrick, U.S. Environmental Protection Agency OS–323W, 401 M Street, SW., Washington, DC 20460; phone (703) 308–8411.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 94–580), Congress amended the Resource Conservation and Recovery Act (RCRA) to add sections 3001 (b)(2)(A), and 8002(m). Section 3001(b)(2)(A) exempted drilling fluids, produced waters, and other wastes associated with exploration, development, and production of crude oil, natural gas and geothermal energy from regulation as hazardous wastes. Section 8002(m) required the Administrator to complete a Report to Congress on these wastes and provide an opportunity for public comment. The Administrator was also required by section 3001 (b)(2)(A) to make a determination no later than six months after completing the Report to Congress as to whether hazardous waste regulations under RCRA Subtitle C were warranted for these wastes.

EPA's Report to Congress was transmitted to Congress on December 28, 1987. In the process of preparing the Report to Congress, the Agency found it necessary to define the scope of the exemption for the purpose of determining which wastes were considered "wastes from the exploration, development or production of crude oil, natural gas or geothermal energy." Based upon statutory language and legislative history, the Report to Congress identified several criteria used in making such a determination. In particular, for a waste to be exempt from regulation as hazardous waste under RCRA Subtitle C, it must be associated with operations to locate or remove oil or gas from the ground or to remove impurities from such substances and it must be intrinsic to and uniquely associated with oil and gas exploration, development or production operations (commonly referred to simply as exploration and production or E&P); the waste must not be generated by transportation or manufacturing operations.

Transportation of oil and gas can be for short or long distances. For crude oil, "transportation" is defined in the Report to Congress and the subsequent Regulatory Determination as beginning after transfer of legal custody of the oil from the producer to a carrier (i.e., pipeline or trucking concern) for transport to a refinery or, in the absence of custody transfer, after the initial separation of the oil and water at the primary field site. For natural gas, "transportation" is defined as beginning after dehydration and purification at a gas plant, but prior to transport to market. To accurately determine the scope of the exemption, the reader is referred to the December 28, 1987, Report to Congress, Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy (NTIS #PB88–146212) for the specific application of the criteria.

The Agency's Regulatory Determination was published in the **Federal Register** on July 6, 1988 (53 FR

25446). The Regulatory Determination included a list of example wastes that generally are exempt and a list of example wastes that generally are not exempt. Neither of these lists was intended to be a complete itemization of all possible exempt or non-exempt wastes. Also, because definitions of the terms used in these lists vary, the criteria identified in the Report to Congress remain the authoritative source for determining the scope of the exemption. The reader is referred to the July 6, 1988, notice for detailed background on all aspects of the Regulatory Determination.

Since 1987, the terms uniquely associated and intrinsic have been used as interchangeable synonyms in various documents in reference to oil and gas wastes qualifying for the exemption from Subtitle C regulation. (For simplicity's sake, when referring to exempt wastes, this notice combines the use of these two terms into the single term uniquely associated.) A simple rule of thumb for determining the scope of the exemption is whether the waste in question has come from down-hole (i.e., brought to the surface during oil and gas E&P operations) or has otherwise been generated by contact with the oil and gas production stream during the removal of produced water or other contaminants from the product (e.g., waste demulsifiers, spent iron sponge). If the answer to either question is yes, the waste is most likely considered exempt.

Since the Agency's Regulatory Determination, numerous requests have been received for determination, on a site-specific basis, of the regulatory status of wastes not itemized in the Regulatory Determination's list of examples. Many of these requests have dealt with broad categories of similar wastes (e.g., crude oil reclaimer wastes, service company wastes, pipeline wastes). Today's notice responds to the many requests for clarification of the scope of the exemption.

II. Clarification of the Scope of the Oil and Gas Exemption

A. Crude Oil Reclamation Industry

The crude oil reclamation industry recovers marketable crude oil and other hydrocarbons from produced water, crude oil tank bottoms and other oily wastes that are generated by the production of crude oil and natural gas. In general, the marketable crude oil is recovered from the waste materials by simple thermal and/or physical processes (e.g., heat and gravity separation). Occasionally, demulsifiers may be added to produced waters from which crude oil cannot be separated with heat and settling time alone. The typical residual materials left after removal of the crude oil by the reclaimers are also produced water and tank bottom solids. These residuals will often exhibit the same characteristics as the parent waste, although the concentrations of some constituents may vary from those in the parent.

In September 1990, the crude oil reclamation industry requested that the Agency provide an interpretation of the language in the 1988 Regulatory Determination pertaining to RCRA Subtitle C coverage of wastes from crude oil and tank bottom reclaimers. (The list of "non-exempt" wastes in the Regulatory Determination included "liquid and solid wastes generated by crude oil and tank bottom reclaimers.") In particular, they requested that EPA clarify whether any wastes generated by crude oil reclaimers are included within the oil and gas exemption, particularly those originating from the crude oil itself, such as produced water and the other extraneous materials in crude oil, otherwise known as basic sediment and water (BS&W).

In April 1991, the Agency responded to the request with a letter that included broad guidance on the status of wastes from the crude oil reclamation industry. (A copy of the letter is included in the docket to this notice.) EPA explained that the inclusion of "liquid and solid wastes" from crude oil reclamation on the list of non-exempt wastes contained in the Regulatory Determination was intended to refer only to those non-E&P wastes generated by reclaimers (e.g., waste solvents from cleaning reclaimers' equipment) and was not intended to refer to wastes remaining from the treatment of exempt wastes originally generated by the exploration, development or production of crude oil or natural gas.

EPA's basis for this position is several-fold. First, the Agency has consistently taken the position that wastes derived from the treatment of an exempt waste, including any recovery of product from an exempt waste, generally remain exempt from the requirements of RCRA Subtitle C. Treatment of, or product recovery from, E&P exempt wastes prior to disposal does not negate the exemption. [The same principle applies to exempt mining and mineral processing wastes. See, 54 FR at 36621 (Sept. 1, 1989).] For example, waste residuals (e.g., BS&W) from the on-site or off-site process of recovering crude oil from tank bottoms obtained from crude oil storage facilities at primary field operations (i.e., operations at or near the wellhead) are exempt from RCRA Subtitle C because the crude oil storage tank bottoms at primary field operations are exempt. In effect, reclaimers are conducting a specialized form of waste treatment in which valuable product is recovered and removed from waste uniquely associated with E&P operations. In addition, in many cases, product recovery or treatment reduces the volume and overall toxicity of the waste and thereby contributes to the Agency's policy and goals for waste minimization and treatment of waste prior to disposal.

EPA further notes that the off-site transport of exempt waste from a primary field site for treatment, reclamation, or disposal does not negate the exemption. The change of custody criterion (which is discussed in the Report to Congress) for the purpose of defining transportation refers to the transport of product (crude oil, natural gas) and does not apply to exempt wastes moving off-site for treatment or disposal since these wastes were generated by the exploration, development or production operations and not by the transportation process. Thus, the off-site transport and/or sale of exempt oil-field wastes to crude oil reclaimers for treatment does not terminate the exempt status either of the wastes or the residuals from a reclamation process applied to these wastes.

However, there are solid and liquid wastes from reclamation operations that are not exempt from RCRA Subtitle C. These are wastes which the Agency intended to refer to in its example within the 1988 Regulatory Determination. Generally, these reclaimer wastes are derived from non-exempt oilfield wastes or otherwise contain materials that are not uniquely associated with exploration, development or production operations. An example would be waste solvents generated from the solvent cleaning of tank trucks that are used to transport oilfield tank bottoms. Such wastes would not be exempt from Subtitle C because the use of cleaning solvents is not uniquely associated with the production of crude oil.

Generally, crude oil reclaimer wastes that are derived from exempt oilfield wastes (e.g., produced water, BS&W) are not subject to the Subtitle C waste management requirements of RCRA. Such wastes, however, remain subject to any applicable state solid waste management requirements. Moreover, this exemption from RCRA Subtitle C requirements may not apply if the crude oil reclaimer wastes are combined with other wastes that are subject to RCRA Subtitle C requirements.

B. Service Companies

Oil and gas service companies are those companies hired by the principal operating company to, among other things, supply materials for use at a drilling or production site or provide a service to be performed. Some of the activities of service companies take place on-site while others may take place off-site. Examples of the types of activities that may take place off-site are product formulation, transport of materials, laboratory analysis, and waste handling and disposal.

The 1988 Regulatory Determination stated that "oil and gas service company wastes, such as empty drums, drum rinsate, vacuum truck rinsate, sandblast media, painting wastes, spent solvents, spilled chemicals, and waste acids" are not covered by the oil and gas E&P exemption. The Agency intended this statement to identify those wastes, including unused and discarded product materials, generated by service companies that are not uniquely associated with primary field operations. (Primary field operations occur at or near the wellhead or gas plant and include only those operations necessary to locate and recover oil and gas from the ground and to remove impurities.) Similar to the reference to crude oil reclamation wastes, the Agency did not intend to imply that under no circumstances will a service company ever generate a RCRA Subtitle C-exempt waste. For example, if a service company generates spent acid returns from a well work-over, the waste is exempt since the waste acid in this case came from down-hole and was part of primary field operations.

EPA is aware that some confusion exists in various segments of the industry with regard to the scope of the exemption from RCRA Subtitle C for solid wastes not uniquely associated with oil and gas exploration and production. One common belief is that any wastes generated by, in support of, or intended for use by the oil and gas E&P industry (including most service company wastes) are exempt. This is not the case; in fact, only wastes generated by activities uniquely associated with the exploration, development or production of crude oil or natural gas at primary field operations (i.e., wastes from down-hole or wastes that have otherwise been generated by contact with the production stream during the removal of produced water or other contaminants from the product) are exempt from regulation under RCRA Subtitle C regardless of whether they are generated on-site by a service company or by the principal operator. In other words, wastes generated by a service company (e.g., unused frac or stimulation fluids and waste products) that do not meet the basic criteria listed in the Report to Congress (i.e., are not uniquely associated with oil and gas E&P operations) are not exempt from Subtitle C under the oil and gas exemption, just as wastes generated by a principal operator that do not meet these criteria are not exempt from coverage by RCRA Subtitle C.

The 1988 Regulatory Determination also stated that "vacuum truck and drum rinsate from trucks and drums transporting or containing non-exempt waste" is not included within the exemption (emphasis added). The unstated corollary to this is that vacuum truck and drum rinsate from trucks and drums transporting or containing exempt wastes is exempt, provided that the trucks or drums only contain E&P-related exempt wastes and that the water or fluid used in the rinsing is not subject to RCRA Subtitle C (i.e., is itself non-hazardous). This is consistent with the general policy principle that certain wastes derived exclusively from RCRA Subtitle C-exempt wastes remain exempt from RCRA Subtitle C.

C. Crude Oil Pipelines

Crude oil is produced from the ground through a system of one or more wells in an oilfield. The oil and any related produced water typically is directed to a series of tanks known as a tank battery where the water and oil separate naturally due to gravity; sometimes, separation is enhanced by the use of heat. Most water is separated from the oil at the tank battery. The volume of oil produced is then metered prior to a change in custody or ownership of the oil and/or its transportation off-site.

In the case of crude oil, all production-related activities occur as part of primary field operations at or near the wellhead. Wastes generated as part of the process of transporting products away from primary field operations are not exempt. Generally, for crude oil production, a custody transfer of the oil (i.e., the product) or, in the absence of custody transfer, the end point of initial product separation of the oil and water, will define the end point of primary field operations and the beginning of transportation. Only wastes generated before the end point of primary field operations are exempt. In this context, the term end point of initial product separation means the point at which crude oil leaves the last vessel, including the stock tank, in the tank battery associated with the well or wells. The purpose of the tank battery is to separate the crude oil from the produced water and/or gas. The movement of crude oil by pipeline or other means after the point of custody transfer or initial product separation is not part of primary field operations.

Therefore, any waste generated by the transportation or handling of the crude oil (product) after custody transfer or, in the absence of custody transfer, after the end point of initial product separation of the oil and water, is not within the scope of the exemption. Examples of non-exempt wastes resulting from transportation include transportation pipeline pigging wastes, contaminated water and snow resulting from spills from transportation pipelines or other forms of transport of the product, and soils contaminated from such spills. It should be noted that the hydrocarbon-bearing soils identified in the 1987 Report to Congress and listed in the 1988 Regulatory Determination as being exempt are limited to those hydrocarbon-bearing soils that occur at oil or gas E&P sites or result from spills of exempt waste. As discussed above, the exempt status of wastes generated by primary field operations and transported off-site for treatment or disposal is not affected by custody transfer.

D. Gas Plants and Feeder Pipelines

Natural gas is produced from the ground through a system of one or more wells in a gas field. Some water may be separated from the gas at the wellhead, but due to economy of scale, the gas from several wells is generally commingled and sent to a central gas plant where additional water and other impurities are removed. The ownership, or custody, of the natural gas commonly changes hands between the wellhead and the gas plant, yet the removal of impurities from the gas at a gas plant is still a necessary part of the production process for natural gas.

For natural gas, primary field operations (as defined in the 1987 Report to Congress) include those production-related activities at or near the wellhead and at the gas plant (regardless of whether or not the gas plant is at or near the wellhead) but prior to transport of the natural gas from the gas plant to market. Because the movement of the natural gas between the wellhead and the gas plant is considered a necessary part of the production operation, uniquely associated wastes derived from the production stream along the gas plant feeder pipelines (e.g., produced water, gas condensate) are considered exempt wastes, even if a change of custody of the natural gas has occurred between

the wellhead and the gas plant. Some wastes generated at this production stage may not be uniquely associated with the natural gas production stream and are, therefore, not exempt (e.g., pump lube oil, waste mercury from meters and gauges). Similarly, soils contaminated by spills of wastes that are not uniquely associated with production operations, such as soils contaminated by mercury from gauges, are not exempt wastes.

Wastes generated at compressor stations and facilities located along the transportation and distribution network downstream from the gas plant or at the market end of the transportation system are not covered by the E&P exemption. These wastes are not uniquely associated with oil or gas exploration and production and are not exempt.

In addition, wastes generated by non-production related activities (i.e., manufacturing) that may occur at a gas plant are not exempt. These non-exempt manufacturing activities include operations that go beyond the removal of impurities from the raw gas and the physical separation of the gas into its component fractions. Manufacturing activities would be those that are similar to petrochemical plant operations, such as the cracking and reforming of the molecular structures of the various gas fractions and the addition of odorants or other substances. The end point of the scope of the exemption for natural gas is in the gas plant once manufacturing begins or, if no manufacturing occurs, at the point at which the natural gas leaves the gas plant for transportation to market.

It should be noted that the production of elemental sulfur from hydrogen sulfide gas at a gas plant is considered treatment of an exempt waste (i.e., the hydrogen sulfide gas is a uniquely associated waste). This waste treatment process reduces the volume and/or toxicity of the exempt waste and produces a saleable product. As such, this process is similar to crude oil reclamation and any residual waste derived from the hydrogen sulfide remains exempt.

Finally, wastes uniquely associated with operations to recover natural gas from underground gas storage fields are covered by the exemption just as if the gas were being produced for the first time. This is because operations to store and retrieve natural gas from natural underground formations, as well as the types of wastes generated, are virtually identical to those involved with the production of natural gas for the first time, although the volume of wastes generated by natural gas storage and retrieval is typically smaller than the volume generated by the initial production. In effect, in the context of the E&P exemption, the storage of natural gas in natural underground formations returns the gas to the beginning point of the production process.

III. Administrative Procedure Act Requirements

Today's notice is issued without request for public comment since it does not revise, amend, repeal, change, or otherwise alter any EPA regulation, nor constitute a change to EPA's 1988 Regulatory Determination regarding oil and gas exploration and production wastes. This notice merely provides further clarification of EPA's statements regarding the scope of the exemption for oil and gas wastes. Thus, EPA does not believe that today's notice constitutes an action for which notice and comment is required under the Administrative Procedure Act (APA).

To the extent today's notice is covered by APA requirements, EPA believes that it is merely interpreting the scope of the existing RCRA statutory exclusion for oil and gas wastes, for which notice and comment is not ordinarily required. Alternatively, EPA believes it has good cause under Section 553(b) of the APA to publish this notice without opportunity for comment. EPA has already received substantial comment regarding the scope of the oil and gas exemption in response to its 1987 Report to Congress, and further comment on the issue is unnecessary, particularly since EPA is not altering its position from that which the Agency announced in the 1988 Regulatory Determination.

IV. EPA RCRA Docket

The EPA RCRA docket is located at: United States Environmental Protection Agency, RCRA Information Center, room M2427, 401 M Street, SW., Washington, DC 20460.

The RCRA Information Center is open from 9:00 to 4:00 Monday through Friday, except for federal holidays. The public must make an appointment to review docket materials. Call the docket at (202) 260–9327 for appointments. Copies cost $.15 per page.

The following documents related to the July 6, 1988 regulatory determination are available for inspection in docket number F–88–OGRA-FFFFF.

- Report to Congress on Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy;
- All supporting documentation for the regulatory determination, including public comments on the Report to Congress and EPA response to comments, and
- Transcripts from the public hearings on the Report to Congress.

All supporting documentation for this **Federal Register** Notice are available for inspection in docket number F–93–OGRC-FFFFF.

Dated: March 11, 1993.

Richard J. Guimond,

Assistant Surgeon General, USPHS. Acting Assistant Administrator.

[FR Doc. 93–6153 Filed 3–19–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–4607–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Woodbury Chemical Company Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Woodbury Chemical Company Superfund Site (Site) in Commerce City, Colorado, from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Colorado have determined that all appropriate response actions have been implemented at the Site and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Colorado have determined that remedial activities conducted at the Site are protective of public health, welfare, and the environment.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Williams (8HWM-SR), Remedial Project Manager, U.S. EPA, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, (303) 293–1531, or Mr. Patrick Bustos (8OEA), Office of External Affairs, U.S. EPA, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, (303) 294–1139.

ADDRESSES: Comprehensive information on this Site is available at the following addresses:

EPA's Region VIII Administrative Records Center, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, 5th floor, Denver, Colorado 80202–2466, (303) 293–1807, Hours: Mon–Fri 8 a.m.–4:30 p.m.

and

Colorado Department of Health; Hazardous Materials and Waste Management Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222, (303) 692–3300, Hours: Mon–Fri 8 a.m.–5 p.m.

and

Adams County Public Library, Commerce City Branch, 7185 Monaco Street, Commerce City, Colorado 80022, (303) 287–0063, Hours: Mon and Th 1 p.m.–8 p.m., Tues, Wed, Fri, and Sat 10 a.m.–5 p.m.

SUPPLEMENTARY INFORMATION:

The Site to be deleted from the NPL is:

Woodbury Chemical Company Superfund Site, Commerce City, Colorado

A Notice of Intent to Delete for this Site was published December 29, 1992 (57 FR 61867). The closing date for comments on the Notice of Intent to Delete was January 29, 1993. Of the two written comment letters submitted during the Woodbury comment period, one voiced strong support in favor of EPA's proposed deletion of the Woodbury Site. In its response, EPA agreed that the Site should be deleted.

The second comment letter was from a corporation which owns property near the Woodbury Site. The commenter was primarily concerned with the action levels specified in the 1985 Record of Decision (ROD) and the potential migration of remaining contaminants in Site soils to the ground water aquifer below its property. In its response, EPA directed the commenter to the Deletion Docket which includes the 1989 ROD that superseded the 1985 document. The 1989 ROD specified individual action levels for ten chemicals of concern. The Technical Summary Report documents that cleanup activities for the entire Woodbury Site complied with all ten action levels and that the cumulative health risk associated with the remaining soils is less than one in one million ($1x10^{-6}$). This adherence to the 1989 action levels ensured that the ground water aquifer below the Woodbury Site will not be affected by former Site contaminants. EPA's detailed response to these comments can be found in the Responsiveness Summary filed in the EPA, Region VIII Deletion Docket. The Technical Summary Report is also included in the Deletion Docket.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action. Section 300.425 (e)(3). Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Air pollution control, Hazardous waste.

Dated: March 10, 1993.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300–[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B–[Amended]

2. Table 1 of appendix B to part 300 is amended under Colorado by removing the site for "Woodbury Chemical Company Site, Commerce City,"; and by revising the total number of sites, "1,080" to read, "1,079".

[FR Doc. 93–6529 Filed 3–19–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–142; RM–8014]

Radio Broadcasting Services; Brighton, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Renard Communications Corp., allots Channel 231A to Brighton, New York, as the community's first local FM service. See FR 31692, July 17, 1992. Channel 231A can be allotted to Brighton in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.1 kilometers (5 miles) east to avoid a short-spacing to Station WACZ, Channel 230A, Danville, New York, at coordinates North Latitude 43–08–55 and West Longitude 77–27–04. This allotment is short-spaced to Stations CBL–FM, Channel 231C1, Toronto, and CBBB–FM, Channel 232B, Belleville, Ontario, Canada. However, the Commission has determined that a Brighton station can limit its power in the direction of these stations and avoid any prohibited interference. Canadian concurrence in the allotment of Channel 231A to Brighton, as a specially negotiated allotment, has been received. With this action, the proceeding is terminated.

DATES: Effective April 26, 1993. The window period for filing applications will open on April 27, 1993, and close on May 27, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–142, adopted January 4, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Brighton, Channel 231A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6420 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–173; RM–8033]

Radio Broadcasting Services; Lakewood, NY and Clarendon, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Robert Stevens, allots Channel 295B1 to Lakewood, New York, as the community's first local FM service, and substitutes Channel 282A for unoccupied but applied-for Channel 296A at Clarendon, Pennsylvania. See 57 FR 38292, August 24, 1992. Channel 295B1 can be allotted to Lakewood with a site restriction of 10.1 kilometers (6.3 miles) south to avoid short-spacings to Stations WCTL, Channel 292A, Union City, Pennsylvania, and CILQ–FM, Channel 296C1, Toronto, Ontario, Canada, at coordinates North Latitude 42–00–54 and West Longitude 79–17–38. Channel 282A can be allotted to Clarendon with a site restriction of 4.1 kilometers (2.6 miles) west to avoid a short-spacing to Station WLMI, Channel 280A, Kane, Pennsylvania, at coordinates 41–47–21; 79–08–29. Channel 282A can also be used at the site specified in the pending application for Channel 295A at Clarendon (BPH–920306MA), at coordinates 41–48–50; 79–10–04. Canadian concurrence in both allotments has been received. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 26, 1993. The window period for filing applications for Channel 295B1 at Lakewood, New York, will open on April 27, 1993, and close on May 27, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–173, adopted January 21, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Lakewood, Channel 295B1.

3. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 295A and adding Channel 282A at Clarendon.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6418 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–333; RM–7340; RM–7518]

Radio Broadcasting Services; Mora, Bosque Farms and Socorro, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of H&HSB Corporation, reallots channel 284C from Socorro to Bosque Farms, New Mexico, as the community's first local FM transmission service (RM–7518). See 55 FR 29390, July 19, 1990. Channel 284C can be allotted to Bosque Farms in compliance with the Commission's minimum distance separation requirements with a site restriction of 39.8 kilometers (24.7 miles) southwest to avoid short-spacing to Station KCEM–FM, Channel 283C, Bloomfield, New Mexico, and to accommodate petitioner's desired transmitter site. The coordinates for Channel 284C at Bosque Farms are North Latitude 34–34–40 and West Longitude 106–57–40. Mexican concurrence in the Bosque Farms allotment has been received since the community is within 320 kilometers (199 miles) of the U.S.-Mexican border. The request of Voices of the Desert to allot Channel 284A to Mora, New Mexico, is dismissed because neither the petitioner nor any other party expressed continuing interest in applying for the channel, if allotted (RM–7340). With this action, the proceeding is terminated.

EFFECTIVE DATE: April 26, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–333, adopted January 27, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 284C at Socorro and adding Bosque Farms, Channel 284C.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6424 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–66; RM–7940]

Radio Broadcasting Services; Sun City, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 292C2 for Channel 292A at Sun City, Arizona, and modifies the Class A license for Station KONC–FM to specify operation on the higher powered channel, as requested by Resource Media, Inc. See 57 FR 12794, April 13, 1992. Coordinates for Channel 292C2 at Sun City are 33–58–30 and 112–20–08. Since Sun City is located within 320 kilometers (199 miles) of the Mexican border, concurrence of the Mexican government to this proposal was obtained. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 26, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–66, adopted January 28, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 292A and adding Channel 292C2 at Sun City.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6419 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 92–240; RM–8085]

Radio Broadcasting Services; Yakima, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KZTA Broadcasting, Inc., substitutes Channel 259C3 for Channel 257A at Yakima, Washington, and modifies the license of Station KZTA–FM accordingly. See 57 FR 49162, October 30, 1992. Channel 259C3 can be allotted to Yakima in compliance with the Commission's minimum distance separation requirements at the petitioner's requested site with a site restriction of 16 kilometers (9.9 miles) southeast to avoid short-spacing to Station KISW, Channel 260C, Seattle, Washington. The coordinates for Channel 259C3 at Yakima are North Latitude 46–31–20 and West Longitude 120–19–59. Since Yakima is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been obtained. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 26, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–240, adopted January 22, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 257A and adding Channel 259C3 at Yakima.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6428 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1007

[Ex Parte No. 514 (B)]

Privacy Act: New System of Records—Exemption; Office of Inspector General; Complaint and Investigative Files

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission (ICC) is exempting a new system of records due to the law enforcement nature of those records. That system of records, which the Commission has established in another proceeding under the Privacy Act of 1974, as amended (5 U.S.C. 552a), consists of the complaint and investigatory files of the ICC's Office of Inspector General (OIG). This rule amendment is required in order to invoke the relevant exemptions. By relieving the OIG of certain restrictions, the exemption will help ensure that the OIG may efficiently and effectively perform investigations and other authorized duties and activities.

EFFECTIVE DATE: This rule is effective April 21, 1993.

FOR FURTHER INFORMATION CONTACT: S. Arnold Smith, Freedom of Information/Privacy Officer, (202) 927–6317. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: At 58 FR 580 (January 6, 1993), the ICC published a notice proposing to establish a new system of records, "Office of Inspector General Complaint and Investigative Files," under the Privacy Act, as amended, 5 U.S.C. 552a. In the notice section of today's **Federal Register**, the Commission is publishing a notice establishing that system of records. The Commission also proposed an amendment of 49 CFR 1007.12 (58 FR 532, January 6, 1993) to exempt the new system of records from certain provisions of the Act. These provisions require, among other things, that the ICC provide notice when collecting information, account for certain disclosures, permit individuals access to their records, and allow them to request that the records be amended. These provisions would interfere with the conduct of OIG investigations if applied to the OIG's maintenance of the proposed system of records.

No comments on our proposed amendment to 49 CFR 1007.12 were received from the public or the Office of Management and Budget. Accordingly, the ICC will exempt the system of records under sections (j)(2) and (k)(2) of the Privacy Act. Section (j)(2), 5 U.S.C. 552(j)(2), exempts a system of records maintained by "the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws * * *." Section (k)(2), 5 U.S.C. 552a(k)(2), exempts a system of records consisting of "investigatory materials compiled for law enforcement purposes," where such materials are not within the scope of the (j)(2) exemption pertaining to criminal law enforcement.

Regulatory Flexibility Certification

Pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), the Commission certifies that this amendment to its regulations will not have a significant economic impact on a substantial number of small entities

within the meaning of the RFA. The purpose of this amendment, which has been proposed pursuant to the Privacy Act, is solely to exempt from disclosure certain files of the ICC's OIG that would be kept in a new system of records within the ICC. This amendment imposes no new regulatory requirements either directly or indirectly on anyone, including small entities. Moreover, because the Privacy Act applies only to "individuals," and the RFA defines "small entities" as having the same meaning as 'small business', 'small organization' and 'small government jurisdiction' as defined in section 601 (3), (4) and (5) respectively, the "individuals" who may be affected by the new rule do not appear to come within the meaning of "small entity" as defined by the RFA.

Energy and Environment Considerations

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

List of Subjects in 49 CFR Part 1007

Administrative practice and procedure, Privacy.

Decided: March 15, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1007 of the Code of Federal Regulations is amended as follows:

PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

1. The authority citation for part 1007 continues to read as follows:

Authority: 5 U.S.C. 552, 553, and 559.

2. Section 1007.12 is amended by adding a new paragraph (c) as follows:

§ 1007.12 Exemptions.

* * * * *

(c) Complaints and investigatory materials compiled by the Commission's Office of Inspector General are exempt from the provisions of 5 U.S.C. 552a and the regulations in this part, pursuant to 5 U.S.C. 552a(j)(2), except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and, (11) and (i) to the extent that the system of records pertains to the enforcement of criminal laws. Complaint and investigatory materials compiled by the Commission's Office of Inspector General for law enforcement purposes also are exempt from the provisions of 5 U.S.C. 552a and the regulations of this part, pursuant to 5 U.S.C. 552a(k)(2), except subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f).

[FR Doc. 93–6475 Filed 3–19–93; 8:45 am]

BILLING CODE 7035–01

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for the shortraker/rougheye species (SRRE) target species category in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the SRRE total allowable catch (TAC) in the AI.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), March 17, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(2), the 1993 SRRE TAC for the AI was established by the final notice of groundfish specifications (58 FR 8703, February 17, 1993) as 935 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the SRRE TAC in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 730 mt, with consideration that 205 mt will be taken as incidental catch in directed fishing for other species in the AI. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for SRRE in the AI, effective from 12 noon, A.l.t., March 17, 1993, through 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.20 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: March 17, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–6524 Filed 3–17–93; 4:44 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 53
Monday, March 22, 1993

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 92 and 130

[Docket No. 91-021-4]

RIN 0579-AA43

User Fees—Veterinary Diagnostics

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to establish user fees for certain veterinary diagnostic services we provide. This proposed rule replaces a portion of a proposed rule published in the **Federal Register** on August 7, 1991. These proposed user fees are authorized by section 2509(c) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended. The effect of these regulations would be to require certain persons to pay fees for services they receive.

We are also proposing to amend certain provisions of our current regulations for user fees to either make them consistent with this proposal or to clarify their intended meaning. In addition, we are also proposing to amend certain provisions of our current regulations for user fees that pertain to debtors who fail to pay the fees when due, to make them consistent with provisions of our overtime regulations.

DATES: Consideration will be given only to comments received on or before April 21, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91-021-4. Comments received may be inspected 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.

FOR FURTHER INFORMATION CONTACT: Dr. Joan Arnoldi, Director, National Veterinary Services Laboratories, VS, APHIS, USDA, 1800 Dayton Road, P.O. Box 844, Ames, Iowa 50010, (515) 239-8266.

SUPPLEMENTARY INFORMATION:

Background

User Fees Authorized Under the Farm Bill

The Food, Agriculture, Conservation and Trade Act of 1990, as amended, referred to below as the Farm Bill, authorizes the Secretary of Agriculture, among other things, to prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance. (sec. 2509(c)(1) of the Farm Bill).

The Farm Bill further authorizes the Secretary to prescribe and collect fees to recover the costs of carrying out the provisions of 21 U.S.C. 114a, as amended which relate to veterinary diagnostics. (sec. 2509(c)(2) of the Farm Bill) 21 U.S.C. 114a concerns control and eradication of communicable livestock and poultry diseases which constitute an emergency and threaten the livestock industry of the United States. Section 2509(c)(5)(C)(ii) also provides procedures for the Secretary to follow in the case of non-payment of assessed fees, late payment penalties, or accrued interest. The section states that the Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest.

Section 2509(d) of the Farm Bill provides in addition that the Secretary may prescribe such regulations as the Secretary determines necessary to carry out the provisions of section 2509.

Previously Published Regulations

On August 7, 1991, we published a document in the **Federal Register** (56 CFR 37481-37499, Docket 91-021) in which we proposed to amend 7 CFR part 354 and 9 CFR chapter I to establish user fees for certification, inspection and testing services we provide. We also proposed in that document to amend 9 CFR chapter I to establish user fees for veterinary diagnostic services we provide. Veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism or toxin is present in body tissues or cells.

On August 21, 1991, and September 24, 1991, documents making various corrections to our published proposal were published in the **Federal Register** (56 FR 41605 and 56 FR 48270).

We solicited comments concerning our proposal for a 30-day period ending September 6, 1991. We received 176 comments by that date. They were from shipping interests, both international and domestic, members of Congress, airlines, state governments, representatives of agricultural industries, importers, exporters, veterinarians, and producers.

After carefully considering all of the comments received, we published a final rule implementing collection of user fees for various inspection and quarantine services. The final rule was published in the **Federal Register** on January 9, 1992 (57 FR 755-773, Docket 91-135). However, we did not include in the final rule user fees proposed for veterinary diagnostic services. Instead, we stated that we would "consider further the comments we received on this issue and decide what action to take as soon as feasible."

Of the comments we received in response to our August 7, 1991, proposal, many addressed the user fees proposed for veterinary diagnostics. Some were supportive. However, most were not. Of those which were negative, many voiced general objections. Others stated that our fees were too high or were unfair to certain users. Several objected to the fact certain users had to pay fees "up front," rather than being billed.

Since our August 7, 1991, proposal was published, we have thoroughly reviewed the comments we received. We have compiled additional and more recent cost data. We have also resurveyed the diagnostic services we provide. Based on this work, we have substantially revised our original proposed rules concerning veterinary diagnostics. The regulations proposed in this document are new. The lists of services we provide have been revised; many of the user fees have been recalculated and revised; and most payment procedures have been changed.

Therefore, the regulations we are proposing in this document supersede

the proposed rules published August 7, 1991, concerning user fees for veterinary diagnostic services.

Regulations Proposed in This Document

We are proposing to charge user fees for certain veterinary diagnostic services, including providing certain diagnostic reagents, slide sets, and tissue sets. Veterinary diagnostics is the work performed in a laboratory to determine if a disease-causing organism or toxin is present in body tissues or cells. Services in this category include: (1) performing laboratory tests required to import or export animals or birds; (2) conducting diagnostic testing on tissue samples referred to the Animal and Plant Health Inspection Service (APHIS or Agency) by veterinarians or State animal health officials who, or universities which, want assistance in establishing or confirming a diagnosis (referred to in this document as reference assistance testing); and (3) providing certain diagnostic reagents, slide sets, and tissue sets. Diagnostic reagents are substances used in diagnostic tests to detect disease antibodies by causing an identifiable reaction. We also consider sterilization by gamma radiation to be a veterinary diagnostic service.

We are also proposing to amend the regulations to add definitions of "National Veterinary Services Laboratories (NVSL)" and "National Veterinary Services Laboratories, Foreign Animal Disease Diagnostic Laboratory (FADDL)", which are the laboratories where we provide the veterinary diagnostic services covered by this proposed rule, and definitions of "Diagnostic reagent", "Privately operated permanent import-quarantine facility", "Reference assistance testing", and "State animal health official".

In addition, as discussed in another section of this docket, we are proposing to amend certain provisions of our current user fee regulations for service provided under Title 9, Code of Federal Regulations, to either make them consistent with what we are proposing here or to clarify their intended meaning. Further, we are proposing to amend certain provisions of our current regulations that pertain to debtors who fail to pay fees when due, to make them consistent with certain provisions of our overtime regulations. Further, we are also proposing to make certain non-substantive technical changes.

User Fees for Laboratory Tests, Diagnostic Reagents, Slide Sets, and Tissue Sets, and Sterilization by Gamma Radiation

We are proposing to charge a user fee for: (1) Laboratory tests we perform in connection with the importation or exportation of animals and birds (proposed §§ 130.14 and 130.15); (2) laboratory tests we perform as part of reference assistance testing (proposed § 130.16); (3) diagnostic reagents, slide sets, and tissue sets we provide (proposed § 130.17); and (4) sterilization by gamma radiation we perform (proposed § 130.18). The proposed user fees have been calculated to recover the costs for listed tests, diagnostic reagents, slide and tissue sets, and sterilization by gamma radiation, including support and overhead costs.

We are proposing to charge an APHIS user fee only for the listed tests, diagnostic reagents, slide and tissue sets, and sterilization by gamma radiation. If, in the future, we decide to charge a user fee for a test, diagnostic reagent, slide or tissue set, or service that is not on the list, we will publish a proposed user fee for public comment in the **Federal Register**.

We do not intend to charge an APHIS user fee for tests and diagnostic reagents provided in the United States in connection with: (1) Current programs to control or eradicate various domestic diseases or pests, known as "program diseases"; or (2) current programs to detect the presence of and prevent the spread of dangerous foreign (exotic) animal diseases in the United States. Examples of program diseases are tuberculosis, brucellosis, and pseudorabies. Examples of dangerous foreign animal diseases are foot-and-mouth disease and swine vesicular disease.

We are not proposing to charge user fees for testing for program diseases. As part of these programs, we conduct surveillance of livestock to identify and locate diseased animals and birds. Diseased animals and birds can then be removed. This eliminates the foci of infection and stops the spread of disease. However, for our programs to be effective, samples must be submitted for testing. We also depend on samples submitted for testing to compile statistics concerning disease incidence. These statistics are used by us and by others, including researchers and other government agencies concerned with veterinary medicine, agricultural production, and other related topics. In order to compile accurate and useful statistics, we depend on the submission of samples for testing. Submission of test samples is critical to both the effectiveness of our programs to control and eradicate domestic diseases and pests, and to our efforts to compile statistics concerning the incidence of disease. We believe submission of test samples would be encouraged by not charging a user fee for these services.

With regard to exotic diseases, we are also not proposing to charge for testing. Livestock in the United States have no resistance to most of these diseases, and effective vaccines are not available for all of these diseases. The harmful impact of an outbreak of exotic disease in this country would therefore be tremendous. A critical element in our programs to prevent the introduction of exotic diseases is sample testing. Therefore, we want to encourage submission of samples for testing. We believe submission of test samples would be encouraged by not charging a user fee for these services.

With regard to reference assistance testing, APHIS user fees would apply only if the testing is related to a disease which is not subject to an APHIS detection, control, or eradication program at the time the testing is performed.

Laboratory tests are conducted as needed, usually in connection with the import or export of animals or birds. Those who request specific tests are mainly importers, exporters, animal owners, and brokers. Laboratory tests are also conducted as part of reference assistance testing. Veterinarians, State animal health officials, and universities request APHIS to assist them by either establishing or confirming a diagnosis. APHIS then conducts whatever tests and procedures are necessary to accomplish that. Under our proposal, there would be an APHIS user fee for each such test APHIS conducts for a disease which is not subject to an APHIS detection, control or eradication program at the time the test is performed.

Diagnostic reagents, slide sets, and tissue sets, are substances and materials used in diagnostic tests to detect disease antibodies by causing an identifiable reaction. They are available in measured amounts or sets, which are adequate to conduct a "standard run" of tests. The National Veterinary Services Laboratories (NVSL) at Ames, Iowa, and the National Veterinary Services Laboratories, Foreign Animal Disease Diagnostic Laboratory (FADDL) at Greenport, New York, supply diagnostic reagents and slide and tissue sets to other laboratories. Some reagents provided by FADDL are supplied only to users outside the United States. This is because these reagents contain

infectious agents of diseases not known to exist in the animal population of the United States. Under our proposal, there would be an APHIS user fee for each diagnostic reagent, slide set, or tissue set supplied for a disease which is not subject to an APHIS detection, control or eradication program at the time the test is performed.

We are also proposing to charge an APHIS user fee for sterilization by gamma radiation. We consider this a diagnostic service. It involves placing biological material in a standardized container, referred to as a can, and exposing it to gamma radiation. This ensures that agents of exotic disease present in the material are destroyed before the material can enter the United States for diagnostic testing.

Costs Included in Proposed User Fees

We are proposing to charge a specific dollar amount for each individual service we provide, that is, each test we perform or each diagnostic reagent, slide set, tissue set, or service we provide. Each fee has been calculated to cover the full cost of performing the test or providing the diagnostic reagent, slide set, tissue set, or service. This cost includes direct labor and direct materials costs. It also includes administrative support, equipment capitalization, Agency overhead, and Departmental charges.

Direct labor costs are the costs of employee time spent specifically to perform the test or provide the diagnostic reagent, slide set, tissue set, or service. For example, the time spent by laboratory personnel to prepare a sample, conduct the test, and read the test would be part of the direct labor costs for testing a tissue sample for disease-causing organisms. Direct labor costs vary with the test performed, or the diagnostic reagent, slide set, tissue set, or service provided.

Direct material costs include the cost of any materials needed to conduct the test, or provide the diagnostic reagent, slide set, tissue set, or service. For example, direct material costs for conducting a laboratory test would include animals, eggs, glassware, chemicals, and other supplies necessary to perform the test. Again, direct material costs vary for different tests, diagnostic reagents, slide sets, tissue sets, and services.

Administrative support costs are incurred at the local level, that is, at the laboratories. They include clerical and administrative activities; indirect labor hours (supervision of personnel and time spent doing necessary work that is not directly connected with the test, diagnostic reagents, slide set, tissue set, or service, such as repairing equipment); travel and transportation for personnel, supplies, equipment, and other necessary items; training; general supplies for offices, washrooms, cleaning, etc.; contractual services (such as guard service, maintenance, trash pickup, etc.); grounds maintenance; chemicals and glassware, and utilities (such as water, trash pickup, telephone, electricity, natural and propane gas, heating and diesel oil). Some administrative support items may be contractual or not, depending on local circumstances. For example, trash pickup may be provided as a utility or a contractual service. However, the costs are all administrative support. As with direct labor and direct materials costs, the type, amount, and cost of administrative support vary.

Equipment capitalization is the annualized cost to replace equipment. We determine this by estimating the life expectancy, in years, of equipment we use to provide a service and by estimating the cost to replace that equipment at the end of its useful life. We subtract any money we anticipate receiving for selling used equipment. Then we divide the resulting dollar figure by the life expectancy of the equipment. The result is the annual cost to replace equipment.

Agency overhead is the pro-rata share, attributable to a particular test, diagnostic reagent, slide set, tissue set, or service, of the management and support cost for all Agency activities at the regional level and above. Included are the cost of providing budget and accounting services, management support at the headquarters and regional level, including the Administrator's office, and personnel services, public information service, and liaison with Congress.

Departmental charges are APHIS's share, expressed as a percentage of the total cost, of services provided centrally by the U.S. Department of Agriculture. Services the Department provides centrally include the Federal telephone service; mail; National Finance Center processing of payroll, billing, collections, and other money management; unemployment compensation; Office of Workers Compensation Programs; and central supply for storing and issuing commonly used supplies and Department forms. The Department notifies APHIS how much the Agency owes for these services. We have included a pro-rata share of these Departmental charges, as attributable to a particular test, diagnostic reagent, slide set, tissue set, or service, in our fee calculations. An outline of the basic process is shown below. The actual components, quantities, and costs used to calculate the fee are different for each test, diagnostic reagent, slide set, tissue set, and service.

Calculation of Proposed User Fees

The basic steps in the calculation, for each particular service, are:

1. determine which of the following costs apply, and the amount:
   - Direct labor;
   - Direct materials;
   - Pro-rata share of administrative support;
   - Pro-rata share of equipment capitalization;
   - Pro-rata share of Agency overhead; and
   - Pro-rata share of Departmental charges.
2. Add all costs.
3. Round total cost up to the nearest quarter of a dollar.

The result of these calculations is a user fee which covers the total cost to perform a particular test or provide a particular diagnostic reagent, slide set, tissue set, or service one time, rounded up to the nearest quarter of a dollar.

We have individually calculated costs for each test, diagnostic reagent, slide set, tissue set, and service.

To arrive at proposed user fees for laboratory tests, we determined the amount of time, in hours, needed to perform the specific test. If 400 tests could be done in 1 hour, the time per test would be 1/400th of an hour. We then multiplied the number of hours per test by the average hourly salary of personnel in the laboratory where the test is performed, plus direct material costs, administrative support costs, equipment capitalization, Agency overhead, and Departmental charges.

We are proposing tiered user fees for three tests—complement fixation (CF), hemagglutination inhibition (HI), and virus neutralization (NV). That is, there would be one fee for the first CF, HI, or NV test on a sample, and a second, different, fee for each additional test of the same type on the same sample. The user fee for additional tests would be lower than the user fee for the first test.

CF, HI, and NV tests are conducted to detect many different diseases. A single sample may be tested many times for different diseases, each time using the same type of test. A given amount of time and effort is required to prepare a sample for the first test. However, once the sample has been prepared for the first test, less time and effort is necessary to ready it for each additional test of the same type. Because of this, costs are lower for each additional test.

Therefore, we are proposing one user fee for the first CF, HI, or NV test on a sample, and another, lower, user fee for each additional test of the same type on the same sample.

For microscopic agglutination tests, we are proposing to charge one user fee for each accession (i.e., each request), up to five serovars per accession, and a lesser fee for each serovar or test performed in excess of five serovars per accession. A given amount of preparation time and effort is required prior to conducting microscopic agglutination tests. However, once the test is set up in the laboratory, less time and effort is necessary to conduct each procedure. Most accessions for this test require five or fewer serovars. Therefore, most users would have to pay only the accession fee.

Readers may note that our proposed user fees for tests performed at FADDL are higher than our proposed user fees for the same tests performed at NVSL. Both FADDL and NVSL are designed for work with infectious and contagious disease agents. However, FADDL, which is isolated from the United States mainland, works with agents of diseases exotic to the United States, while NVSL works with agents of diseases present in the United States. Because of this, special biosecurity measures are required at FADDL which are not required at NVSL. These special measures are expensive, and FADDL operating costs are necessarily higher than NVSL operating costs. The user fees we are proposing reflect this difference in costs.

To arrive at proposed user fees for diagnostic reagents, we determined the amount of time needed to produce a batch of reagent. We multiplied the number of hours needed by the average hourly salary of personnel in the laboratory where the diagnostic reagent is produced, plus direct materials costs, administrative support costs, equipment capitalization, Agency overhead, and Departmental charges. We then divided the total by the number of milliliters of diagnostic reagent in the batch, to arrive at a cost per milliliter. The proposed user fee is the cost per milliliter multiplied by the number of milliliters of diagnostic reagent in a standard unit of that diagnostic reagent.

To arrive at proposed user fees for slide and tissue sets, we determined the amount of time needed to provide a tissue set or slide set, and multiplied that by the average hourly salary of personnel in the laboratory where the slide or tissue set is produced. To this we added direct materials costs, administrative support costs, equipment capitalization, Agency overhead, and Department charges to arrive at the cost per slide or tissue set.

To arrive at a proposed user fee for sterilization by gamma radiation, we determined costs using the same method.

As is the case with all other APHIS user fees, we intend to review, at least annually, the user fees we are proposing in this document. We will publish any necessary adjustments in the **Federal Register.**

Additional data and computations for the fees proposed to be established by this proposal are available for inspection at the Animal and Plant Health Inspection Service, room 263, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8:00 am and 4:30 pm, Monday through Friday, except holidays.

Rounding

We have rounded our proposed user fees up to the nearest quarter. This is consistent with the methodology used to determine APHIS user fees for issuing phytosanitary certificates for plants and plant products being exported from the United States, and for services related to the export or import of animals and birds.

APHIS has extensive experience with billings and collections. Based on this experience, we believe rounding up our fees is most practical. Rounding up makes calculations easier. It reduces billing and collection errors. In addition, it compensates for the impossibility of calculating the *exact* cost of any service. Determining the *exact* cost is impossible because the total cost of any service is based on many factors, all of which vary over time and some of which vary unpredictably. For example, we cannot determine, in advance, exactly how many times a particular service will be requested during a year, and we cannot know, in advance, the exact cost of direct materials that will be utilized over the course of a year. That is a function, among other things, of who wants to import or export animals, which types of animals are involved, and where the animals are being exported to or imported from. None of this data can be definitely determined in advance. Therefore, we must estimate, based on past experience.

Rounding up is also most practical because it would compensate APHIS for the portion of user fees which will never be paid and which we cannot collect. We anticipate that unpaid user fees will be minimal. We base this on our experience charging APHIS user fees for other services. However, we have no specific experience collecting user fees for veterinary diagnostic services. Therefore, we cannot estimate the amount of unpaid user fees for these services. Rounding up our proposed user fees would, however, compensate APHIS for these bad debts.

As is the case with all other APHIS user fees, we intend to review, at least annually, the user fees we are proposing in this document. We would propose any necessary cost adjustments in the **Federal Register.** Our intention is not to collect user fees in excess of our actual costs to provide services.

Overtime

NVSL and FADDL occasionally receive a request for special service. For example, we are sometimes asked to expedite a test or service. If we must conduct a test or provide a service on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, we propose to require the person or organization requesting the service to pay reimbursable overtime, in addition to the APHIS user fee for each test. We believe this is necessary to discourage unnecessary demands for overtime work, and resulting high costs to APHIS. Regulations governing reimbursable overtime are found in 9 CFR part 97.

Payment Procedures (see Proposed § 130.50(a)(1), (a)(2), (a)(5), and (a)(6)

We propose that users who request tests, other than testing conducted on animals and birds in Animal Import Centers, privately operated permanent import-quarantine facilities, privately operated temporary import-quarantine facilities, and reference assistance testing, and users who request diagnostic reagents, slide sets, tissue sets, or sterilization by gamma radiation, pay the applicable APHIS user fee either at the time they make their request, or under certain circumstances described below, when we bill them. Users would have to pay the user fees at the time they make the request, until they have established an acceptable credit history. Once we determine that a user has established an acceptable credit history, they may choose either to pay at the time they request the test, diagnostic reagent, slide or tissue set, or sterilization, or when they are billed.

With regard to tests performed on animals and birds in an Animal Import Center or privately operated permanent import-quarantine facility, we would collect payment when the animals or birds are released from quarantine, since this is when we collect all fees that are due as a result of the quarantine.

We also propose to amend existing § 130.50(a)(2), to make it consistent with

this proposal. This section concerns payment of user fees for animals and birds in privately operated temporary import-quarantine facilities. It currently states that APHIS user fees must be paid when billed. As with animals in Animal Import Centers or privately operated permanent import-quarantine facilities, we intend to collect APHIS user fees at the time the animals are released from quarantine.

With regard to reference assistance testing, we propose to bill users for the actual tests performed, as soon as we determine what tests are necessary. In this case, a request for advance payment is not possible, since we do not know what is owed until we determine what tests are necessary.

Penalties for Nonpayment (Proposed § 130.51(b)(3) and (b)(4))

Under our proposal, in all cases where APHIS is in the process of providing any service proposed in this document for which a user fee is due, and the user has not paid the fee within the time required, or payment offered by the user is inadequate or unacceptable, then we would not release the test results, diagnostic reagent, slide set, tissue set, or sterilized material.

We believe these provisions would help ensure that APHIS user fees are paid promptly and in full. Prompt and full payment is necessary if we are to recover the costs of conducting tests, sterilizing material, and providing slide sets and tissue sets. Without payment, we cannot continue to provide those services.

Our regulations already provide in § 130.51(c) that, "If user fees are paid later than 30 days after payment is due, APHIS will impose a late payment penalty and interest charges in accordance with 31 U.S.C. 3717."

We intended that we would impose a late penalty payment and interest charges, in accordance with 31 U.S.C. 3713, for user fees which are billed, if they are unpaid 30 days after the date of the bill. To ensure that this is clear in the regulations, we are proposing to revise § 130.51, paragraph (c), to clarify this. We are also proposing to revise § 130.51(a) to state when debtors who are delinquent in paying must prepay for services, when such debtors must pay in guaranteed form, and when APHIS would refuse service based on delinquent debts.

As amended these provisions would be consistent with our existing regulations concerning payment for overtime services relating to imports and exports (9 CFR Part 97). It is important for APHIS to discourage delinquent debts because the cost of carrying or writing them off would have to be factored into the user fees. This could raise the user fees paid by everyone requesting APHIS services. Based on our experience collecting overtime payments, we believe these provisions would ensure that persons with delinquent debts do not incur additional debts to APHIS. The proposed provisions to require prepayment for services in a guaranteed form if a person is 60 days delinquent paying any debt to APHIS would enable them to continue to receive service from APHIS without increasing the existing debt to the Agency. It would also provide an additional opportunity for debtors to pay a delinquent bill, so their credit standing could be restored. The proposed provision to withhold service if the person is 90 days delinquent paying any debt to APHIS would encourage users to pay the delinquent debt and settle their accounts with APHIS in order to obtain requested services.

Liability for Payment

We are proposing to specify "the person for whom the service is provided and the person requesting the service are jointly and severally liable" for payment of any APHIS fee due for veterinary diagnostic services. We believe this is necessary to avoid future problems in collecting fees, since the identity of the person for whom the service is provided may be unknown to us. We are also proposing to amend our current regulations to add this language with regard to most other APHIS user fees for services provided under title 9, Code of Federal Regulations. The only exception would be the APHIS user fees specified in § 130.8. Those fees are for inspection services outside the United States. Section 130.8 is already similar to the changes we are proposing to make.

Amendment of § 92.106

Regulations governing the importation of various animals, birds, and poultry appear in 9 CFR part 92. Section 92.106 contains quarantine requirements for birds and ratites. Paragraph (c) of that section sets standards for approved quarantine facilities and handling procedures for the importation of birds. Among other things, birds quarantined in privately operated bird quarantine facilities must be tested for velogenic viscerotropic Newcastle disease (VVND). Paragraph (d)(2) of § 92.106 states that laboratory costs are "$8.50 per sample, plus shipping charges per sample . . .".

We are proposing to amend paragraph (d)(2) to delete the charge and state instead that charges will be made for all applicable user fees listed in 9 CFR part 130. This amendment would consolidate all fees for veterinary diagnostic tests. It would also ensure that all persons who request a VVND test pay the same fee for that service.

Certain other editorial, nonsubstantive changes are also being proposed.

Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, it has been determined that this rule is part of a series of documents which are being considered as a "major rule." This proposed rule is one of several rules which concern requiring certain persons to pay user fees for APHIS services they receive. We have already published, in three separate documents, final rules adopting user fees for various passengers and means of conveyance. One final rule covered user fees for commercial vessels, commercial trucks, commercial railroad cars, and passengers on commercial aircraft arriving in the United States from outside the country. It was published April 12, 1991 (56 FR 14837–14846, Docket No. 91–028), and was effective May 13, 1991. The second final rule covered user fees for passengers on commercial airlines departing Hawaii and Puerto Rico for other parts of the United States. It was published April 23, 1991 (56 FR 18496–18502, Docket No. 91–054). It was withdrawn in another document published April 21, 1992 (57 FR 14475, Docket No. 91–142). The third final rule was published January 9, 1992 (57 FR 755–773, Docket No. 91–135), and was effective February 9, 1992. It covered user fees for services provided to commercial aircraft entering the customs territory of the United States, services related to the issuance of phytosanitary certificates for plants and plant products being exported from the United States, and services related to the export or import of animals or birds.

The rules currently in effect, along with the regulations proposed in this document, are expected to provide total savings to taxpayers of $131 million annually. The discounted value of this amount is estimated at about $546 million over 5 years. The veterinary diagnostic fees alone, as proposed in this rule, are expected to contribute approximately $2 million per year, or 1.5 percent of the total savings. These anticipated savings would have a discounted value of approximately $7 million over 5 years.

We believe this proposed action is unlikely to have a significant economic impact on a substantial number of small

entities. Approximately 125,000 diagnostic and reference assistance tests are performed annually at APHIS laboratories. These tests are performed for animal importers and exporters, veterinarians, State and Federal agencies and laboratories, commercial laboratories, educational institutions, and foreign governments, most of whom are not small entities.

However, APHIS does not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. We therefore invite comments concerning potential impacts. In particular, we are interested in determining the number and kind of small entities which may incur benefits or costs from the implementation of user fees for veterinary diagnostics.

Our preliminary Regulatory Impact Analysis is available for 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, or by telephoning (202) 690–2817.

Executive Order 12372

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

Executive Order 12606

We have analyzed this proposed rule in accordance with Executive Order 12606, and have determined that it would have no potential impact on family well-being. We have determined that this proposed rule: would not affect the stability of the family, and particularly, the marital commitment; would not affect the authority and rights of parents in the education, nurture, and supervision of their children; would not help or hinder the family to perform its functions; would not substitute governmental activity for family functions; and would not have any significant effect on family earnings. We have also determined that the benefits of this action justify any impact it may have on the family budget, and that this activity cannot be carried out by a lower level of government or by the family itself. This proposed rule sends no message, intended or otherwise, to the public concerning the status of the family, or to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects

9 CFR Part 92

Animal disease, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry, Quarantine, Reporting and recordkeeping regulations, Tests.

Accordingly, we are proposing to amend 9 CFR parts 92 and 130 as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 would be revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114(a), 134a, 134b, 134c, 134d, 134f, 135, 136, and 136(a); 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.106, paragraph (d)(2) would be revised to read as follows:

§ 92.106 Quarantine requirements.

* * * * *

(d) *Charges for services.* * * *

* * * * *

(2) All applicable user fees, as listed in part 130 of this chapter; and

* * * * *

PART 130—USER FEES

3. The authority citation for part 130 would be revised to read as follows:

Authority: 21 U.S.C. 114a, 136, and 136a; 7 CFR 2.17, 2.51, and 371.2(d).

4. In § 130.1, the following definitions would be added, in alphabetical order, to read as follows:

§ 130.1 Definitions.

* * * * *

Diagnostic reagent. Substances used in diagnostic tests to detect disease antibodies by causing an identifiable reaction.

* * * * *

National Veterinary Services Laboratories (NVSL). The National Veterinary Services Laboratories of the Animal and Plant Health Inspection Service, located in Ames, Iowa.

National Veterinary Services Laboratories, Foreign Animal Disease Diagnostic Laboratory (FADDL). The National Veterinary Services Laboratories, Foreign Animal Disease Diagnostic Laboratory, located in Greenport, New York.

* * * * *

Privately operated permanent import-quarantine facility. Any permanent facility approved under 9 CFR part 92 to quarantine animals or birds, except facilities operated by APHIS.

Reference assistance testing. Tests conducted by APHIS at the request of a veterinarian, state animal health official, or university, to either establish or confirm a diagnosis.

* * * * *

State animal health official. The State official responsible for livestock and poultry disease control and eradication programs.

* * * * *

5. In § 130.2, the text of paragraph (a) preceding the table would be revised to read as follows:

§ 130.2 User fees for individual animals and birds quarantined in APHIS Animal Import Centers.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for the following user fees, which include standard care, feed, and handling, and which must be paid for

each animal or bird quarantined in an Animal Import Center: [5]

* * * * *

6. In § 130.3, the text of paragraph (a) preceding the table would be revised to read as follows:

§ 130.3 User fees for exclusive use of buildings at APHIS Animal Import Centers.

(a) An importer may, at his or her option, occupy entire quarantine buildings at the Animal Import Centers specified below. The person for whom the service is provided and the person requesting the service are jointly and severally liable for the user fee which will be charged for each building as follows:

* * * * *

7. Section 130.4 would be revised to read as follows:

§ 130.4 User fees for services at privately operated permanent import-quarantine facilities.

A daily user fee of $49.25 must be paid for each animal quarantined in a privately operated permanent import-quarantine facility. The person for whom the service is provided and the person requesting the service are jointly and severally liable for this user fee.

8. In § 130.5, paragraph (a) would be revised to read as follows:

§ 130.5 User fees for services at privately operated temporary import-quarantine facilities.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for paying the user fee for each animal quarantined in a privately operated temporary import-quarantine facility.

* * * * *

9. In § 130.6, the text of paragraph (a) preceding the table and the text of paragraph (b)(1) preceding the table would be revised to read as follows:

§ 130.6 User fees for endorsing export health certificates.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for paying the following user fees for each export health certificate requested [7] for the following types of animals, regardless of the number of animals covered by the certificate:

* * * * *

(b)(1) The person for whom the service is provided and the person requesting the service are jointly and severally liable for paying the following user fees for each export certificate requested for animals and birds, depending on the number of animals or birds covered by the certificate and the number of tests required:

* * * * *

11. In § 130.7, paragraph (a), the introductory text would be revised to read as follows:

§ 130.7 User fees for inspection and supervision services provided within the United States for export animals or birds.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for paying the user fees for the following APHIS services provided within the United States for export animals or birds:

* * * * *

12. In part 130, new §§ 130.14 through 130.18 would be added to read as follows:

§ 130.14 User fees for tests performed at NVSL.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for each test listed in this paragraph performed at NVSL in connection with the importation or exportation of animals or birds. All user fees in this paragraph are per test, unless stated otherwise:

Test	User fee
Agar gel immunodiffusion	$4.75
Buffered acidified plate antigen presumptive	3.50
Card	2.00
Competitive enzyme linked immunosorbent assay	4.75
Complement fixation (includes Complement fixation-ovis) [1]	9.00
Enzyme linked immunosorbent assay	4.75
Hemagglutination inhibition (includes Hemagglutination inhibition-5) [1]	7.50
Histopathology	[2] 8.50
Indirect fluorescent antibody	9.00
Latex agglutination	4.75
Mercaptoethanol	3.50
Microscopic agglutination	([3])
Plaque neutralization	7.50
Parasitology	17.00
Plate	3.50
Rivanol	3.75
Tube agglutination (includes tube agglutination melitensis)	3.50
Virus neutralization [1]	7.50

[1] The user fees listed are for the first complement fixation (CF), hemagglutination inhibition (HI), and virus neutralization (VN) test performed on a sample. The user fee for each additional test of the same type (CF, HI, or VN) performed on the same sample is 20% of the stated fee, rounded up to the nearest quarter of a dollar. For example, if two CF tests, one HI test and one VN test are performed on the same sample, the user fees are $9.00 for the first CF test, $7.50 for the HI test, $7.50 for the VN test, and, for the second CF test, $2.00, or $1.80 (20% of $9.00), rounded up to the nearest quarter of a dollar.

[2] Per slide.

[3] $10 per accession, plus $2.00 for each serovar in excess of five serovars per accession.

(b) If a test must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each test, in addition to the user fee listed in paragraph (a) of this section.

§ 130.15 User fees for tests performed at FADDL.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for each test listed in this paragraph performed at FADDL in connection with the importation or exportation of animals or birds. All user fees in this paragraph are per test, unless stated otherwise:

Test	User fee
Agar gel immunodiffusion	$13.50
Complement fixation [1]	30.50
Direct immunofluorescent antibody	9.50
Enzyme linked immunosorbent assay	11.00
Fluorescent antibody neutralization	22.00
Histopathology	[2] 20.75
In-vivo safety tests	4,177.00
Indirect fluorescent antibody	21.50
Latex agglutination	9.25
Virus isolation	77.75
Virus isolation (OP)	80.00
Virus isolation in embryonated eggs	163.75
Virus neutralization [1]	22.00

[1] The user fees listed are for the first complement fixation (CF) and virus neutralization (VN) test performed on a sample. The user fee for each additional tests of the same type (CF or VN) performed on the same sample is 20% of the stated user fee, rounded up to the nearest quarter of a dollar. For example, if two CF tests and one VN test are performed on the same sample, the user fees are $30.50 for the first CF test, $22.00 for the VN test, and, for the second CF test, $6.25, or $6.10 (20% of $30.50) rounded up to the nearest quarter of a dollar.

[2] Per slide.

(b) If a test must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime,

[5] APHIS Animal Import Centers are located in Honolulu, HI, Miami, FL, and Newburgh, NY. The addresses of these facilities are published in part 92 of this chapter.

[7] An export certificate may need to be endorsed for an animal being exported from the United States if the country to which the animal is being shipped requires one. APHIS endorses export certificates as a service to the public.

as provided for in part 97 of this chapter, must be paid for each test, in addition to the user fee listed in paragraph (a) of this section.

§ 130.16 User fees for reference assistance testing.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for each reference assistance test listed in this paragraph. All user fees in this paragraph are per test, unless stated otherwise:

(1) Bacterial identification tests:

Test	User fee
Bacterial identification/isolation, routine	$15.00
Bacteriology requiring special characterization	25.00
Leptospira cultures	25.00
Leptospira serotyping	75.00
Phage typing	10.00
Plasmid typing	25.00
Salmonella serotyping	20.00
(2) Toxicology tests:	
GC/MS organic compound:	
Screen	106.50
Confirmation	31.00
ICP metals:	
Screen	26.25
Confirmation	6.00
Mycotoxin screen	30.75
Selenium	30.50
Pesticide:	
Screen	34.25
Quantitation	47.50
Other toxicant:	
Screen	39.75
Quantitation	39.75
(3) Other tests:	
Complement fixation (includes complement fixation—ovis) [1]	9.00
Agar gel Immunodiffusion	4.75
Hemagglutination Inhibition (includes hemagglutination-5) [1]	7.50
Histopathology	[2] 8.50
Indirect fluorescent antibody	9.00
Parasitology	17.00
Virus isolation	29.75
Virus neutralization [1]	7.50

[1] The user fees listed are for the first complement fixation (CF), hemagglutination inhibition (HI), and virus neutralization (VN) test performed on a sample. The user fee for each additional test of the same type (CF, HI, or VN) performed on the same sample is 20% of the stated user fee, rounded up to the nearest quarter of a dollar. For example, if two CF tests, one HI, and one VN test are performed on the same sample, the user fees are $9.00 for the first CF test, $7.50 for the Hi test, $7.50 for the VN test, and, for the second CF test, $2.00, or $1.80 (20% of $9.00) rounded up to the nearest quarter of a dollar.

[2] Per slide.

(b) If a test must be conducted on a Sunday or holiday, or at any other time outside the regular tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each test, in addition to the user fee listed in paragraph (a) of this section.

§ 130.17 User fees for diagnostic reagents, slide sets, and tissue sets.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for each diagnostic reagent listed in this paragraph and obtained from NVSL:

Diagnostic reagent	Unit (ml.)	Fee/unit
Avian adenovirus 127:		
Antigen	2	$39.50
Antiserum	2	21.75
Avian encephalomyelitis:		
Virus	0.6	5.25
Antiserum	2	21.75
Avian Influenza:		
Antigen	2	8.75
Antiserum	6	51.00
Avian paramyxovirus-2:		
Virus	0.6	5.25
Antigen	2	39.50
Antiserum	2	21.75
Avian paramyxovirus-3:		
Virus	0.6	5.25
Antigen	2	39.50
Antiserum	2	21.75
Avian reovirus:		
Virus	0.6	5.25
Bluetongue:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Bovine coronavirus:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Bovine herpes virus:		
Virus:		
Type 1	0.6	5.25
Type 2	0.6	5.25
Type 4	0.6	5.25
Antiserum:		
Type 1	2	83.50
Type 2	2	83.50
Type 4	2	83.50
Conjugate:		
Type 1	1	19.25
Type 2	1	19.25
Type 4	1	19.25
Positive control serum:		
Type 1	2	4.50
Type 2	2	4.50
Bovine papular stomatitis:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Bovine parvovirus:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Positive control serum	2	4.50
Bovine respiratory syncytial virus:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Positive control serum	2	4.50
Bovine rotavirus:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Bovine viral diarrhea:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Positive control serum	2	4.50
Brucella canis:		
Antigen	2	8.25
Brucella ovis:		
Antigen	2	5.50
Chlamydia psittaci:		
Agent	0.6	5.25
Antiserum	1	21.75
Antigen	1	5.25
Conjugate	1	19.25
CF modifying factor	1	11.50
Contagious ecthyma:		
Virus	0.6	5.25
CF antigen	1	7.00
Antiserum	2	5.25
Conjugate	1	19.25
Duck viral enteritis:		
Virus	0.6	5.25
Antiserum	2	21.75
Conjugate	1	31.25
Encephalomyocarditis:		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Positive control serum	2	6.25
Epizootic hemorrhagic disease:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Equine adenovirus:		
Virus	0.6	5.25
Antiserum	2	11.50
Conjugate	1	24.00
Equine herpes type 1:		
Virus	0.6	5.25
Antiserum	2	11.50
Conjugate	1	24.00
Equine herpes type 2:		
Virus	0.6	5.25
Antiserum	2	11.50
Equine herpes type 3:		
Virus	0.6	5.25
Antiserum	2	11.50
Equine influenza:		
Virus	0.6	5.25
Antiserum	2	21.75
Equine viral arteritis:		
Virus	0.6	5.25
Antiserum	5	48.25
Hemagglutinating encephalomyelitis:		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Positive control serum	2	6.25
Hog Cholera:		
Tissue set	1 set	76.75

Diagnostic reagent	Unit (ml.)	Fee/unit
Infectious bronchitis virus:		
Virus	0.6	4.50
Antiserum	2	21.75
Infectious bursal disease:		
Virus	0.6	5.25
Antigen	1	8.00
Antiserum	2	21.75
Infectious laryngotracheitis:		
Virus	0.6	5.25
Antiserum	2	21.75
Johnin:		
OT	10	12.25
PPD	2	10.75
Lepto FA:		
Conjugate	1	19.25
Flazo-orange	3	6.00
Leptospira:		
Antigen	10	20.00
Antiserum	2	4.50
Lepto transport medium	10	3.00
Newcastle disease:		
Virus	0.6	5.25
Antigen	2	39.50
Antiserum	2	21.75
Parainfluenza-3:		
Virus	0.6	5.25
Antiserum	2	83.50
Conjugate	1	19.25
Positive control serum	2	6.25
Pasteurella:		
Antigen	1	3.50
Antiserum	1	10.00
Porcine adenovirus (AV):		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Porcine parvovirus (PPV):		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Positive control serum	2	6.25
Porcine reovirus:		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Porcine rotavirus:		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Positive control serum	2	6.25
Psittacine herpes virus:		
Virus	0.6	5.25
Antiserum (standard)	2	21.75
Conjugate	1	24.00
Quail bronchitis virus:		
Virus	0.6	5.25
Swine influenza:		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Positive control serum	2	6.25
Transmissible gastroenteritis:		
Virus	0.6	5.25
Antiserum	2	57.50
Conjugate	1	19.25
Positive control serum	2	6.25

(b) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for each diagnostic reagent, slide set, or tissue set listed in this paragraph and obtained from NVSL or FADDL for delivery outside of the United States:

Diagnostic reagent, slide set, tissue set	Unit (ml.)	Fee/unit
African swine fever Immunosmophoresis antigen	1	$60.75
Slide set for direct fluorescent antibody test	(1)	23.00
Tissue set	(1)	76.75
Anti-foot-and-mouth disease antigen, Guinea pig origin	1	12.75
Bovine antiserum, any agent	1	2.50
Fluorescent antibody conjugate	1	48.50
Foot-and-mouth disease anti-VIAA serum	1	5.00
Foot-and-mouth disease virus associated antigen	1	36.75
Monoclonal antibodies, mouse ascitic fluid	1	14.75
Ovine antiserum, any agent	1	2.00
Swine antiserum, any agent	1	2.00

[1] Set.

§ 130.18 User fees for sterilization by gamma radiation.

The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of a user fee of $427.75 per can for sterilization by gamma radiation.

13. In § 130.50, paragraphs (a)(1) and (a)(2) would be revised; paragraph (a)(3) would be amended by removing "and" at the end of the paragraph; paragraph (a)(4) would be amended by removing the period at the end of the paragraph and adding a semicolon in its place; and new paragraphs (a)(5) and (a)(6) would be added to read as follows:

§ 130.50 Payment of user fees.

(a) * * *

(1) User fees for animals and birds in an Animal Import Center or privately operated permanent import-quarantine facilities, including user fees for tests conducted on these animals or birds, must be paid at the time the animals or birds are released from quarantine;

(2) User fees for animals or birds in privately-operated temporary import-quarantine facilities, including user fees for tests conducted on these animals or birds, must be paid at the time the animals or birds are released from quarantine;

* * * * *

(5) User fees for tests, other than reference assistance tests, on samples submitted to NVSL or FADDL, and user fees for diagnostic reagents, slide sets, tissue sets, and sterilization by gamma radiation, must be paid when the test, diagnostic reagent, slide set, tissue set, or sterilization is requested, unless APHIS determines that the user has established an acceptable credit history, at which time payment may, at the option of the user, be made when billed; and

(6) User fees for reference assistance tests must be paid when billed.

* * * * *

14. In § 130.51, paragraphs (a) and (c) would be revised; paragraph (b)(1) would be amended by removing the "and" at the end of the paragraph; paragraph (b)(2) would be amended by removing the period at the end of the paragraph and adding a semicolon in its place; and new paragraphs (b)(3) and (b)(4) would be added to read as follows:

§ 130.51 Penalties for nonpayment or late payment of user fees.

(a) If any person for whom the service is provided or the person requesting the service fails to pay when due, any debt to APHIS, including any user fee due under Title 7 or Title 9, Code of Federal Regulations, then:

(1) Payment must be made for subsequent user fees before the service is provided if:

(i) For unbilled fees, the user fee is unpaid 60 days after the date the pertinent regulatory provision indicates payment is due;

(ii) For billed fees, the user fee is unpaid 60 days after date of bill;

(iii) The person requesting the service has not paid the late payment penalty or interest on any delinquent APHIS user fee; or

(iv) Payment has been dishonored;

(2) APHIS will estimate the user fee to be paid; any difference between the estimate and the actual amount owed to APHIS will be resolved as soon as reasonably possible following the delivery of the service, with APHIS returning any excess to the payor or billing the payor for the amount due;

(3) The prepayment must be in guaranteed form, such as money order, certified check, or cash. Prepayment in guaranteed form will continue until the debtor pays the delinquent debt;

(4) Cash payments will be accepted only at a location designated by the APHIS employee during normal business hours; and

(5) Service will be denied until the debt is paid if:

(i) For unbilled fees, the user fee is unpaid 90 days after the date the pertinent regulatory provision indicates payment is due;

(ii) For billed fees, the user fee is unpaid 90 days after date of bill;

(iii) The person requesting the service has not paid the late payment penalty or interest on any delinquent APHIS user fee; or

(iv) Payment has been dishonored.

(b) * * *

(3) If a user fee is due for a test conducted by APHIS, APHIS will not release the test result or any endorsed certificate; and

(4) If a user fee is due for a diagnostic reagent, slide set, tissue set, or sterilization by gamma radiation, APHIS will not release the diagnostic reagent, slide set, tissue set, or sterilized material.

(c) If for unbilled user fees, the user fees are unpaid 30 days after that date the pertinent regulatory provisions indicates payment is due, or if billed, are unpaid 30 days after the date of the bill, APHIS will impose a late payment penalty and interest charges in accordance with 31 U.S.C. 3717.

* * * * *

Done in Washington, DC, this 11th day of March 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–6142 Filed 3–19–93; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 113

[Docket No. 92–090–1]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Clostridium Perfringens Types C and D Toxoids and Bacterin-Toxoids

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations pertaining to the Standard Requirements for *Clostridium perfringens* Type C and *Clostridium perfringens* Type D toxoids and bacterin-toxoids. The amendments would eliminate the testing of individual serums under certain circumstances and would reduce the number of rabbit sera necessary in order to pool serum samples. This proposed amendment would also revise the method of determining the test dose which is currently either one-half of the recommended cattle dose or one-half of the recommended sheep dose. The new test dose would be one-half of the smallest host animal dose. This would provide for treatment recommendations for a variety of host animal species.

The proposed amendment would not change the accuracy of the assays and, under certain circumstances, would reduce the number of required tests as well as the number of mice needed for testing.

The proposed amendment is necessary in order to make the assays more economical to run and to conform more closely to the general format found in the recently revised Standard Requirements for *Clostridium novyi* and *Clostridium sordellii* bacterin-toxoids.

DATES: Considerations will be given only to comments received on or before May 21, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92–090–1. Comments received may be inspected 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.

FOR FURTHER INFORMATION CONTACT: Dr. Mark D. Wood, Senior Staff Veterinarian, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5863.

SUPPLEMENTARY INFORMATION:

Background

The regulations concerning potency testing of Clostridum Perfringens Type C Toxoid and Bacterin-Toxoid in § 113.111 and Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid in § 113.112 could be improved by reducing certain test requirements and thereby decreasing the cost of performing these tests. This can be accomplished without affecting the accuracy and reliability of the tests.

The proposed amendments would reduce the number of mice needed for serum neutralization testing. Also, the current test method uses one-half of the recommended cattle or sheep dose. The new test dose would provide for recommendations for a variety of host animal species by requiring the use of one-half of the smallest host animal dose. In addition, it would provide for consistency with other recently revised Standard Requirements for *Clostridium novyi* and *Clostridium sordellii* bacterin-toxoid and permit the use of the same test rabbits for potency testing when these fractions are mixed together in a combination product.

Current regulations in § 113.111(c) and § 113.112(c) provide for the use of at least four rabbits in the potency determination of Clostridium Perfringens Type C Toxoid and Bacterin-Toxoid and Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid respectively. The amount of antitoxin found in the rabbit sera after injection with the toxoid or bacterin-toxoid is proportional to the potency of the antigen in the product tested.

The antitoxin response of vaccinated rabbits is measured by a toxin neutralization assay in mice. A standard amount of *Clostridium perfringens* Beta or Epsilon toxin is mixed with a designated amount of the test rabbits' sera. The mixture is allowed to neutralize for one hour. Swiss white mice are then injected with this toxin-sera mixture to determine if the standard amount of toxin was neutralized by the test rabbit sera. Since mice are particularly sensitive to these toxins, a lack of mouse mortality indicates sufficient toxin neutralization and thus an adequate antitoxin response in the rabbits tested. This would indicate an acceptable potency for the toxoid or bacterin-toxoid antigen in the product tested.

Under the current regulations in § 113.111(c) and § 113.112(c), if 4 to 7 rabbits are used, the sera from each rabbit must be assayed individually. This requires the use of at least 20 to 35 mice for serum neutralization testing as opposed to a minimum of 5 mice with the proposed pooled method.

The proposed method would require the use of at least 7 rabbits in order for the sera to be combined into a single pool. The entire potency test is then conducted on one pooled sample. Pooling the samples would require a minimum of one toxin neutralization assay. This would significantly reduce the number of tests required, the number of mice needed, the time spent, and the expense of the procedure.

Retests may be indicated if less than 80% of control mice inoculated with standard antitoxin and 10 L_+ doses of standard toxin die in the neutralization

test. However, since the testing of the proposed pooled serum sample involves fewer mice as opposed to conducting individual serum samples, the number of mice required for a retest in the proposed rule would be less.

If multiple controls had been needed for individual sera testing, fewer "no tests" might result with pooled serum samples as opposed to current potency assay provisions which allow for running 4 to 7 individual tests. With the mitigation of retest conditions, the number of mice needed would be even further reduced.

Current regulations in § 113.111(c)(2) and § 113.112(c)(2) require injecting test rabbits with one-half of the recommended cattle or sheep dosage only. The proposed revision would require that test rabbits be injected with the smallest host animal dose. This provides for the testing or product recommended for use in other host animal species in addition to cattle and sheep.

Manufacturers, as well as the National Veterinary Services Laboratories, would benefit from the proposed revisions since they would improve efficiency and reduce costs but would not change the accuracy of the assays. In addition, the proposed amendments would provide for consistency with other recently revised Standard Requirements for *Clostridium novyi* and *Clostridium sordellii* and permit the use of the same group of rabbits when testing the potency of these fractions when mixed together in a combination product. Therefore, we are proposing to revise the current regulations in 9 CFR 113.111(c) and 113.112(c) concerning the potency testing of Clostridium Perfringens Type C Toxoid and Bacterin-Toxoid and Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid respectively.

Regulatory Reform: Less Burdensome or More Efficient Alternatives

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use, or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992 memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with the law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that the public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this Notice.

Executive Order 12291, and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would result in a reduction of the number of mice required to run the potency assays. The reduction in the number of mice needed will result in a reduction in the total cost of the assays.

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative proceedings which must be exhausted prior to any judicial challenge to the regulations under this rule.

Paperwork Reduction Act

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

Executive Order 12372

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

List of Subjects in 9 CFR Part 113

Animal biologics.

Accordingly, 9 CFR part 113 would be amended as follows:

PART 113—STANDARD REQUIREMENTS

1. The authority citation for part 113 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17 2.51, and 371.2(d).

2. Section 113.111, paragraphs (c)(2); (c)(3)(i); (c)(3)(ii); (c)(3)(iii); and (c)(5)(iii) would be revised to read as follows:

§ 113.111 Clostridium Perfringens Type C Toxoid and Bacterin-Toxoid.

* * * * *

(c) * * *

(1) * * *

(2) Each of at least eight rabbits, each weighing 4–8 pounds, shall be injected subcutaneously with half of the smallest host animal dose. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) * * *

(i) At least seven rabbits are required to make an acceptable serum pool.

(ii) Equal quantities of serum from each rabbit shall be combined and tested as a single pooled serum.

(iii) If less than seven rabbits are available, the test is invalid and shall be repeated: *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

* * * * *

(5) * * *

(iii) If any mice inoculated with the mixture of serum with 10 L_o doses of Standard Toxin die, the serum is considered to contain less than 10 International Units per ml, and the serial is unsatisfactory.

3. Section 113.111 paragraph (c)(5)(iv) would be removed.

4. Section 113.112, paragraphs (c)(2); (c)(3)(i); (c)(3)(ii); (c)(3)(iii); and (c)(5)(iii) would be revised to read as follows:

§ 113.112 Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid.

* * * * *

(c) * * *

(2) Each of at least eight rabbits, each weighing 4–8 pounds, shall be injected subcutaneously with half of the smallest host animal dose. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) * * *

(i) At least seven rabbits are required to make an acceptable serum pool.

(ii) Equal quantities of serum from each rabbit shall be combined and tested as a single pooled serum.

(iii) If less than seven rabbits are available, the test is invalid and shall be repeated: *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

* * * * *

(5) * * *

(iii) If any mice inoculated with the mixture of serum with 10 L_o doses of Standard Toxin die, the serum is considered to contain less than 2 International Units per ml, and the serial is unsatisfactory.

§ 113.112 [Amended]

5. Section 113.112 paragraph (c)(5)(iv) would be removed.

Done in Washington, DC, this 15th day of March 1993.

Kenneth C. Clayton,

Acting Assistant Secretary, Marketing and Inspection Service.

[FR Doc. 93–6481 Filed 3–19–93; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE55

Monitoring the Effectiveness of Maintenance at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations for monitoring the effectiveness of maintenance programs at commercial nuclear power plants. The current regulations require that nuclear power plant licensees evaluate performance and condition monitoring activities and associated goals and preventive maintenance activities at least annually. The proposed amendment would change the time interval for conducting evaluations from once every year to at least once every refueling cycle, but not to exceed 24 months.

DATES: The comment period expires on May 6, 1993. Comment received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments submitted and received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal Workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph J. Mate, Office of Nuclear Regulatory Research, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3795.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1991, (56 FR 31324) the Nuclear Regulatory Commission published the final rule, "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," (§ 50.65). The final rule, which will become effective July 10, 1996, requires commercial nuclear power plant licensees to monitor the effectiveness of maintenance activities for safety-significant plant equipment in order to minimize the likelihood of failures and events caused by the lack of effective maintenance. Section 50.65(a)(3) requires nuclear power plant licensees to evaluate the overall effectiveness of their maintenance activities on an annual basis. An industry consensus guidance document and a regulatory guide to provide an acceptable methodology for implementing the final rule are expected to be published by June 30, 1993.

Discussion

Since the Maintenance Rule was published in July 1991, two events have occurred that lead the Commission to reconsider the annual evaluation requirements in § 50.65(a)(3).

First, in the Summer of 1991, the Nuclear Management Resources Council (NUMARC) Steering Group was formed to develop an industry guide for implementing the Maintenance Rule. While developing the guide, the Steering Group suggested to the NRC in a public meeting held on February 26, 1992, that instead of annual assessment requirements, the NRC should consider assessments based on a refueling cycle interval. The NUMARC Steering Group stated that:

(1) Significantly more data would be available during refueling cycles than is available on an annual basis.

(2) Key data from some surveillance tests can only be obtained during refueling outages and is not available on an annual basis; and

(3) Adjustments to maintenance activities that may be made after such an evaluation would be typically performed after a refueling outage.

The NUMARC Steering Group further added that the evaluation process is a time consuming activity and that with limited data available, the annual evaluation would not provide for meaningful results. With only limited data, changes to maintenance programs will likely not be made because there would not be sufficient information available for spotting trends or doing trend analysis.

Second, the NRC conducted a regulatory review to eliminate or revise unnecessarily burdensome regulations and published a final rule on August 31, 1992 (57 FR 39353) that amended several regulations identified by its Committee to Review Generic Requirements (CRGR). One of those amended regulations was 10 CFR 50.71 (e) (Final Safety Analysis Report Updates) where the frequency of licensee reporting to the NRC was changed from annually to once per refueling cycle. The change was made because the use of a refueling cycle interval provided a more coordinated and cohesive update since, a majority of design changes and major modifications were performed during refueling outages. In addition, it had no adverse impact on the public health and safety and reduced the regulatory burden on the licensees.

The Commission is now proposing to change the required frequency of maintenance activity evaluations from annually to once per refueling outage. Evaluation of data collected over the period of a refueling cycle will provide a substantially better basis for detecting problems in degraded performance of structures, systems, and components (SSC's) and weakness in maintenance practices. Evaluations conducted on a refueling cycle basis would also consider and integrate data available only during refueling outages with the data available during operations; under the existing requirements this may not occur depending on whether the annual assessment coincides with the refueling outage. Furthermore, evaluations of data

accumulated over the period of a refueling cycle, as opposed to the shorter annual period required by the rule, will provide a more meaningful basis for the recognition and interpretation of trends. The Commission understands that a normal frequency of refueling outage ranges from 15 to 18 months; however, the conditions may vary from plant to plant. In order to ensure that an indefinite period of time does not occur between maintenance evaluations, the Commission is proposing the establishment of an upper limit of 24 months between the maintenance evaluations. This would address those licensees that have extended their refueling cycle beyond 24 months for any reason including numerous short outages or extended shutdown periods. Although the Commission believes that it is generally the case that maintenance evaluations will be more effective if conducted in conjunction with refueling outages, licensees would still have the option of conducting them more frequently.

In light of the above discussion, the NRC is proposing to change the requirement for evaluation of the overall effectiveness of maintenance activities to be performed once per refueling cycle provided the interval between evaluations does not exceed 24 months.

Finding of No Significant Environmental Impact

The Commission has determined that, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action that significantly affects the quality of the human environment and therefore an environmental impact statement is not required.

The proposed amendment does not require any change to nuclear power plant design or require any modifications to a plant. Nor does the rule change the scope of the maintenance rule or affect the nature of the activities to be performed, e.g., monitoring, corrective action, and assessments of compliance. The proposed rule change would only extend the time period for performing evaluations of the effectiveness of licensees' maintenance program from at least once a year to at least once every refueling cycle, not to exceed 24 months. The proposed extension should not result in any significant or discernible reduction in the effectiveness of a licensee's maintenance program; rather the change would increase the meaningfulness and quality of the maintenance evaluations. For these reasons, the Commission finds that the proposed amendment will not result in any significant increase in either the probability of occurrence of an accident or the consequences of an accident and therefore concludes that there will be no significant effect on the environment as a result of the proposed amendment.

The environmental assessment is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Single copies of the environmental assessment are available from Joseph J. Mate, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–3795.

Paperwork Reduction Act Statement

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

Because the rule will relax existing recordkeeping requirements, the public burden for this collection of information is expected to be reduced by 150 hours per licensee. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U. S. Nuclear Regulatory Commission, Washington, DC, 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0011), Office of Management and Budget, Washington, DC, 20503.

Regulatory Analysis

The Nuclear Regulatory Commission has considered the costs and benefits of the proposed rule. With respect to benefits, the proposed amendment would allow those licensees who choose to exercise the option to perform evaluations of their maintenance program in conjunction with refueling outages but no less frequently than every 24 months. The Commission believes that this additional flexibility will not result in any increase in risk to the public health and safety, and may result in a more effective maintenance and improved plant safety.

Under the proposed rule, the frequency of periodic assessments would change from annually to at least once per refueling cycle but not to exceed 24 months. Since most refueling outages normally occur in the 15- to 18-month range, the time between periodic assessments assuming a 16-month average would be increased by about 33 percent. Therefore, the licensee staff hours to accomplish a periodic assessment under the proposed rule would be reduced from approximately 460 staff hours to about 310 staff hours per plant. This would save the licensee approximately 150 staff hours per plant. There are no additional changes in costs to be incurred by the NRC. The foregoing constitutes the regulatory analysis for this proposed rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, (5 U.S.C. 605(b)), the Nuclear Regulatory Commission certifies that, if promulgated, this rule will not have a significant economic impact on a substantial number of small entities. This proposed rule affects only the operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" as set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in the regulations issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, that a backfit analysis is not required. The proposed amendment to the interval for evaluating the effectiveness of maintenance activities by licensees is considered a relaxation from the existing requirement and does not involve any provisions which would impose backfits as determined in 10 CFR 50.109. Further, the option of conducting an annual review as provided by the current rule would be retained. Because there are no new requirements or procedures imposed on licensees by this proposed rule, it does not impose a backfit.

List of Subjects

10 CFR Part 50—Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended, (42 U.S.C. 2131, 2235); secs. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended, (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended, (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 50.65, paragraph (a)(3) is revised to read as follows:

§ 50.65 Requirements for monitoring the effectiveness of maintenance at nuclear power plants.

(a) * * *

(3) Performance and condition monitoring activities and associated goals and preventive maintenance activities shall be evaluated at least every refueling cycle provided the interval between evaluations does not exceed 24 months. The evaluations shall be conducted taking into account, where practical, industry-wide operating experience. Adjustments shall be made where necessary to ensure that the objective of preventative failures of structures, systems, and components through maintenance is appropriately balanced against the objective of minimizing unavailability of structures, systems, and components due to monitoring or preventative maintenance. In performing monitoring and preventative maintenance activities, an assessment of the total plant equipment that is out of service should be taken into account to determine the overall effect on performance of safety functions.

* * * * *

Dated at Rockville, Maryland, this 15th day of March 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–6577 Filed 3–19–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–265–AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which would have superseded an existing AD that currently requires periodic leak checks of the forward lavatory drain system and provides for the installation of a new drain valve as terminating action. The proposed action would have deleted the existing provision for terminating action and would have required repetitive leak checks of both the forward and aft lavatory drain systems. That proposal was prompted by reports of engine and airframe damage, engine separation, and damage to property on the ground, caused by "blue ice" that had formed from leaking forward lavatory drain systems and subsequently had dislodged from the airplane. This action revises the proposal by adding an optional procedure for complying with the rule which entails revising the FAA-approved maintenance program to incorporate a schedule and procedure to conduct leak checks of the lavatory drain systems.

DATES: Comments must be received no later than May 6, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 90–NM–265–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donald Eiford, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2675; fax (206) 227–1811.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 90–NM–265–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 90–NM–265–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 86–05–07, Amendment 39–5250 (51 FR 7767, March 6, 1986), applicable to all Boeing Model 727 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 10,

1991 (56 FR 967). That action would have deleted a provision in the existing rule that provides for terminating action for the required repetitive leak checks of the forward lavatory drain systems, and would have required repetitive leak checks of both the forward and aft lavatory drain systems.

That proposed action was prompted by reports of engine and airframe damage and one report of engine separation on a Boeing Model 727 series airplane that occurred subsequent to the issuance of AD 86–05–07. These incidents were caused by "blue ice" that had formed from leaking forward lavatory drain systems and subsequently had broken loose from the airplane and struck the fuselage or had been ingested into the engine. That proposed action also was prompted by reports of leakage from lavatory drain valves that have a configuration similar to that specified in AD 86–05–07 as terminating action. Such leakage can result in the formation of blue ice, which can dislodge from the airplane and result in engine damage or separation, airframe damage, and/or a hazard to persons or property on the ground.

Discussion of Changes to the Proposal

Since the issuance of that NPRM, the FAA has determined that certain significant changes to the proposed rule are necessary. Based on a review of the comments received in response to the notice (discussed below), and due to the "maintenance aspect" of the proposed requirements of this AD action, the FAA has reconsidered the approach it previously had taken in addressing the identified unsafe condition. The FAA now considers that it is necessary to revise the proposal to provide for an alternative to the mandatory inspections previously proposed.

The FAA considers that an acceptable option would be a revision to each operator's FAA-approved maintenance program that would incorporate a schedule and procedure for conducting repetitive leak checks of both forward and aft lavatory drain systems. This supplemental NPRM proposes to include such an option, as well as specific leak check intervals. This option of revising the maintenance program would be available to all operators operating under such a program. The lavatory drain system inspection intervals would not be permitted to be adjusted without prior approval from the Seattle Aircraft Certification Office.

With regard to the proposed inspection intervals, the FAA evaluated the possibility of establishing inspection criteria that incorporate objective, predictable "failure threshold criteria" (lavatory drain system reliability criteria). With such criteria, affected airlines would be allowed to escalate inspection intervals until the threshold is reached; when the threshold is exceeded, the inspection intervals would be required to be reduced accordingly. If it were possible to develop some "predictor" of valve failure and to monitor that predictor, then each affected airline's unique lavatory drain valve combination(s) and maintenance/inspection program could be timed to provide the least regulatory compliance burden. The FAA has attempted to work with the aviation industry to establish such failure threshold criteria, but, so far, has been unable to stimulate enough interest in the concept. Therefore, without such criteria, it is necessary for the FAA to continue to specify "hard" compliance time intervals for the inspections proposed in this supplemental notice. The FAA requests that commenters consider providing data that could be used to establish specific failure threshold criteria (which then could be used to provide for the escalation of the inspection intervals). The FAA may consider future rulemaking based on the data received.

The option to accomplish the specific leak check procedures, as originally proposed, would remain available to all operators.

Since the change described above expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Discussion of Comments to the Original Proposal

Due consideration has been given to the following comments that were submitted to the originally-issued NPRM:

Several commenters request that the interval between leak checks for the aft lavatory drain systems be longer than those for the forward drain systems. These commenters suggest that the proposed rule be changed to require leak checks at 1,500 to 3,500 flight hour intervals for aft drains with donut/cap type or other approved drain valves, excluding the Shaw Aero Devices, Inc., (Shaw Aero) drain valve; and leak checks at 3,000 to 5,000 flight hour intervals, or not at all, for aft drains with the Shaw Aero drain valves that incorporate an inner integral door with a second positive seal. (The NPRM proposed a 200 flight hour leak check interval for all of these valves.) These commenters state that the hazard posed by leakage from the aft lavatory drain is less than that from the forward lavatory drain. These commenters note that ice formed from leaking forward lavatory drains could break loose and strike the airframe, engine, and/or persons on the ground, whereas ice formed from leaking aft lavatory drains is only a hazard to persons on the ground. Two commenters suggest that the possibility of an unsafe condition occurring from any blue ice hitting persons on the ground is extremely remote, and another commenter suggests that such an event would be highly unlikely. (However, none of the commenters provided an analysis to support these claims). The FAA does not concur with the request to treat the requirements pertaining to aft lavatory drains differently from those for forward lavatory drains. The FAA considers that an unsafe condition exists with respect to the current designs of both the aft and forward lavatory drains. Lavatory drain system leakage, and the attendant hazards it poses to the airplane and to persons on the ground, is an unacceptable condition.

Several commenters note that the current configuration of the Boeing Model 727 aft lavatory drain cannot accommodate the same design improvements as the forward lavatory drain. The FAA agrees that current airplane designs may not accommodate installation of identical design improvements on forward and aft lavatory drains. Therefore, the different compliance time intervals for the required repetitive leak checks (as explained below) were selected to assure an equal level of reliability of the various lavatory drain configurations.

Several commenters request that the rule be revised to require leak checks at 3,000 to 5,000 flight hour intervals for lavatory drains in which a ball valve is installed, as opposed to the proposed 1,000 flight hour interval. These commenters believe that the in-service record of these valves on Boeing Models 727, 767, and 747–400 series airplanes, as well as on McDonnell Douglas Model DC–9–80 series airplanes, justifies at least this much time between leak checks. These commenters note that only one ball valve out of 364 installed on Boeing Model 727 airplanes and McDonnell Douglas Model DC–9–80 airplanes had to be repaired due to leakage, and had not resulted in a blue ice leakage problem. These commenters also note that Boeing Model 747–400 and 767 airplanes have accumulated over 4 million flight hours with no reported ball valve leakage. The FAA agrees that the lavatory drain systems with a ball valve installed are more

reliable than other approved drain configurations. However, the FAA recently received an incident report indicating that a Boeing Model 767 airplane with a ball valve installed in the lavatory drain had left blue ice on the runway. An investigation of this incident revealed that the aft lavatory service port was leaking. Kaiser Electroprecision, the supplier of these ball valves, has submitted data on this valve to the Rules Docket, which shows that of 2,403 ball valves installed, 117 were returned (excluding 350 returned due to a degerm problem) and that 28 of those failed a leak check; this number does not include valves that were disassembled or non-functional. Additionally, one commenter has reported three incidents of blue ice damage to engines on airplanes equipped with ball valves in the forward lavatory drain system, which is in direct contradiction to the data submitted by the other commenters. The FAA considers that reports of valve leakage from aft locations are unlikely, since blue ice from those locations would not impact the engine or airframe. Based on its review of the data, the FAA has determined that some extension of the inspection interval is justified, but not to the degree that the commenters requested. The proposal has been revised to extend the interval for leak checks of lavatory drains with ball valves installed from the proposed 1,000 flight hours to 1,500 flight hours. Such an extension will not adversely affect safety.

Several commenters request that the proposal be revised to require leak checks at 800 to 1,750 flight hour intervals for forward lavatory drains equipped with a Shaw Aero drain valve that incorporates an integral inner door with a second positive seal; and to require leak checks at 3,000 to 5,000 flight hour intervals, or not at all, for aft lavatory drains with this valve installed. (The NPRM proposed a 200 flight hour leak check interval for this valve.) These commenters believe that the in-service record of this valve justifies at least this much time between leak checks. These commenters note that this valve has accumulated over 90,000 flight hours on Boeing Model 737–300 and 737–400 airplanes, and over 720 leak checks have been conducted in accordance with AD 89–11–03, Amendment 39–6223 (54 FR 21933, May 22, 1989), with no reported failures. Additionally, these commenters note that this valve is durable and resistant to damage because it has an all-stainless steel design with bore-type seals. The FAA agrees that lavatory drains with Shaw Aero drain valves installed are more reliable than other approved drain configurations insofar as leakage problems. The FAA has determined that the interval for leak checks of lavatory drains with Shaw Aero drain valves installed may be extended to 1,000 flight hours without adversely affecting safety. The supplemental NPRM reflects this interval.

Several commenters request that the ball valve and Shaw Aero drain valve combination installed in the forward lavatory drain system be approved as terminating action for the repetitive leak checks required by the proposed AD. These commenters believe that this valve combination will virtually eliminate the blue ice problem. The FAA does not concur with the request. Although the FAA agrees that this combination of valves may offer the best protection currently available against valve leakage, this configuration is not currently approved or installed on any Boeing Model 727 airplanes and, if approved and installed, would still require repetitive leak checks. The FAA may consider a longer interval for leak checks of this combination of valves, if requested, as an alternative method of compliance.

Several commenters request that the FAA mandate the installation of current designs that they believe should be considered as terminating action for the proposed inspections. These commenters believe that hardware is now available and in operation which responds to the permanent solution to the leakage problem sought by the FAA. To require the installation of such terminating designs would be in line with the consideration, accepted by both industry and the FAA, that long term operational safety will be better assured by actual modification to remove the source of the problem rather than by repetitive inspections. Further, these commenters note that the proposed rule does not encourage the installation of better designs. The FAA does not concur. The FAA has determined that none of the currently approved designs can guarantee that leakage will not occur. The FAA does agree that some existing designs are better than others, and this is taken into account in this supplemental NPRM, which provides for a longer leak check interval for those designs that have proven to be more reliable in service. However, the FAA does not consider it appropriate to mandate the installation of drain designs that would still require repetitive leak checks. To do so would place an undue economic burden on affected operators without providing additional safety. Further, the FAA is not discouraging the installation of better designs; on the contrary, the FAA is providing the incentive to install better designs by providing an extended time interval between required leak checks for the more reliable designs.

Several commenters request that the rule be revised to require leak checks at 300 to 400 flight hour intervals for forward lavatory drains with donut/cap type or other approved drain valves, excluding the Shaw Aero drain valve. (The NPRM proposed a 200 flight hour leak check interval for these valves.) These commenters believe that the 200 flight hour leak check requirement is too conservative and not necessary in eliminating lavatory drain system leakage. These commenters note that the proposed 200 flight hour leak check requirement creates maintenance logistics problems. The FAA does not concur. The proposed 200 flight hour inspection interval was based on the effectiveness of the 200 flight hour repetitive leak check that is required by AD 89–11–03, Amendment 39–6223 (54 FR 21933, May 22, 1989), applicable to Boeing Model 737–300 and 737–400 airplanes. Since the lavatory drain configurations (i.e., dump valve with either donut/cap type drain valve, or drain valves incorporating an integral door with second positive seal) are common to both Boeing Model 727 and 737 series airplanes, the proposed interval is consistent with the existing requirements for the Model 737, which have been shown to be effective in identifying and correcting leakage problems.

One commenter requests that the rule be revised to require leak checks at 1,000 flight hour intervals for lavatory drain systems that have the Kaiser Electroprecision expander valve installed. This commenter states that this recommendation is based on over 30 years of in-service data which shows that a lavatory drain plug, when properly installed, has never been reported to have failed, causing leakage. The FAA does not concur. This valve is similar in design to donut/cap type valves, which do have a significant history of leaks. The commenter has not provided any service data to demonstrate the effectiveness of this particular valve. The FAA may consider extending the leak check interval for this valve as an alternative method of compliance if a request is submitted with adequate service data to justify an extension of the leak check interval.

One commenter requests that the FAA mandate removal of the combination donut/cap drain valves from all Boeing Model 727 airplanes. This commenter notes that the removal and refit of the

donut plug is an entirely manual operation, subject to the feel of the maintenance person. This commenter believes that a system passing a pressure test may fail during use if the plug is replaced (or omitted) from the valve nipple. This commenter also believes that the outer cap face seal can be easily damaged and could fail to provide the backup to the donut seal. The FAA does not concur. The FAA agrees that the removal and refit of the donut plug on the drain valve is subject to error; however, the 200 flight hour interval leak check will ensure the integrity of the dump valve and the integrity of the cap seal if the donut seal is defective.

One commenter requests that the FAA place more emphasis on the potential hazard of blue ice to persons on the ground. This commenter believes that the proposed AD does not sufficiently stress the potential ground impact damage and possible catastrophic effect on the total industry should even a single death result. This commenter states that the number of near misses that have been reported in various media is sufficient to indicate that a serious situation exists and is likely to result ultimately in death to persons on the ground. This commenter believes that this probability is more likely than the possibility of loss of an airplane due to ingestion of blue ice in the engine or due to structural damage by blue ice. The FAA agrees that ground impact, as well as airplane damage, must be considered in this issue. The fact that the FAA is proposing to require repetitive inspections of both the forward and aft lavatory drains indicates that the FAA does consider the possibility of blue ice striking persons on the ground to be a serious safety issue. (As discussed previously, ice formed from leaking forward lavatory drains and departing airplane could strike the airframe, engine, and/or persons on the ground; whereas, ice formed from leaking aft lavatory drains and departing the airplane is mainly a hazard to persons on the ground.)

One commenter requests that the FAA revise the proposed rule to state that any leaks discovered at any time, not just those leaks found as a result of the inspections proposed in this AD, must be repaired prior to further flight, or that the lavatory system must be drained and the lavatory(s) locked and placarded inoperative prior to further flight. The FAA does not concur that such a change is necessary. The proposed rule is intended to address only the necessary follow-on actions that result from the inspections specified by this proposal. The addressed leakage of the system renders the airplane unairworthy and, if such leakage is found by other means, corrective action must be taken in accordance with the requirements of Federal Aviation Regulations (FAR) Part 43 to return the airplane to an airworthy condition.

One commenter requests that the rule be revised to require that the leak check be applied "across the drain valve," not "across each seal of the drain valve." The commenter notes that a leak check across each seal of the drain valve would require removing the inner seal to test the outer seal. The commenter believes that the likelihood of introducing a leak by improper seal installation or damage to the seal is greatly increased by performing this procedure every 200 flight hours. The FAA concurs and has revised the proposed rule accordingly.

One commenter requests that the proposed rule be revised to clarify that the 3 pounds per square inch differential pressure (PSID) leak check is to be applied across the cap valve as well as the ball valve. This commenter believes that the proposed rule is not clear as to how to test the cap valve. The FAA concurs. The proposed rule has been revised to clarify the requirement.

One commenter requests that the rule be revised to require a leak check of the rinse/fill system or, on airplanes with no rinse/fill system, a test of the check valve. This commenter notes that several incidents of blue ice from this source have occurred. The FAA does not concur with the request to require a leak check of the rinse/fill system. The primary source of blue ice has been the lavatory drains. However, the FAA will review this situation and may take separate action to address the rinse/fill system, if warranted.

One commenter requests that the rule be revised to require disconnection of the service panel heater. This commenter believes that disconnecting the service panel heater provides a fail-safe system whereby any leaked fluid will freeze before reaching the exterior of the airplane, thus preventing any blue ice from forming outside the airplane. Consequently, a frozen drain line would provide an indication to the operator of needed maintenance. The FAA agrees that disconnecting the service panel heater could reduce the possibility of ice forming outside the airplane, but it would not eliminate the need for repetitive leak checks. The FAA, however, will review this item and may take separate action to address the service panel heater, if warranted.

Two commenters agree with the proposed rule, but request that the FAA consider additional rulemaking activity to address the other transport category airplanes that have similar lavatory drain systems. The FAA concurs. The FAA is considering a plan to take similar action on all transport category airplanes to impose repetitive inspections of all lavatory drains. The time interval for inspection would be dependent upon the drain system configuration alone, and required action would be consistent, regardless of airplane model.

One commenter requests that the FAA use an average labor cost of $75 per work hour in estimating the cost impact of the proposed rule. This commenter notes that its average labor cost is $55 per work hour for operator maintenance and $95 per work hour for contract maintenance. This commenter believes that the $75 per work hour labor cost is more realistic than the $40 per work hour estimate that was used in the cost analysis section of the preamble to the NPRM. The FAA concurs that the $40 per work hour labor estimate is outdated, and should be increased somewhat. The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $40 per work hour to $55 per work hour. The economic analysis paragraph, below, has been revised to reflect this increase in the specified hourly labor rate.

The format of the supplemental NPRM has been restructured to be consistent with the standard **Federal Register** style.

Paragraph (c) of the supplemental NPRM specifies the current procedure for submitting requests for approval of alternative methods of compliance.

Cost Impact

There are approximately 1,752 Boeing Model 727 series airplanes of the affected design in the worldwide fleet, operated by 153 operators. It is estimated that 1,277 airplanes of U.S. registry and 54 U.S. operators would be affected by this AD. The FAA estimates that it would take approximately 4 manhours per airplane lavatory drain (2 drains per airplane) to accomplish a leak check, and the average labor cost would be $55 per manhour. For the 1,077 airplanes that have donut/cap type or other approved drain valves (excluding Shaw Aero drain valves) installed in both drain systems, 15 leak checks per airplane would be required each year. For the 36 airplanes that have Shaw Aero drain valves installed in both drain systems, 3 leak checks per

airplane would be required each year. For the 164 airplanes that have a ball valve installed in the forward lavatory drain and a Shaw Aero drain valve installed in the aft lavatory drain, 2 leak checks of the forward drain and 3 leak checks of the aft drain would be required per year. Based on these figures, the total annual (recurring) cost impact of the repetitive leak checks on U.S. operators is estimated to be $7,336,120.

In addition to the costs discussed above, for those operators who elect to comply with proposed paragraph (b) of this AD action, the FAA estimates that it would take approximately 40 manhours per operator to incorporate the lavatory drain system leak check procedures into the maintenance programs, at an average labor cost of $55 per manhour. Based on these figures, the total cost impact of the proposed maintenance revision requirement of this AD action on the 54 U.S. operators is estimated to be $118,800, or $2,200 per operator.

These total cost figures assume that no operator has yet accomplished the proposed requirements of this AD action.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–5250 (51 FR 7767, March 6, 1986), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket No. 90–NM–265–AD. Supersedes AD 86–05–07, Amendment 39–5250.

Applicability: All Model 727 series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent engine damage or separation, airframe damage, and/or hazard to persons or property on the ground as a result of "blue ice" that has formed from leakage of the lavatory drain system and dislodged from the airplane, accomplish the following:

(a) Except as provided in paragraph (b) of this AD, accomplish the applicable procedures specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD:

(1) For each lavatory drain system, forward or aft, that has a ball valve installed: Within 1,500 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,500 flight hours, conduct a leak check of the dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel), ball valve, and cap valve. The ball valve and cap valve leak checks must be performed with a minimum of 3 pounds per square inch differential pressure (PSID) applied across each valve.

(2) For each lavatory drain system, forward or aft, that has a Shaw Aero Devices, Inc., drain valve installed that incorporates an integral inner door with second positive seal: Within 1,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,000 flight hours, conduct a leak check of the dump valve and drain valve. The drain valve leak check must be performed with a minimum of 3 PSID applied across the valve.

(3) For other forward or aft lavatory drain systems not addressed in paragraph (a)(1) or (a)(2) of this AD: Within 200 flight hours from the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, conduct a leak check of the dump valve and the drain valve at the service panel. The drain valve leak check must be performed with a minimum 3 PSID applied across the valve.

Note 1: This paragraph does not necessarily apply to systems for which an alternative method of compliance and/or adjustment of the compliance time has been approved by the FAA. The terms of each approved alternative method of compliance and/or adjustment of compliance time (including repetitive leak check intervals) for those systems stand separately from this AD action.

(4) If a leak is discovered during any leak check required by paragraph (a)(1), (a)(2), or (a)(3) of this AD, prior to further flight, accomplish the procedures specified in either paragraph (a)(4)(i) or (a)(4)(ii) of this AD:

(i) Repair the leak; or

(ii) Drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(b) As an alternative to the requirements of paragraph (a) of this AD: Within 30 days after the effective date of this AD, revise the FAA-approved maintenance program to include procedures for lavatory drain system leak checks and necessary follow-on actions as specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, as applicable. In all cases, the leak checks must be completed in accordance with the applicable compliance schedule specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

Issued in Renton, Washington, on March 16, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6456 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–CE–20–AD]

Airworthiness Directives; Fairchild Aircraft (Formerly Swearingen Aviation Corporation) SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 92–16–11, which applies to certain Fairchild Aircraft SA226 and SA227 series airplanes. This AD currently requires modifying the horizontal stabilizer aft spar attach fitting installation and stabilizer skin, and repetitively inspecting the radius area of the rib splice straps for cracks, and, if found cracked, modifying this area. Based upon installation reports from the affected SA227 series airplane operators, Fairchild Aircraft has improved the modification procedures, and, the Federal Aviation Administration (FAA) has determined that these procedures should be incorporated. The actions specified by the proposed AD are intended to prevent horizontal stabilizer failure caused by broken pivot fitting fasteners, which could result in loss of control of the airplane.

DATES: Comments must be received on or before June 4, 1993.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–CE–20–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 Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; Telephone (512) 824–9421. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 4400 Blue Mound Road, Fort Worth, Texas 76193–0150; Telephone (817) 624–5155; Facsimile (817) 624–5029.

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. 93–CE–20–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. 93–CE–20–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 92–16–11, Amendment 39–8320 (57 FR 31959, July 20, 1992), currently requires modifying the horizontal stabilizer aft spar attach fitting installation and stabilizer skin on certain Fairchild Aircraft SA226 and SA227 series airplanes, and repetitively inspecting the radius area of the rib splice straps for cracks, and, if found cracked, modifying this area. These actions are accomplished in accordance with Fairchild Service Bulletin (SB) 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, as applicable.

Since the FAA issued AD 92–16–11, several of the affected Fairchild Aircraft SA227 series airplane operators report that there is an installation difficulty with the modification required by the current AD. Fairchild Aircraft has improved the modification procedures for the SA227 series airplanes to correct these difficulties, and revised the service information referenced above to reflect these improvements.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) incorporating these improved modification procedures provides the desired level of aircraft safety; and (2) AD action should be taken in order to prevent horizontal stabilizer failure caused by broken pivot fitting fasteners, which could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Fairchild Aircraft SA226 and SA227 series airplanes of the same type design, the proposed AD would supersede AD 92–16–11, Amendment 39–8320, with a new AD that would (1) retain the requirement of modifying the horizontal stabilizer aft spar attach fitting installation and stabilizer skin, and repetitively inspecting the radius area of the rib splice straps for cracks, and, if found cracked, modifying this area; and (2) incorporate improved modification procedures for the SA227 series airplanes as specified in Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993. The proposed actions for the SA226 series airplanes would continue to be accomplished in accordance with Fairchild SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, and the proposed actions for the SA227 series airplanes would be accomplished in accordance with the revised service information described above.

The compliance statement of AD 92–16–11 referenced Fairchild Aircraft Model SA227–AC airplanes with serial numbers AC420 through AC783 and AC785. These particular model airplanes are either a Model SA227–AC or SA227–BC. The applicability statement in the proposed AD is different than that of AD 92–16–11 in that it reflects this Model and serial number effectivity. No additional serial number airplanes would apply to the proposed AD than that which are affected by AD 92–16–11.

The FAA estimates that 715 (368 SA226 series and 347 SA227 series) airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 32 workhours per SA226 series airplane and 33 workhours per SA227 series airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $1,400 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,278,485 ($1,162,880 for the SA226 series airplanes and $1,115,605 for the SA227 series airplanes). The proposed AD would provide no additional cost impact upon U.S. operators than that currently required by AD 92–16–11, except for a slight additional procedure in the modification already required for

the SA227 series airplanes. This procedure is so slight that the FAA has no means of determining the cost impact upon the public.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 92–16–11, Amendment 39–8320 (57 FR 31959, July 20, 1992), and by adding the following new airworthiness directive:

Fairchild Aircraft: Docket No. 93–CE–20–AD. Supersedes AD 92–16–11, Amendment 39–8320.

Applicability: The following Model and serial number airplanes, certificated in any category:

Model	Serial No.
SA226–T	T201 through T275 and T277.
SA226–T(B) ...	T(B)276 and T(B)292 through.
SA226–AT	AT001 through AT074.
SA226TC	TC201 through TC419.
SA227–TT	TT421 through TT541.
SA227–AT	AT423 through AT695.
SA227–AC	AC406, AC415, AC416.
SA227–AC or SA227–BC.	AC420 through AC783, and AC785; or BC420 through BC783, and BC785.

Compliance: Required initially upon the accumulation of 10,000 hours time-in-service (TIS) or within the next 1,000 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (see Note 1), and thereafter as indicated.

Note 1: Compliance with superseded AD 92–16–11 is considered "unless already accomplished" for the initial inspection and modification requirements of this AD except as specified in paragraph (c) of this AD.

To prevent failure of the horizontal stabilizer caused by broken pivot fitting fasteners, which could result in loss of control of the airplane, accomplish the following:

(a) Modify the horizontal stabilizer aft spar attach fitting installation in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Service Bulletin (SB) 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

(b) Modify the stabilizer skin in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

(c) If any Model SA227–AC or SA227–BC airplane incorporating any serial number of AC528 through AC783, AC785, BC528 through BC783, or BC785 has accomplished the modifications required by AD 92–16–11 in accordance with Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, then the only modification required by paragraphs (a) and (b) of this AD is that which is specified in paragraph B (3) of the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993.

(d) Visually inspect the radius area of the rib splice strap for cracks in accordance with Figure 2 of Fairchild SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Figure 3 of Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

(i) If cracks are found, prior to further flight, repair in accordance with a scheme obtained from the manufacturer through the Fort Worth Airplane Certification Office at the address specified in paragraph (f) of this AD, and reinspect thereafter at intervals not to exceed 5,000 hours TIS.

(ii) If no cracks are found, reinspect thereafter at intervals not to exceed 5,000 hours TIS.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(h) This amendment supersedes AD 92–16–11, Amendment 39–8320.

Issued in Kansas City, Missouri, on March 16, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6457 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM93–4–000]

Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations

March 16, 1993.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of informal conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) will be holding an informal conference pursuant to the Notice of Informal Conferences issued on March 10, 1993.

The conference is to begin the process of standards development (relating to capacity release) for Electronic Bulletin Boards that interstate natural gas pipelines are required to maintain under part 284 of the Commission's regulations, as set forth in the March 10, 1993 Notice.

DATES: Monday, March 22, 1993: 9 a.m.

ADDRESSES: Edison Electric Institute, Conference Center, 701 Pennsylvania Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–1283.

Brooks Carter, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–0666.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

Notice of Informal Conference

March 16, 1993.

Take notice that Commission staff will convene an informal conference in this proceeding on Monday, March 22, 1993, at 9 a.m. The purpose of the conference is to begin the process of standards development (relating to capacity release) for Electronic Bulletin Boards, as set forth in the Notice of Informal Conferences issued by the Commission on March 10, 1993.

The conference will take place at: Edison Electric Institute, Conference Center, 701 Pennsylvania Avenue NW., Washington, DC 20004.

All interested persons are invited to attend. For additional information, or to indicate intent to participate in the conference, such persons should contact Marvin Rosenberg at (202) 208–1283 or Brooks Carter at (202) 208–0666.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6477 Filed 3–19–93; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–42–92]

RIN 1545–AQ77

Certain Cash or Deferred Arrangements Under Employee Plans; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to the notice of proposed rulemaking (EE–42–92), which was published in the **Federal Register** for Monday, January 4, 1993 (58 FR 43). The regulations propose to amend final regulations under section 401(k). The proposed amendments simplify the application of the regulations to certain plans benefiting employees who are members of collective bargaining unit.

FOR FURTHER INFORMATION CONTACT: Cheryl Press, (202), 622–4688 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The document that is the subject of this correction proposes to amend final regulations under section 401(k) of the Internal Revenue Code.

Need for Correction

As published, the proposed regulation contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (EE–42–92), which was the subject of FR Doc. 92–31188, is corrected as follows:

On page 44, column 2, § 1.401(k)–1(g)(11)(iii)(D)(*2*), last line in the column, the language "the meaning of § 1.415–1(a)(2)) is treated" is corrected to read "the meaning of § 1.413–1(a)(2)) is treated".

Dale D. Goode,

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

[FR Doc. 93–5891 Filed 3–19–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[PS–4–89]

RIN 1545–AN06

Disposition of an Interest in a Nuclear Power Plant; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to proposed regulations [PS–4–89], which was published in the **Federal Register** for Friday, November 20, 1992 (57 FR 54734). The proposed regulations relate to the Federal income tax treatment of the disposition of an interest in a nuclear power plant where the taxpayer disposing of that interest has maintained a nuclear decommissioning fund with respect to that plant.

FOR FURTHER INFORMATION CONTACT: Peter C. Friedman on (202) 622–3110 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of this correction provide regulations under section 468A of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations contain an error which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (PS–4–89) which was the subject of FR Doc. 92–27641, is corrected as follows:

On page 54734, third column, in the preamble under the caption "**SUPPLEMENTARY INFORMATION**", the following language is added immediately before the caption "Background" to read as follows:

"Paperwork Reduction Act

The collection(s) of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the

Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collections of information in this regulation are in proposed regulations §§ 1.468A–3(h)(2)(xi), 1.468A–3(h)(2)(xii), and 1.468A–3(i)(1)(ii)(C). Electing taxpayers that file a request for a schedule of ruling amounts must submit certain information with such a request. Electing taxpayers that determine a ruling amount with respect to the formulas contained in proposed regulation § 1.468A–6 must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for the first taxable year that begins after the disposition of an interest in a nuclear power plant.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based upon such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

With respect to proposed regulation § 1.468A–3(i)(1)(ii)(C), the estimated total annual reporting burden is 50 hours. The estimated annual burden per respondent varies from 20 to 30 hours, depending on individual circumstances, with an estimated average of 25 hours. The estimated number of respondents is 2. The estimated annual frequency of responses is 1.

With respect to proposed regulation § 1.468A–3(h)(2) (xi) and (xii), the estimated total annual reporting burden is 75 hours. The estimated annual burden per respondent varies from 1 to 2 hours, depending on individual circumstances, with an estimated averages of 1.5 hours. The estimated number of respondents is 50. The estimated annual frequency of responses is 1."

Dale D. Goode,

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

[FR Doc. 93–5896 Filed 3–19–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 1, 20, and 25

[PS–102–88]

RIN 1545–AM85

Income, Gift and Estate and Estate Tax; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking (PS–102–88), which was published in the **Federal Register** for Tuesday, January 5, 1993 (58 FR 305). The proposed regulations relate to the marital deduction provisions of the income, gift, and estate tax chapters of the Internal Revenue Code.

FOR FURTHER INFORMATION CONTACT: Susan Hurwitz or George Masnik (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections provide regulations under sections 1015, 2056, 2056A, 2101, 2102, 2106, 2503, and 2523 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulation contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (PS–102–88), which was the subject of FR Doc. 92–31190, is corrected as follows:

On page 309, column 2, in the preamble immediately preceding the heading *"Special Analyses"*, new language is added to read as follows:

"Proposed Effective Dates

Except as provided below, these regulations are proposed to be effective with respect to decedents dying and to gifts made after the date these regulations are published in the **Federal Register** as final regulations. With respect to decedents dying and gifts made on or before that date, taxpayers may rely on any reasonable interpretation of the statutory provisions. The additional requirements for qualification as a qualified domestic trust necessary to ensure collection of the deferred estate tax, contained in § 20.2056A–2(d), are proposed to be effective in the decedents dying on or after the date that is 180 days after the date these regulations are published as final regulations. With respect to decedents dying before such date, taxpayers may rely on any reasonable interpretation of the statutory provisions."

Dale D. Goode,

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

[FR Doc. 93–5897 Filed 3–19–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[INTL–45–92]

RIN 1545–AR28

Change From Profit and Loss Method to DASTM; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (INTL–45–92), which was published in the **Federal Register** for Tuesday, January 5, 1993 (58 FR 300). The proposed amendments relate to adjustments required when a qualified business unit (QBU) that used the profit and loss method of accounting in a post-1986 taxable year begins to use the dollar approximate separate transactions method of accounting (DASTM).

FOR FURTHER INFORMATION CONTACT: Jacob Feldman, (202) 622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The document that is the subject of this correction proposes to amend Income Tax Regulations (26 CFR part 1) under section 985 of the Internal Revenue Code of 1986.

Need for Correction

As published, the proposed regulation contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (INTL–45–92), which was the subject of FR Doc. 92–314668, is corrected as follows:

On page 300, column 3, in the heading, the language "RIN 1545–AL24" is corrected to read "RIN 1545–AR28".

Dale D. Goode,

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

[FR Doc. 93–5892 Filed 3–19–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 26 and 301

[PS–73–88]

RIN 1545–AL75

Generation-Skipping Transfer Tax; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to a notice of proposed rulemaking.

SUMMARY: This document contains a correction to a proposed regulation (PS–73–88), which was published in the **Federal Register** for Thursday, December 24, 1992 (57 FR 61356) regarding the generation-skipping transfer tax imposed under chapter 13 of the Internal Revenue Code.

FOR FURTHER INFORMATION CONTACT: John B. Franklin, (202) 622–3090 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The document that is the subject of these corrections proposes to amend the final regulations under sections 2601 through 2663 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulation contains errors which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (PS–73–88), which was the subject of FR Doc 92–30946, is corrected as follows:

1. On page 61359, column 3, in the preamble under the heading "Proposed Effective Dates", first paragraph, line 3, the language "skipping transfer made after December" is corrected to read "skipping transfer made on or after December".

2. On page 61363, column 3, § 26.2632–1(c)(3)(ii), line 2, the language "the property would be includible in the" is corrected to read "the property (is or would be) includible in the".

3. On page 61367, column 2, § 26.2642–4(b), *Example 1*, third line from the bottom of the paragraph, the language "allocated). The denominator is $500,000 (the" is corrected to read "allocated)). The denominator is $500,000 (the".

4. On page 61367, column 2, § 26.2642–4(b), *Example 2*, thirteenth line from the bottom of the paragraph, the language "($10,000/$40,000). The balance of the" is corrected to read "($10,000/$40,000)). The balance of the".

5. On page 61367, column 3, § 26.2642–4(b), paragraph (iii) of *Example 3*, fourth line from the bottom of the paragraph, the language "zero. The balance of the allocation $20,000" is corrected to read "zero. The balance of the allocation, $20,000".

6. On page 61367, column 3, § 26.2642–4(b), paragraph (ii) of *Example 4*, last line, the language "$99,000=one)." is corrected to read "$99,000) over $165,000=one.".

7. On page 61367, column 3, § 26.2642–4(b), paragraph (iii) of *Example 4*, line 7, the language "computed as follows: $60,000 (the nontax" is corrected to read "computed as follows: (($60,000 (the nontax".

8. On page 61367, column 3, § 26.2642–4(b), paragraph (iii) of *Example 4*, fourth line from the bottom of the paragraph, the language "allocation to the 1996 transfer) over $200,000" is corrected to read "allocation to the 1996 transfer)) over $200,000".

Dale D. Goode,

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

[FR Doc. 93–5893 Filed 3–6–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 301

[IA–3–89]

RIN 1545–AN02

Recovery of Reasonable Administrative Costs; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to [IA–3–89], which was published in the **Federal Register** for Wednesday, December 23, 1992 (57 FR 61020). The proposed regulations relate to the recovery of reasonable administrative costs incurred by taxpayers in connection with an administrative proceeding within the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Thomas D. Moffitt (202) 622–7900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The document that is the subject of this correction provides proposed regulations under section 7430(a)(1) of the Internal Revenue Code.

Need for Correction

As published, the proposed regulation contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (IA–3–89) which was the subject of FR Doc. 92–30525, is corrected as follows:

On page 61029, second column, § 301.7430–5(h), in *Example 3*, fourth line from the bottom of the paragraph, the language "personnel under § 301.7430–5(c), and thus," is corrected to read "personnel under § 301.7430–5(c)), and thus,".

Dale D. Goode,

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

[FR Doc. 93–5888 Filed 3–19–93; 8:45 am]

BILLING CODE 4830–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Union Dues Regulations

AGENCY: National Labor Relations Board.

ACTION: Proposed rule; notice of change in dates for oral argument.

SUMMARY: The National Labor Relations Board gives notice that it is rescheduling oral argument on the proposed rulemaking for the implementation of the United States Supreme Court's decision in *Communications Workers of America* v. *Beck*, 487 U.S. 735 (1988) relating to union dues.

DATES: Oral argument will be held on March 16, 22, and 30, 1993.

ADDRESSES: Oral argument will be held at the headquarters of the Board, 1717 Pennsylvania Avenue NW., Washington, DC 20570.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary. Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION:

Background

The Board's notice of proposed rulemaking and original notice of oral argument was published in the **Federal Register** (57 FR 43635) on September 22, 1992. Thereafter, the time for filing comments was extended on October 14, 1992 (57 FR 47023) and again on November 25, 1992 (57 FR 55491). Oral argument was held on November 5, 1992. On February 5, 1993, the Board

published in the **Federal Register** (58 FR 7199) a notice of additional oral argument to be held on March 8, 15, and 16, 1993. On February 23, 1993 (58 FR 10997) the Board rescheduled the additional oral argument to March 15, 16, and 22, 1993. Thereafter, because of severe weather conditions in the metropolitan Washington, DC area on March 13–15, 1993, the Board decided to reschedule the oral argument to March 16, 22, and 30, 1993. Those persons who had notified the Board by March 1, 1993, of their desire to participate were contacted personally and advised directly. Oral argument was heard on March 16, 1993, focusing on issues raised by the notice and information provisions of the proposed rule contained in §§ 103.40(e) and 103.40(f) (1) and (2), and by the model union security clause set forth in § 103.42 and the appendix to that section. On March 22, 1993, the Board will focus on the financial aspects of the proposed rule raised by § 103.41, including but not limited to unit-by-unit and chargeability issues. The March 30, 1993, session will focus on the procedural aspects of the proposed rule, such as those contained in §§ 103.40(f) (3) and (4) and 103.40(g).

Dated Washington, DC, March 17, 1993.

By direction of the Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 93–6458 Filed 3–19–93; 8:45 am]

BILLING CODE 7545–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In a recent proposal to amend its regulations on Valuation of Plan Benefits (29 CFR parts 2619 and 2676), the Pension Benefit Guaranty Corporation (PBGC) announced its intention to adopt new assumptions for valuing annuity benefits. The proposal did not alter the PBGC's historical assumptions for valuing lump sum benefits but invited public comment on the approach the PBGC should take in valuing lump sum benefits.

The proposed regulation provided a comment period of 60 days. The PBGC has now decided to extend the comment period on the proposed amendment by 14 additional days; during that additional period the public may comment on all aspects of the proposed regulation as well as on the approach the PBGC should adopt in valuing lump sum benefits.

DATES: Comments must be received on or before April 5, 1993.

ADDRESSES: Comments may be mailed to the Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006–1860, or delivered to suite 7200 at that address between 9 a.m. and 5 p.m. on business days. Written comments (including those submitted both heretofore and hereafter) will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 7100 at the same address, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Peter H. Gould, Senior Counsel, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006–1860; 202–778–8850 (202–778–1958 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On January 19, 1993, the PBGC published in the **Federal Register** (58 FR at 5128) a proposed amendment to its valuation regulations. The proposed amendment would revise the methods of valuing annuity benefits (1) to update the current regulation's mortality assumptions to reflect recent actuarial practice, (2) to uncouple the current regulation's administrative expense ("loading") assumptions from its interest assumptions, and (3) to clarify the valuation of annuity benefits by prescribing a new interest rate structure format that bases valuations on the length of time between the valuation date and the presumed date of each payment. In addition, the PBGC proposed to adopt unisex mortality assumptions when it is calculating de minimis lump sums (i.e., those of $3,500 or less) to be paid to a participant; the PBGC would otherwise continue to use its historical mortality assumptions and its current interest rate structure in the calculation of lump sums.

At the same time, the PBGC proposed to amend its regulation governing valuation of annuity benefits in multiemployer plans following mass withdrawal, so as to adopt the same mortality, loading, and interest assumptions as would the modified single-employer regulation.

The preamble to the proposed amendment discussed in detail the statutory and regulatory background of the proposals as well as the proposals themselves and requested public comments. The PBGC envisioned the possibility that it might make the proposed changes in annuity valuations effective sooner than any changes in assumptions to be used in lump sum valuations, with respect to which the PBGC "will be seeking guidance * * * from Congress, other administrative agencies, and the public." The PBGC specifically invited "comments as to what those [lump sum] assumptions should be."

The comment period on the proposed amendment was limited to 60 days. A number of persons have expressed uncertainty as to whether the 60-day limit applied to comments relating to possible changes in lump sum valuations. Although the PBGC did not provide for a different comment period with respect to such comments, in order to ensure that those persons wishing to comment not fail to do so as a result of uncertainty over the applicability of the 60-day time limit, the PBGC has decided to extend the comment period until April 5, 1993. During that period, the public may comment on all aspects of the proposed regulation as well as on the approach the PBGC should take in valuing lump sums.

Issued at Washington, DC, this 17th day of March, 1993.

William M. DeHarde,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–6513 Filed 3–19–93; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rule

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period for Revised Program Amendment Number 56 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated

by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations. The amendment revises, reorganizes, and clarifies one Ohio rule concerning the requirements for the measurement of revegetation success on areas with different postmining land uses.

This document sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on April 21, 1993. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on April 16, 1993. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on April 6, 1993.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232. Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224. Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated May 1, 1992 (Administrative Record No. OH–1690), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 56. This amendment proposed changes to two Ohio rules concerning measurement of revegetation success on pasture or grazing land, undeveloped land, recreational areas, and previously disturbed areas.

As part of and in support of Program Amendment Number 56, Ohio also submitted four draft Policy/Procedure Directives entitled "Measurement of productivity on pasture and grazing land," "Identification of areas for which the premining land use is undeveloped land," "Planting plans for areas for which the approved postmining land use is undeveloped land," and "Verification of proper planting of tree seedlings." These proposed policy statements elaborated on and established criteria for the new requirements in the two revised Ohio rules.

OSM announced receipt of proposed Program Amendment Number 56 in the June 2, 1992 **Federal Register** (57 FR 23178), and, in the same document, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on July 2, 1992. The public hearing scheduled for June 29, 1992, was not held because no one requested an opportunity to testify.

OSM and Ohio staff met on October 15, 1992, and informally resolved most of OSM's initial questions and comments about Ohio's May 1, 1992, amendment submission. On November 19, 1992, OSM sent a letter to Ohio (Ohio Administrative Record No. OH–1794) concerning the one unresolved issue which remained after the October meeting.

By letter dated January 12, 1993 (Ohio Administrative Record No. OH–1803), Ohio submitted Revised Program Amendment Number 56. This revised amendment proposes additional modifications to one rule at Ohio Administrative Code (OAC) 1501:13–9–15. These modifications are intended to resolve OSM's questions and comments about the May 1, 1992, amendment submission and to improve the organization and overall readability of the rule. In reorganizing the rule, Ohio has relocated much of the text within the rule, has renumbered and relettered most paragraphs, and has made numerous minor wording changes. Also as part of this effort to clarify the rule, Ohio has separately grouped the general requirements for herbaceous and woody vegetation, the provisions for the start of the maintenance period for various types of vegetation, and the Phase II and III bond release requirements for each postmining land use.

In addition to reorganizing the rule, Ohio has proposed the following revisions to the content of the rule. These revisions supplement or further modify the rule revisions previously proposed in Ohio's May 1, 1992, submission of Program Amendment Number 56.

(1) OAC 1501:13–9–15(F)(2)(c)(ii)

Ohio is rewording this paragraph to clarify that Ohio will not consider limited repair of rills and gullies to be an augmentative practice requiring the restart of the period of extended responsibility. Ohio may consider extensive rill and gully repair to be augmentative in some cases, based on the extent of the repairs needed and the cause of the erosion.

(2) OAC 1501:13–9–15 (J)(2) and (M)(3)(b)

Ohio is adding statements in these two paragraphs to clarify the existing requirements that only one ground cover evaluation is necessary for Phase III bond release on areas to be developed for industrial, residential, or commercial use two or more years after regrading is completed, and on undeveloped land.

(3) Previously Proposed OAC 1501:13–9–15(K)

Ohio is deleting previously proposed paragraph (K) which would have established alternative ground cover standards for previously disturbed areas (remining areas).

(4) OAC 1501:13–9–15(M)

For undeveloped areas, Ohio is proposing to make mandatory, rather than discretionary, the planting of trees or shrubs over ten to fifty percent of the revegetated area on slopes steeper than twenty degrees and in areas along drainways and permanent sources of water.

(5) OAC 1501:13–9–15(M)

Ohio is proposing to delete the single barren area standard for herbaceous ground cover on undeveloped areas to be planted in trees and shrubs. Ohio had previously proposed this provision in

the May 1, 1992, version of paragraph (J)(9)(d)(ii).

(6) OAC 1501:13–9–15(N)

Ohio is proposing to adopt revegetation success standards for developed recreational facilities, such as parks, camps, and amusement areas, and for less intense recreational use areas, such as areas for hiking and canoeing.

In its January 12, 1993, submission of Revised Program Amendment Number 56, Ohio also provided revised copies of the four Policy/Procedure Directives originally included in support of the May 1, 1992, version of Program Amendment Number 56. Ohio has modified these four Policy/Procedure Directives as necessary to be consistent with the new proposed revisions to OAC 1501:13–9–15.

Ohio has also submitted two new support documents as part of its January 12, 1993, submission of Revised Program Amendment Number 56. The first document is Administrative Record information intended to support the proposed language at OAC 1501:13–9–15(G)(3)(a) (formerly paragraph (J)(3)(c)(ii)(a) in the May 1, 1992 submission). This proposed rule language would authorize the use of soil surveys to demonstrate the achievement of required productivity for Phase III bond release on pasture or grazing land. The second document is a description of Tree Planting Workshops which Ohio plans to conduct to ensure that the persons supervising, monitoring, or verifying the proper planting of trees have received the necessary training. These training workshops relate to two of the four Policy/Procedure Directives submitted by Ohio as part of Revised Program Amendment Number 56.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. on April 6, 1993. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to coment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted the Office of Surface Mining Reclamation and Enforcement (OSM) an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.13 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the date and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 26, 1993.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 93–6526 Filed 3–19–93; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 950

Wyoming Permanent Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment establishes shrub density standards applicable to all lands (excluding cropland and pastureland) used jointly by livestock and wildlife.

This document sets forth the times and location that the Wyoming program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.s.t. April 21, 1993. If requested, a public hearing on the proposed amendment will be held on April 16, 1993. Requests to present oral testimony at the hearing must be received by 4 p.m., m.s.t. on April 6, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Guy V. Padgett at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office:

Guy V. Padgett, Director; Casper Field Office; Office of Surface Mining Reclamation and Enforcement; 100 East B Street, room 2128; Casper, Wyoming 82601–1918. Telephone: (307) 261–5776.

Dennis Hemmer, Director; Wyoming Department of Environmental Quality; Herschler Building; West 122 West 25th Street; Cheyenne, Wyoming 82002. Telephone: (307) 777–7758.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Director, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, and 950.16.

II. Proposed Amendment

By letter dated January 6, 1993, (Administrative Record No. WY–21–01) Wyoming submitted the shrub density rules as a proposed amendment to its permanent program pursuant to SMCRA. The Wyoming proposed amendment is a State response designed to establish a shrub density standard applicable to all lands (excluding cropland and pastureland) used jointly by livestock and wildlife. The changes to the regulatory rule package are also reflected in changes made to Appendix A, Vegetation Sampling Methods and Reclamation Success Standards for Surface Coal Mining Operations.

The proposed amendment is intended to revise the State program to be consistent with corresponding Federal regulations, clarify ambiguities, and improve operational efficiency.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed shrub density rules satisfies the applicable program approval criteria of 30 CFR 732.15. If the shrub density rules are deemed adequate, they will become part of the Wyoming program.

Written Comments

Written comments should be specific, pertain only to the proposed rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "Dates" or at locations other than OSM's Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., m.s.t. April 6, 1993. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "Addresses." A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

Compliance with Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions related to approval or conditional approval of State regulatory programs, actions, and program amendments. Accordingly, preparation of a Regulatory Impact Analysis is not necessary and OMB regulatory review is not required.

Compliance with Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsection (a)

and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR parts 730, 731, and 732 have been met.

Compliance with the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Compliance with the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 19, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center

[FR Doc. 93–6527 Filed 3–19–93; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 950

Wyoming Permanent Regulatory Program; Reopening and Extension of Public Comment Period on Proposed Amendment

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

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: OSM is announcing the receipt of additional explanatory information pertaining to a previously proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment is intended to standardize State reporting requirements for all wildlife affected by coal mining and improve operational efficiency.

This document sets forth the times and locations that the Wyoming program and proposed amendment to that program are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., m.s.t., April 16, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Guy V. Padgett at the address listed below.

Copies of the Wyoming program, the proposed amendment, the additional explanatory information, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy V. Padgett, Director; Casper Field Office; Office of Surface Mining Reclamation and Enforcement; 100 East B Street, room 2128; Casper, Wyoming 82601–1918. Telephone: (307) 261–5776.

Dennis Hemmer, Director; Wyoming Department of Environmental Quality; Herschler Building; West 122 West 25th Street; Cheyenne, Wyoming 82002. Telephone: (307) 777–7756.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Director, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, and 950.16.

II. Proposed Amendment

By letter dated July 8, 1992, (administrative record No. WY–18–1) Wyoming submitted a proposed amendment to its program pursuant to SMCRA. Wyoming submitted the proposed amendment at its own initiative to improve its program.

The regulations that Wyoming proposed to amend are: Department of Environmental Quality, Land Quality Division Rules and Regulations, Chapter II, Section 3(b)(iv)(B), Permit Applications—Special Application Content for Wildlife Monitoring; Chapter IV, Section 3(o)(iv), Environmental Protection Performance Standards—Special Environmental Protection—Wildlife Monitoring; and the addition of Appendix B—Wildlife Monitoring Requirements for Surface Coal Mining Operations.

OSM published a notice in the September 11, 1992 **Federal Register** (57 FR 41714) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment. The public comment period ended October 13, 1992. During its review of the amendment, OSM identified four concerns relating to needed changes to Appendix B of the Rule. OSM notified Wyoming of the concerns by letter dated November 9, 1992 (administrative record No. WY–18–09). The issues raised by OSM's letter included limitation of Wyoming's monitoring rules to coal operations less than 640 acres in size; collection of wildlife monitoring information on adjacent areas; reporting requirements for threatened and endangered species; and wildlife survey time-frames. Wyoming responded in a letter dated January 11, 1993 by submitting proposed rule language and additional explanatory information (administrative record No.

WY–18–11). Wyoming responded to all the issues raised as follows: no exclusion of coal operations less than 640 acres in size from wildlife monitoring; removing the language which would have interfered with the collection of wildlife data on adjacent areas; modified the reporting requirement for threatened and endangered species by requiring direct reporting to the regulatory authority; and modified the dates that wildlife surveys are to be conducted.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Wyoming program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 20, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center

[FR Doc. 93–6528 Filed 3–19–93; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 191

[FRL–4607–1]

RIN 2060-AC30

Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: This is an action to extend the period for public comment on the proposed amendments to the environmental standards for the disposal of spent nuclear fuel, high-level and transuranic radioactive waste and to the underground injection control program regulations. These proposed amendments were published February 10, 1993 in the **Federal Register**, including a request for public comments by March 22, 1993. This announcement extends the period for public comments to April 12, 1993.

DATES: The period for public comment on proposed amendments to 40 CFR parts 144 and 191 is extended to April 12, 1993.

ADDRESSES: Comments should be submitted, in duplicate, to: Docket No. R–89–01, Air Docket, room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ray Clark, Office of Radiation and Indoor Air, 202–233–9310 or the 24-hour information line, 202–233–9716 (800–331-WIPP, after March 23, 1993).

SUPPLEMENTARY INFORMATION: Proposed amendments to 40 CFR parts 144 and 191 were published in the **Federal Register** on February 10, 1993 (58 FR 7924). These proposed amendments pertain to environmental radiation protection standards for the disposal of spent nuclear fuel, high-level and transuranic radioactive wastes. Comments on these proposed amendments were requested by March 22, 1993. Public hearings related to this rulemaking were held at three locations in New Mexico February 23 through 26, 1993. At the public hearings numerous commenters requested that the Agency extend the period for public comments. By this announcement, the Agency is extending the period for public comments to April 12, 1993.

Dated: March 15, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–6515 Filed 3–19–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 194

[FRL–4606–9]

Criteria for the Certification of Compliance with Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period.

SUMMARY: This is an action to extend the period for public comment on the Advance Notice of Proposed Rulemaking (ANPR) on Criteria for the Certification of Compliance with 40 CFR Part 191—Environmental Radiation Protection Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes. This ANPR was published in the **Federal Register** on February 11, 1993 with a request for public comments by March 15, 1993. This announcement extends the period for public comments to March 31, 1993.

DATES: The period for public comment on the 40 CFR part 194 ANPR on Criteria for the Certification of Compliance with 40 CFR part 191 is extended to March 31, 1993.

ADDRESSES: Comments should be submitted, in duplicate, to Docket No. A–92–56, Air Docket, room M–1500 (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Caroline Petti, Office of Radiation and Indoor Air, 202–233–9310 or the 24-hour information line, 202–233–9716.

SUPPLEMENTARY INFORMATION: On February 11, 1993 the Environmental Protection Agency (EPA) published an ANPR (58 FR 8029) on Criteria for the Certification of Compliance with 40 CFR part 191, Environmental Radiation Protection Standards for the Managment and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes. Comments on this ANPR were requested by March 15, 1993. As a result of several requests received for additional time to comment, the Agency is extending the comment period to March 31, 1993.

Dated: March 15, 1993.

Michael H. Shapiro,

Acting Assistant Administrator, Air and Radiation.

[FR Doc. 93–6516 Filed 3–19–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–14; RM–8155]

Radio Broadcasting Services; Bethany Beach, DE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Roger A. Akin and Banking Services Corp., Co-Receivers of KAT Broadcasting Corporation, requesting the substitution of Channel 240B1 for Channel 240A at Bethany Beach, Delaware, and the modification of Station WWRT(FM)'s license to specify operation on Channel 240B1. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest for the use of Channel 240B1 at Bethany Beach or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties. The proposed coordinates for Channel 240B1 at Bethany Beach are North Latitude 38–32–24 and West Longitude 75–03–23.

DATES: Comments must be filed on or before May 3, 1993, and reply comments on or before May 18, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, Interested parties should serve the petitioner, or its counsel or consultant, as follows: Matthew H. McCormick, Reddy, Begley & Martin, 1001 22nd Street, NW., suite 350, Washington, DC 20037 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–14, adopted January 21, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts and prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6427 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–13, RM–8156]

Radio Broadcasting Services; Blanchard, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Daryl L. Bordelon seeking the allotment of Channel 271C3 to Blanchard, Louisiana, as the community's first local FM service. Channel 271C3 can be allotted to Blanchard in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.8 kilometers (0.5 miles) north to avoid a short-spacing to Station KDET–FM, Channel 272A, Center, Texas. The coordinates for Channel 271C3 are 32–35–18 and 93–53–31.

DATES: Comments must be filed on or before May 3, 1993, and reply comments on or before May 18, 1993.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Daryl L. Bordelon, 6036 Dillingham Avenue, Shreveport, Louisiana 71106 (Petitioner) and Larry G. Fuss, Contemporary Communications, P.O. Box 1787, Cleveland, Mississippi 38732 (Consultant).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–13, adopted January 21, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6425 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 93–12, RM–8151]

Radio Broadcasting Services; Galliano and Buras Triumph, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Callais Cablevision, Inc., licensee of Station KBAU–FM, Channel 232C3, Galliano, Louisiana, seeking the substitution of Channel 232C2 for Channel 232C3 at Galliano and modification of Station KBAU–FM's license to specify on the higher powered channel. In order to

accommodate this proposal, Callais also requests the substitution of Channel 278A for vacant Channel 231A at Buras Triumph, Louisiana, or alternatively, the deletion of Channel 231A. Channel 232C2 can be allotted to Galliano in compliance with the Commission's minimum distance separation requirements without the imposition of site restriction. The coordinates for Channel 232C2 at Galliano are 29–26–00 and 90–17–54. The coordinates for 231A at Buras Triumph are 29–17–29 and 89–30–07. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 232C2 at Galliano or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 3, 1993, and reply comments on or before May 18, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marjorie R. Esman, Esq., Hardy and Carey, 111 Veterans Boulevard, Metairie, Louisiana 70005 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–12, adopted January 21, 1993, and released February 5, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–6426 Filed 3–19–93; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 58, No. 53
Monday, March 22, 1993

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92-127-2]

Proposed Interpretive Ruling In Connection With The Upjohn Company Petition for Determination of Regulatory Status of ZW-20 Virus Resistant Squash

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening of comment period.

SUMMARY: The Animal and Plant Health Inspection Service is reopening the comment period for a notice of proposed interpretive ruling in connection with The Upjohn Company petition for determination of regulatory status of ZW-20 virus resistant squash. This action is necessary to obtain additional comments on scientific and technical issues raised by previous comments on the petition.

DATES: Consideration will be given only to written comments that are received on or before May 21, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92-127-2. A copy of The Upjohn Company petition and any comments received may be inspected 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. Persons wishing to inspect the petition or comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room. A copy of The Upjohn Company petition may be obtained by contacting Ms. Kay Peterson at (301) 436-7601.

FOR FURTHER INFORMATION CONTACT: Dr. James L. White, Biotechnology Permits, BBEP, APHIS, USDA, room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5940.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 4, 1992 (57 FR 40632, Docket No. 92-127-1), the Animal and Plant Health Inspection Service (APHIS) issued a notice of proposed interpretive ruling in connection with The Upjohn Company petition for determination of regulatory status of ZW-20 virus resistant squash. Interested persons were given until October 19, 1992, to comment on this proposed interpretive ruling. After careful consideration of the comments, we have determined that it is in the public interest to allow interested parties to submit comments on the following scientific and technical issues raised by previous comments:

(1) Is there evidence to support a finding that squash (*Cucurbita pepo* L. cultivar YC77E) is a weed in the United States?

(2) Does the introduction of genes encoding virus resistance increase the weediness potential of *C. pepo*?

(3) Is *Cucurbita texana* a weed? If yes, is it a serious weed in the United States?

(4) If the viral resistance genes are introduced into *C. texana*, would this significantly increase its weediness potential?

(5) What is the likelihood of genomic masking or transencapsidation between the coat proteins engineered in the ZW-20 squash plants and indigenous cucurbit potyviruses? What would be the potential environmental impact of such an event?

(6) How widespread are zucchini yellow mosaic virus and watermelon mosaic virus II in natural stands of *C. texana*?

(7) What is the geographical distribution of *C. texana*? How does its distribution relate to the commercial cultivation of *C. pepo*?

(8) What is the probability of recombination between the engineered viral coat protein nucleic acids and indigenous squash potyviruses? What is the potential environmental impact of such a recombinant virus?

After reviewing the data submitted by the petitioner, written comments received during the two comment periods, as well as other relevant literature, and interpreting the application of statutes and regulations to these data and comments, APHIS will issue its determination on the regulatory status of the ZW-20 squash. A notice of the ruling and its availability will be published in a subsequent **Federal Register**.

Done in Washington, DC, this 16th day of March 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-6482 Filed 3-19-93; 8:45 am]

BILLING CODE 3410-34-M

COMMISSION ON CIVIL RIGHTS

Amendment to Notice of Public Meeting of the Florida 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 Florida Advisory Committee announced at FR Doc 93-5439, 58 FR 13251, will convene at 12 p.m. and adjourn at 5 p.m. on Wednesday, March 24, 1993, at the City Council Chambers, 175 Fifth Street, North, Second Floor, in St. Petersburg, Florida. (This amendment is change of date only.)

Dated at Washington, DC, March 17, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93-6533 Filed 3-17-93; 4:44 pm]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Notice of Meeting Cancellation

A notice published in the **Federal Register** on March 8, 1993 (58 FR 12937) announced a meeting of the Exporters' Textile Advisory Committee on March 25, 1993. This meeting has been postponed indefinitely.

For further information, contact William Dawson (202/482-5155).

Dated: March 16, 1993.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–6552 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DR–F

[A–351–811 (Brazil), A–427–804 (France), A–428–811 (Germany), A–412–810 (United Kingdom)]

Antidumping Orders: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany and the United Kingdom

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

EFFECTIVE DATE: March 22, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Pasden (Brazil), Office of Agreements Compliance; Edward Easton (France), Cynthia Thirumalai (Germany) and Michael Ready (United Kingdom), Office of Antidumping Investigations (telephone: (202) 482–0194, (202) 482–1777, (202) 482–4087, and (202) 482–2613, respectively); Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

ANTIDUMPING DUTY ORDERS:

Scope of Orders

The products subject to these investigations are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of these investigations are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in these investigations are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80.00. Although the HTSUS subheadings are provided for convenience and customs purposes, our description of the scope of these proceedings is dispositive.

Orders

On January 27, 1993, in accordance with section 735(d) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) published its final determinations of sales at less than fair value for certain hot-rolled lead and bismuth carbon steel products. (58 FR 6202 (Brazil), 58 FR 6203 (France), 58 FR 6205 (Germany) and 58 FR 6207 (United Kingdom)). On March 10, 1993, in accordance with section 735(d) of the Act, the U.S. International Trade Commission notified the Department that imports of certain hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany and the United Kingdom materially injure a U.S. industry.

Therefore, in accordance with section 736 of the Act, the Department will direct the Customs Service to assess, upon further advice by the administering authority pursuant to section 736(a) of the Act, antidumping duties equal to the estimated amount by which the foreign market value of the merchandise exceeds the United States price for all entries of certain hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany and the United Kingdom. These antidumping duties will be assessed on all unliquidated entries of certain hot-rolled lead and bismuth carbon steel products entered, or withdrawn from warehouse, for consumption on or after September 28, 1992, for France, Germany and the United Kingdom and November 17, 1992, for Brazil, the dates on which the Department published its preliminary determinations in the **Federal Register**. Customs officers must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated antidumping duty margins as follows:

Producer/manufacturer/exporter	Margin percentage
Brazil	
Mannesman	148.12
All Others	148.12
France	
Usinor Sacilor	75.08
All Others	75.08
Germany	
Saarstahl AG	85.05
All Others	85.05
United Kingdom	
United Engineering Steels Limited	25.82
All Others	25.82

This notice constitutes the antidumping duty orders with respect to hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany and the United Kingdom, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

In accordance with section 751(a)(1) of the Act (19 U.S.C. section 1675(a)(1)), the Department will publish during the anniversary month of the publication of this order, notice that an interested party, as defined in section 771(9)(A)–(F) of the Act (19 U.S.C. section 1677(9)(A)–(F)) and 19 CFR 353.2(k)(1)–(6), may request, in accordance with 19 CFR 353.22, that the Department conduct an administrative review of this order. For further information regarding administrative review procedures, contact Holly Kuga at (202) 482–2104, Office of Antidumping Compliance.

This determination is published pursuant to section 736(a) of the Act and 19 CFR 353.21.

March 15, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6432 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–351–812]

Countervailing Duty Order: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Brazil

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

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Laurel Lynn, Office of Countervailing Compliance, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2786.

Countervailing Duty Order

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)), on January 19, 1993, the Department of Commerce (the Department) made its final determination that producers or exporters in Brazil of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products") receive benefits which constitute subsidies within the meaning of the countervailing duty law (58 FR 6213, January 27, 1993). On March 10,

1993, in accordance with section 705(d) of the Act, the U.S. International Trade Commission (the ITC) notified the Department of its determination that imports of certain additive steel products are materially injuring a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. sections 1671e and 1675), the Department hereby directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751, countervailing duties equal to the amount of the estimated net subsidy on all entries of certain additive steel products from Brazil. These countervailing duties will be assessed on all unliquidated entries of certain additive steel products from Brazil which were entered, or withdrawn from warehouse, for consumption, on or after September 17, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before January 15, 1993, the date on which we instructed the U.S. Customs Service to discontinue the suspension of liquidation, and all entries and withdrawals made on or after the date of publication of this order in the **Federal Register**. Entries of certain additive steel products made on or after January 15, 1993, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties since we cannot suspend liquidation of the subject merchandise, begun on September 17, 1992, for more than 120 days without the issuance of a final affirmative ITC injury determination.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 0.67 percent *ad valorem* for all entries of certain hot rolled lead and bismuth carbon steel products from Brazil, except entries from Companhia Acos Especiais Itabira (ACESITA), for which a cash deposit of 19.19 percent *ad valorem* must be required.

This determination constitutes a countervailing duty order with respect to certain additive steel products from Brazil pursuant to section 706 of the Act (19 U.S.C. 1671e). Interested parties may contact the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Scope of Order

The products covered by this order are hot rolled bars and rods of nonalloy and other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1(f)), except steel classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this order are provided for under subheadings 7213.20,00.00 and 7214.30.00.00 or the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), the Department will publish during the anniversary month of the publication of this order, notice that an interested party, as defined in section 771(9) of the Act (19 U.S.C. 1677(9)) and 19 CFR 355.2(i), may request, in accordance with § 355.22 of the Department's regulations, that the Department conduct an administrative review of this order. For further information regarding these reviews, contact Barbara Tillman at (202) 482–2786, Office of Countervailing Compliance.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e).

Dated: March 15, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6433 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–428–812]

Countervailing Duty Order: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From Germany

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

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Paulo Mendes or Magd Zalok, Office of Countervailing Investigations, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5050 or 482–4162, respectively.

Countervailing Duty Order

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)), on January 19, 1993, the Department of Commerce (the Department) made is final determination that producers or exporters in Germany of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products"), receive benefits which constitute subsidies within the meaning of the countervailing duty law (58 FR 6233, January 27, 1993). On March 10, 1993, in accordance with section 705(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department of its final determination that imports of certain additive steel products are materially injuring a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. sections 1671e and 1675), the Department hereby directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751, countervailing duties equal to the amount of the estimated net subsidy on all entries of certain additive steel products from Germany. These countervailing duties will be assessed on all unliquidated entries of certain additive steel products from Germany which were entered, or withdrawn from warehouse, for consumption, on or after September 17, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before January 15, 1993, the date on which we instructed the U.S. Customs Service to discontinue the suspension of liquidation, and all entries and withdrawals made on or after the date of publication of this order in the **Federal Register**. Entries of certain additive steel products made on or after January 15, 1993, and prior to date of

publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties since we cannot suspend liquidation of the subject merchandise, begun on September 17, 1992, for more than 120 days without the issuance of a final affirmative ITC injury determination.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties of this merchandise, a cash deposit for entries of certain additive steel products from Germany as follows:

Company	Ad valorem rate
Saarstahl AG	17.28 percent.
All Others	17.28 percent.

Normally, the Department will exclude from the application of a countervailing duty order a producer found to have a *de minimis* or zero ad valorem countervailing duty rate during the period of investigation 19 CFR 355.21(C). The Department's final determination resulted in a *de minimis* countervailing duty margin for Thyssen AG (Thyssen). However, the Department is currently drafting proposed regulations which would eliminate exclusions. In the meantime, the Department wants to make clear that in excluding Thyssen from the order, this exclusion will apply only to certain additive steel which is produced and sold by Thyssen to the United States. We will review import statistics and work closely with the U.S. Customs Services to ensure that other producers are not making sales through Thyssen to evade an order and to ensure that entry documentation identifies the producer of the certain additive steel products. The Department has the authority to conduct a changed circumstances review to determine whether Thyssen is reselling certain additive steel products produced by other companies in Germany. We will immediately initiate a review if we have reason to believe that the integrity of the order is threatened as a result of such evasion. A preliminary or final affirmative finding could result in the suspension of liquidation of all entries of Thyssen.

This determination constitutes a countervailing duty order with respect to certain additive steel products from Germany pursuant to section 706 of the Act (19 U.S.C. 1671e). Interested parties may contact the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Scope of Order

The products covered by this investigation are hot rolled bars and rods of annalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. section 1675(a)(1)), the Department will publish during the anniversary month of the publication of this order, notice that an interested party, as defined in section 771(9) of the Act (19 U.S.C. 1677(9)) and 19 CFR 355.2(i), may request, in accordance with 19 CFR 355.22, that the Department conduct an administrative review of this order. For further information regarding this administrative review procedures, contact Barbara Tillman at (202) 482-2786, Office of Countervailing Compliance.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and 19 CFR 355.21.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-6434 Filed 3-19-93; 8:45 am]

BILLING CODE 3510-DS-P

C-427-805

Countervailing Duty Order and Amendment of Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From France

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

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or Susan Strumbel, Office of Countervailing Investigations, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-0167 or 482-1442, respectively.

Countervailing Duty Order

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)), on January 19, 1993, the Department of Commerce (the Department) made its final determination that producers or exporters in France of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products"), receive benefits which constitute subsidies within the meaning of the countervailing duty law (58 FR 6221, January 27, 1993). On March 10, 1993, in accordance with section 705(d) of the Act, the U.S. International Trade Commission (ITC) notified the Department of its final determination that imports of certain additive steel products are materially injuring a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department hereby directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751 of the Act, countervailing duties equal to the amount of the estimated net subsidy on all entries of certain additive steel products from France. These countervailing duties will be assessed on all unliquidated entries of certain additive steel products from France which were entered, or withdrawn from warehouse, for consumption, on or after September 17, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before January 15, 1993, the date on which we instructed the U.S. Customs Service to discontinue the suspension of liquidation, and all entries and withdrawals made on or after the date of publication of this order in the **Federal Register**. Entries of certain

additive steel products made on or after January 15, 1993, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties since we cannot suspend liquidation of the subject merchandise, begun on September 17, 1992, for more than 120 days without the issuance of a final affirmative ITC injury determination.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties of this merchandise, a cash deposit of 23.11 percent *ad valorem* for all entries of certain additive steel products from France.

This determination constitutes a countervailing duty order with respect to certain additive steel products from France pursuant to 706 of the Act (19 U.S.C. 1671e). Interested parties may contact the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Scope of Order

The products covered by this investigation are hot rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Correction of Ministerial Error

On February 8, 1993, Usinor Sacilor, respondent in this countervailing duty investigation, alleged that the Department made a ministerial error in calculating the subsidy margin in our final determination pursuant to 19 CFR 355.28. Specifically, respondent alleged that with respect to the subsidy calculation for the CFDI Loan program, the Department did not use the actual payments made by Usinor Sacilor on certain CFDI loans for 1991.

We agree with respondent's allegation of a ministerial error. Thus, we have recalculated the CFDI Loan program and found that we overstated the subsidy rate by 0.04 percent.

In addition, we made another correction to the final calculation of the subsidy bestowed by CFDI loans. We found that we had understated the subsidy by 0.01 percent. We are unable to discuss this correction further because of its proprietary nature.

We initially found a subsidy rate of 0.48 percent for the CFDI Loan program. The recalculated subsidy rate for this program is now 0.45 percent. The final margin percentage in this notice reflects this recalculation for certain additive steel products.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. section 1675(a)(1)), the Department will publish during the anniversary month of the publication of this order, notice that an interested party, as defined in section 771(9) of the Act (19 U.S.C. section 1677(9)) and 19 CFR 355.2(i), may request, in accordance with 19 CFR 355.22, that the Department conduct an administrative review of this order. For further information regarding administrative review procedures, contact Barbara Tillman at (202) 482–2786, Office of Countervailing Compliance.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and 19 CFR 355.21.

Dated: March 15, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6435 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DS–P

Countervailing Duty Order: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom

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

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Annika L. O'Hara, Office of Countervailing Investigations, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5055 or 482–0588, respectively.

Countervailing Duty Order

In accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(a)), on January 19, 1993, the Department of Commerce (the Department) made its final determination that producers or exporters in the United Kingdom of certain hot rolled lead and bismuth carbon steel products (hereinafter: "certain additive steel products"), receive benefits which constitute subsidies within the meaning of the countervailing duty law (58 FR 6237, January 27, 1993). On March 10, 1993, in accordance with section 705(d) of the Act, the U.S. International Trade Commission notified the Department of its final determination that imports of certain additive steel products are materially injuring a U.S. industry.

Therefore, in accordance with sections 706 and 751 of the Act (19 U.S.C. 1671e and 1675), the Department hereby directs U.S. Customs officers to assess, upon further advice of the administering authority pursuant to sections 706(a)(1) and 751, countervailing duties equal to the amount of the estimated net subsidy on all entries of certain additive steel products from the United Kingdom which were entered, or withdrawn from warehouse, for consumption, on or after September 17, 1992, the date on which the Department published its preliminary countervailing duty determination in the **Federal Register**, and before January 15, 1993, the date on which we instructed the U.S. Customs Service to discontinue the suspension of liquidation, and all entries and withdrawals made on or after the date of publication of this order in the **Federal Register**. Entries of certain additive steel products made on or after January 15, 1993, and prior to the date of publication of this order in the **Federal Register** are not liable for the assessment of countervailing duties since we cannot suspend liquidation of the subject merchandise, begun on September 17, 1992, for more than 120 days without the issuance of a final affirmative ITC injury determination.

On or after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties of this merchandise, a cash deposit for entries of certain steel products from the United Kingdom as follows:

Company	Ad valorem rate (percent)
ASW Limited	20.33
United Engineering Steels Limited	12.69
All others	12.69

Normally, the Department will exclude from the application of a countervailing duty order a producer found to have a *de minimis* or zero ad valorem countervailing duty rate during the period of investigation. 19 CFR 355.21(C). The Department's final determination resulted in a *de minimis* countervailing duty margin for Glynwed International plc (Glynwed). However, the Department is currently drafting proposed regulations which would eliminate exclusions. In the meantime, the Department wants to make clear that in excluding Glynwed from the order, this exclusion will apply only to certain additive steel which is produced and sold by Glynwed to the United States. We will review import statistics and work closely with the U.S. Customs Services to ensure that other producers are not making sales through Glynwed to evade an order and to ensure that entry documentation identifies the producer of the certain additive steel products. The Department has the authority to conduct a changed circumstances review to determine whether Glynwed is reselling certain additive steel produced by other companies in the United Kingdom. We will immediately initiate a review if we have reason to believe that the integrity of the order is threatened as a result of such evasion. A preliminary or final affirmative finding could result in the suspension of liquidation of all entries of Glynwed.

This determination constitutes a countervailing duty order with respect to certain additive steel products from the United Kingdom pursuant to section 706 of the Act (19 U.S.C. section 1671e). Interested parties may contact the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Scope of Order

The products covered by this investigation are hot rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this investigation are other alloy steels (as defined by the Harmonized Tariff Schedule of the United States (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this investigation are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00, 60.00; 7213.39.00.30, 00.60, 00.90; 7214.40.00.10, 00.30, 00.50; 7214.50.00.10, 00.30, 00.50; 7214.60.00.10, 00.30, 00.50; and 7228.30.80. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), the Department will publish during the anniversary month of the publication of this order, notice that an interested party, as defined in section 771(9) of the Act (19 U.S.C. 1677(9)) and 19 CFR section 355.2(i), may request, in accordance with 19 CFR section 355.22, that the Department conduct an administrative review of this order. For further information regarding administrative review procedures, contact Barbara Tillman at (202) 482–2786, Office of Countervailing Compliance.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and 19 CFR 355.21.

Dated March 15, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–6436 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Thailand

March 15, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: March 23, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of the 1993 limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6717. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

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).

Inasmuch as recent consultations have not resulted in a mutually satisfactory solution on Category 617, the United States Government has decided to control imports in this category for the prorated period beginning on October 29, 1992 and extending through December 31, 1992; and the twelve-month period beginning on January 1, 1993 and extending through December 31, 1993.

The limit for the period October 29, 1992 through December 31, 1992 is overshipped. Overshipments of this limit will be charged to the 1993 limit.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in further consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 54976, published on November 23, 1992, announcing the request to consult with the Government of Thailand on Category 617.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 15, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956,

as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on December 9, 1992; pursuant to the Bilateral Textile Agreement of September 3, 1991 between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 23, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 617, produced or manufactured in Thailand and exported during the period beginning on October 29, 1992 and extending through December 31, 1992, at a level of 1,437,838 square meters [1].

Also, you are directed, effective on March 23, 1993, to establish a limit for Category 617 for the twelve-month period which began on January 1, 1993 and extends through December 31, 1993, at a level of 8,715,996 square meters [2].

Imports charged to this category limit for the period October 29, 1992 through December 31, 1992, shall be charged against that level to the extent of any unfilled balance. Goods exported in excess of that limit shall be charged to the limit established for the 1993 period.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–6422 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of an Import Limit for Certain Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Romania

March 16, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs converting and increasing a limit.

EFFECTIVE DATE: March 23, 1993.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States agreed to convert the current minimum consultation level for Category 836 to a designated consultation level at a higher level.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53884, published on November 13, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 16, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 6, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on March 23, 1993, you are directed to amend the directive dated November 6, 1992 to increase the limit for Category 836 to 35,443 dozen [1].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–6423 Filed 3–19–93; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after October 28, 1992.

[2] The limit has not been adjusted to account for any imports exported after December 31, 1992.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1992.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Base Closure and Realignment Commission; Investigative Hearings; Change of Location

AGENCY: Defense Base Closure and Realignment Commission (a Presidentially appointed commission separate from and independent of DoD).

ACTION: Notice of investigative hearings; change of hearing location.

SUMMARY: On March 12, 1993, the Department of Defense published a Notice of Investigative Hearings (58 FR 13587). This notice is published to announce a change to the location of the March 22, 1993 investigative hearing concerning environmental issues.

The new hearing location is 334 Cannon House Office Building, corner of Independence and New Jersey Avenues, Washington, DC. Start time remains 10 a.m. for this planned all-day session.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Houston, Director of Communications at (703) 696–0504. Please contact the Commission to confirm last minute changes in dates, times, and locations of all upcoming hearings.

Dated: March 16, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–6429 Filed 3–19–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

Record of Decision for Proposed Aircraft Conversions at the 103rd Fighter Group, Bradley International Airport, Connecticut and the 104th Fighter Group, Barnes Municipal Airport, Massachusetts and Proposed Changes in Utilization of Military Training Airspace in the Northeastern United States

On March 3, 1993, the Air Force signed the Record of Decision (ROD) for the Environmental Impact Statement (EIS) for the aircraft conversions at Barnes IAP, CT, Bradley MAP, MA and

changes to the military training airspace in the Northeastern United States.

The United States Air Force has decided to replace the existing 18 A–10A aircraft located at Barnes IAP, CT and Bradley MAP, MA with the more modern F–16C/D aircraft as part of the ongoing modernization program and Force Structure changes for the Air National Guard. This will require the construction of new support facilities and minor modifications to some existing facilities at both locations. There will also be a small increase of approximately 50 personnel, most of whom will be part-time employees.

The United States Air Force has also decided to present airspace actions that include modifications and creation of new military training airspace in New Jersey, Pennsylvania, Maine, New Hampshire, Vermont, and New York, to the Federal Aviation Agency for aeronautical analysis. These actions include: Modifications to Military Training Route (MTR) VR 1709 in New Jersey; establishment of Antler Military Operations Area (MOA) in Pennsylvania; Condor 1 MOA modifications in Maine and New Hampshire; Yankee 2 MOA modifications in New Hampshire and Vermont; and establishment of Syracuse 5 MOA in New York.

The implementation of the aircraft replacements and establishing and modifying military training airspace in the Northeastern United States and the mitigation measures will proceed with minimal adverse impact to the environment. These actions conform with applicable Federal, State and local statutes and regulations, and all reasonable and practicable efforts have been incorporated to minimize harm to the local public and environment.

Any questions regarding this matter should be directed to Air National Guard Readiness Center/CEVP, Building 3500, Andrews AFB, MD 20331, Attn: Mr. Harry Knudsen, (301) 981–8143.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–6461 Filed 3–19–93; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

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: 9 April 1993.

Time of Meeting: 0930–1230 hours.

Place: Pentagon.

Agenda: The Army Science Board's Systems Issue Group study on "Liquid Propellant Advanced Field Artillery System" will meet with the Deputy for Systems Management to discuss the final report. This meeting will be closed to the public in accordance with section 552b.(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C. appendix 2, subsection 10(d). The classified and unclassified information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703)695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–6510 Filed 3–19–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Pittsburgh Energy Technology Center; Notice of Unsolicited Financial Assistance Award

AGENCY: Pittsburgh Energy Technology Center, Department of Energy.

ACTION: Determination of a noncompetitive financial assistance grant award with the Electric Power Research Institute.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology announces that pursuant to 10 CFR 600.7(B), it intends to award a grant to the Electric Power Research Institute (EPRI) for a research effort entitled "Co-Funding of the EPRI High Sulfur Test Center."

ADDRESSES: Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236.

FOR FURTHER INFORMATION CONTACT: Jo Ann C. Zysk, Contract Specialist (412) 892–6200.

SUPPLEMENTARY INFORMATION:

Grant Number:
DE–FG22–93PC93256

Title of Research Effort
"Co-Funding of the EPRI High Sulfur Test Center"

Awardee:
Electric Power Research Institute

Term of Assistance Effort
Sixty (60) months

Grant Estimated Total Value:
$17,929,000.00 DOE: $2,000,000.00; Cost-Sharing: $15,929,000.00)

Objective: The proposed research will promote improvements to conventional flue gas cleanup technologies and will contribute to the development of advanced environmental control technologies. The purpose of the work conducted at the High Sulfur Test Center is to evaluate and develop cost-effective solutions for controlling sulfur dioxide (SO_2), nitrogen oxides (NO_x), and particulate emissions resulting from high-sulfur, coal-fired electric utility boilers.

Justification:

Implementation of the proposed grant is based upon the authority of 10 CFR 600.7(b)(2)(i) (A), (B), and (D). This is a sixty month research effort with an estimated value of $17,929,000.00 (DOE: $2,000,000.00; Total Cost-Sharing: $15,929,000.00). The research developed under this grant will be cost-shared by the Department of Energy, Electric Power Research Institute, High Sulfur Test Center Steering Committee member utilities, and other organizations.

Dale A. Siciliano,

Contracting Officer.

[FR Doc. 93–6508 Filed 3–19–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER93–434–000, et al.]

Ohio Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Ohio Power Company

[Docket No. ER93–434–000]

March 12, 1993.

Take notice that on March 8, 1993, Ohio Power Company (OPCo), tendered for filing with the Commission a Modification No. 1 to its existing Municipal Resale Service Agreement, and a Facilities Agreement that were executed by OPCo and the Village of Carey on February 16, 1993. OPCo states that the Village of Carey recently requested an additional delivery point.

As requested, and for the sold benefit of the Village of Carey, OPCo proposes an effective date of March 15, 1993, for the tendered agreements.

OPCo states that copies of its filing were served upon the Village of Carey, Ohio, and the Public Utilities Commission of Ohio.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Cambridge Electric Light Company

[Docket No. ER93–433–000]

March 12, 1993.

Take notice that on March 8, 1993, Cambridge Electric Light Company (Cambridge) tendered for filing a Net Requirements Power Supply Agreement (Agreement) between Cambridge and its wholesale customers, the Town of Belmont, Massachusetts (Belmont). The Agreement would supersede, cancel and replace the agreement between Cambridge and Belmont for service pursuant to Cambridge's FERC Electric Traffic for Partial Requirements Service. Cambridge requests waiver of the Commission's regulations, and any such authorization as may be necessary to permit the Agreement to become effective April 1, 1993, and to permit the cancellation and termination of the "partial requirements" agreement as of the effective date of the Agreement.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Oklahoma

[Docket No. ER93–435–000]

March 12, 1993.

Take notice that on March 8, 1993, Public Service Company of Oklahoma (PSO) tendered for filing a Contract for Electric Service together with a related amended supplemental agreement and equipment lease agreement. Under the Electric Service Contract PSO will provide service to the City of Collinsville, Oklahoma (City) under PSO, FERC Rate Schedule RE–5. PSO seeks an effective date of September 1, 1993. PSO also seek approval under section 203 of the Federal Power Act for the lease to the City of certain facilities and the granting to the City of the option to purchase such facilities.

Copies of the filing have been sent to the City and the Oklahoma Corporation Commission.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Public Service Corporation

[Docket No. ER93–382–000]

March 12, 1993.

Take notice that on March 4, 1993, Wisconsin Public Service Corporation (WPSC) tendered for filing with the Federal Energy Regulatory Commission corrected pages to Service Schedule D of its pending interchange agreement with Otter Tail Power Company (Otter Tail). The revised pages explicitly state WPSC's FERC Order No. 84 rates in lieu of a reference in the original filing to an Order No. 84 appendix that was not included with the filing. With Otter Tail's concurrence, WPSC requests an effective date 60 days after the parties' original February 19, 1993 submittal.

WPSC states that copies of the filing have been served on Otter Tail and on the state commissions where WPSC and Otter Tail serve at retail.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Indiana Michigan Power Company Appalachian Power Company

[Docket No. ER93–276–000]

March 12, 1993.

Take notice that on March 8, 1993, American Electric Power Service Corporation, on behalf of Indiana Michigan Power Company (I&M) and Appalachian Power Company (APCO), tendered for filing additional information required by the Commission's Staff, regarding a change in the loss percentage used in the Transmission and Unit Power Supply Agreement, dated December 14, 1988 (1988 Agreement), among I&M, APCO, and Carolina Power & Light Company (CP&L). The 1988 Agreement has been previously designated as I&M's Rate Schedule FERC No. 77 and APCO's Rate Schedule FERC No. 24.

The 1988 Agreement provides that the parties may review and adjust the loss percentage biennially. An effective date of January 1, 1993 has been requested.

A copy of the filing was served upon the Indiana Utility Regulatory Commission, the Michigan Public Service Commission, the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and CP&L.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Power Company Ohio Power Company

[Docket No. ER93–295–000]

March 12, 1993.

Take notice that on March 8, 1993, American Electric Power Service Corporation on behalf of Kentucky Power Company (KPCO) and Ohio Power Company (OPCO), tendered for filing information requested by the Commission's Staff in support of a proposed change in the loss percentage used in the Agreement among the City of Hamilton, Ohio (Hamilton), KPCO, OPCO, and American Municipal Power-Ohio, Inc. (AMP-Ohio), dated May 1, 1988 (1988 Agreement). The 1988 Agreement has been previously designated as OPCO's Rate Schedule FERC No. 96.

The 1988 Agreement provides that the loss percentage is subject to change under certain described circumstances.

A copy of the filing was served upon the Public Utilities Commission of Ohio, the Kentucky Public Service Commission, Hamilton, and AMP-Ohio.

An effective date of January 1, 1993 is being requested.

Comment date: March 26, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER93–313–000]

March 15, 1993.

Take notice that on March 8, 1993 Niagara Mohawk Power Corporation (Niagara) tendered for filing an amendment to its Power Sales Tariff which provides for sales of system capacity and/or energy or resource capacity and/or energy. The proposed Tariff requires interested purchasers to enter into a service agreement with Niagara Mohawk before transactions may commence under the Tariff.

Niagara Mohawk requests that its Tariff be accepted for filing and allowed to become effective in accordance with its terms as specified. Information filed in support of the Tariff includes cost support for Niagara Mohawk's tariff ceiling rates, and pricing terms that allow for the capacity and energy changes to pro-rated for the duration of each sale. A copy of this filing was served upon the New York State Public Service Commission.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. South Carolina Electric & Gas Company

[Docket No. ER93–429–000]

March 12, 1993.

Take notice that on March 5, 1993 South Carolina Electric & Gas Company (SCE&G), tendered for filing proposed changes in its FERC Electric Service Tariff, (Volume Nos. I–IV).

The proposed changes would increase revenues from jurisdictional sales and service by $7,411,686 based on the 12 month period ending December 31, 1993. The Company also proposes a revised wholesale electric tariff designated as First Revised Volume No. 1, to supersede Original Volume No. 1

SCE&G states that the proposed increased rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its jurisdictional customers.

Copies of the filing were served upon the public utility's jurisdictional customers and the South Carolina Public Service Commission.

Comment date: March 26, 1993, in accordance with Standard Paragraph E end of this notice.

9. Northeast Utilities Service Company

[Docket No. ER93–222–000]

March 15, 1993.

Take notice that on March 11, 1993, Northeast Utilities Service Company (NUSCO) filed on behalf of The Connecticut Light and Power Company and Western Massachusetts Electric Company additional information in this docket.

NUSCO state that copies of this submission have been mailed or delivered to each of the parties.

Comment date: March 29, 1993, in accordance with Standard Paragraph E end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER93–331–000]

March 15, 1993.

Take notice that on March 5, 1993, Consolidated Edison Company of New York, Inc. (Con Edison) in response to a deficiency letter, tendered for filing additional information relative to an agreement for transmission service for New York State Electric & Gas Corporation (NYSEG).

Con Edison states that a copy of this filing has been served by mail upon NYSEG.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Multitrade Limited Partnership, Multitrade of Pittsylvania County, L.P.

[Docket No. ER93–427–000]

March 15, 1993.

Take notice that on March 3, 1993, Multitrade Limited Partnership (Multitrade) and Multitrade of Pittsylvania County, L.P. (MPC) filed an application requesting the Commission to accept for filing under section 205 of the Federal Power Act (FPA) Multitrade's rate schedule change as set forth in Amendment No. 1, dated as of November 3, 1992, to the Power Purchase and Operating Agreement, applicable to sales of energy and capacity to Virginia Electric Power Company (Virginia Power) from a biomass waste wood electric generating facility being developed in Pittsylvania County, Virginia (the Facility). As part of the Application, MPC also requested the Commission to accept for filing its Notice of Succession in Ownership to Supplement No. 1 to Multitrade's Rate Schedule FERC No. 1. The Facility is a qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and the regulations promulgated thereunder.

The Commission has previously accepted for filing the Power Purchase Agreement on November 15, 1989 in Docket No. ER90–18–000, and by order dated February 26, 1993, in Docket No. ER93–244–000, the Commission accepted for filing MPC's Notice of Succession to Multitrade's Rate Schedule FERC No. 1.

Copies of the instant filing have been served upon Virginia Power.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Great Bay Power Corporation

[Docket No. ER93–425–000]

March 15, 1993.

Take notice that on March 4, 1993, Great Bay Power Corporation (Great Bay) tendered for filing a Notice of Succession in Ownership or Operation for EUA Power Corporation, now known as Great Bay Power Corporation.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Pacific Gas and Electric Company

[Docket No. ER93–428–0000]

March 15, 1993.

Take notice that on March 5, 1993, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment to its Interconnection Agreements with Turlock Irrigation District (TID) and Modesto Irrigation District (MID), PG&E Rate Schedule FERC Nos. 115 and 116, respectively.

The amendment implements a revised metering procedure for these customers to take into account the replacement of magnetic tape meters with solid-state meters; it also includes updated information for notification of metering problems.

No rate change is involved in this filing.

Copies of this filing have been served upon MID, TID and the California Public Utilities Commission.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER93–443–000]

March 15, 1993.

Take notice that Florida Power Corporation (Florida Power) on March 11, 1993, tendered for filing a Construction Agreement which entails a contribution in aid of construction arrangement between Kissimmee Utility Authority and itself. Florida Power requests that this agreement be allowed to become effective as of May 10, 1993, 60 days from date of filing.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Upper Peninsula Power Company

[Docket No. ER93–431–000]

March 15, 1993.

Take notice that on March 8, 1993, Upper Pensinsula Power Company (UPPCO) tendered for filing Notices of Cancellation of the following rate schedules:

Customer	Rate Schedule No.
Wisconsin Electric Power Company	1
City of Escanaba, Michigan	9

UPPCO states that Rate Schedule Nos. 1 and 9 were previously superseded by other rate schedules on file at the Federal Energy Regulatory Commission. Copies of these notice of cancellation were served upon the affected customers.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Montana Power Company

[Docket No. ER93–114–000]

March 15, 1993.

Take notice that on March 10, 1993, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a supplement to its original filing of a Transmission Agreement executed by the United States of America, Department of Energy acting by and through the Bonneville Power Administration and Montana Intertie Users (Colstrip Project). This supplemental filing provides additional information requested through a deficiency letter issued under this docket.

Copies of the filing were served upon the Bonneville Power Administration, PacifiCorp, Portland General Electric Company, Puget Sound Power & Light Company and The Washington Water Power Company.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Electric Power Company

[Docket No. ER93–21–000]

March 15, 1993.

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on March 8, 1993, tendered for filing an amendment to its original filing in the above-referenced docket. The amendment summarizes the direct and indirect cost of the substations in question and also provides one line diagram of the subject facilities.

Wisconsin Electric renews its request for an effective date of December 14, 1990. Wisconsin Electric is authorized to state that Wisconsin Public Service Corporation joins in the requested effective date.

Copies of the filing have been served on Wisconsin Public Service Corporation, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: March 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6444 Filed 3–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2436–007, et al.]

Hydroelectric Applications; Consumers Power Co., et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 *a. Type of Application:* New Major License.

b. Project No.: 2436–007.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Foote.

f. Location: On the Au Sable River within the Huron National Forest near Oscoda in Iosco County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 23, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 3,800-foot-long earth embankment dam; (2) a 93-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 1,702 acres at surface elevation 639.2 feet m.s.l. and a storage capacity of 32,360 acre-feet; (4) a powerhouse containing three generating units each with a rated capacity of 3,000 kW; (5) a concrete tailrace; (6) an existing 600-foot-long transmission line; and, (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 38,593 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

2 *a. Type of Application:* New Major License.

b. Project No.: 2447–008.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Alcona.

f. Location: On the Au Sable River within the Huron National Forest near Curtis in Alcona County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 19, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 4,820-foot-long earth embankment dam; (2) a 250-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 1,006 acres at surface elevation 829.0 feet m.s.l. and a storage capacity of 12,547 acre-feet; (4) a powerhouse containing two generating units each with a rated capacity of 4,000 kW; (5) a concrete tailrace; (6) an existing 400-foot-long transmission line; and, (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 32,498 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at

941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

3 *a. Type of Application:* New Major License.

b. Project No.: 2450–005.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Cooke.

f. Location: On the Au Sable River within the Huron National Forest near Oscoda in Iosco County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 23, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 700-foot-long earth embankment dam; (2) a 92-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 1,627 acres at surface elevation 679.0 feet m.s.l. and a storage capacity of 26,749 acre-feet; (4) a powerhouse containing three generating units each with a rated capacity of 3,000 kW; (5) a concrete tailrace; (6) an existing 150-foot-long transmission line; and, (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 32,720 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

4 *a. Type of Application:* New Major License.

b. Project No.: 2451–004.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Rogers.

f. Location: On the Muskegon River near Auston in Mecosta County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 7911(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 19, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 600-foot-long earth embankment dam; (2) a 156-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 449 acres at surface elevation 861.6 feet m.s.l. and a storage capacity of 4,678 acre-feet; (4) a powerhouse containing four generating units each with a rated capacity of 1,667 kW; (5) a concrete tailrace; (6) an existing 140-foot-long transmission line; and, (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 36,651 MWh. The applicant owns all the exiting project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

5 *a. Type of Application:* New Major License.

b. Project No.: 2452–007.

c. Date Filed: December 19, 1991.

d. Applicant: Consumer Power Company.

e. Name of Project: Hardy.

f. Location: On the Muskegon River near Big Prairie in Mecosta and Newaygo Counties, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 19, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: the licensed project would consist of the following existing facilities: (1) A 2,600-foot-long earth embankment dam; (2) a 600-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 3,902 acres at surface elevation 822.5 feet m.s.l. and a storage capacity of 134,973 acre-feet; (4) a powerhouse containing three generating units each with a rated capacity of 10,000 kW; (5) a concrete tailrace; (6) an existing 1,800-foot-long transmission line; and (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 98,277 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December

7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

6 *a. Type of Application:* New Major License.

b. Project No.: 2453–003.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Five Channels.

f. Location: On the Au Sable River within the Huron National Forest near Oscoda in Iosco County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 23, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 620-foot-long earth embankment dam; (2) a 90-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 212 acres at surface elevation 715.0 feet m.s.l. and a storage capacity of 3,419 acre-feet; (4) a powerhouse containing two generating units each with a rated capacity of 3,000 kW; (5) a concrete tailrace; (6) an existing 1,430-foot-long transmission line; and, (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 24,622 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

7 a. Type of Application: New Major License.

b. Project No.: 2468–003.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Croton.

f. Location: On the Muskegon River near Big Prairie in Newaygo County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillas, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 23, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 370-foot-long earth embankment dam; (2) a 242-foot-long-reinforced concrete spillway; (3) a reservoir with a surface area of 1,209 acres at surface elevation 722.0 feet m.s.l. and a storage capacity of 21,932 acre-feet; (4) a powerhouse containing four generating units with a total rated capacity of 8,849 kW; (5) a concrete tailrace; (6) an existing 700-foot-long transmission line; and, (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 41,400 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

8 a. Type of Application: New Major License.

b. Project No.: 2580–015.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Tippy.

f. Location: On the Manistee River within the Manistee National Forest near Dickson in Manistee County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 19, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 576-foot-long earth embankment dam; (2) a 150-foot-long-reinforced concrete spillway; (3) a reservoir with a surface area of 1,330 acres at surface elevation 687.4 feet m.s.l. and a storage capacity of 27,620 acre-feet; (4) a powerhouse containing three generating units each with a rated capacity of 6,700 kW; (5) two existing transmission lines, one 100 feet long and the other 1,000 feet long; and, (6) appurtenant facilities. The applicant is

proposing no changes to the project. The average annual net energy generation is 59,500 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service and the Michigan State Historic Preservation Officer was filed with the Commission on December 17, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

9 *a. Type of Application:* New Major License.

b. Project No.: 2599–055.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Hodenpyl.

f. Location: On the Manistee River within the Manistee National Forest near Marilla in Manistee and Wexford Counties, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775–0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219–2814.

j. Deadline Date: April 19, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. Description of Project: The licensed project would consist of the following existing facilities: (1) A 4,165-foot-long earth embankment dam; (2) a 500-foot-long reinforced concrete spillway; (3) a reservoir with a surface area of 1,798 acres at surface elevation 809.0 feet m.s.l. and a storage capacity of 39,684 acre-feet; (4) a powerhouse containing two generating units each with a rated capacity of 8,500 kW; (5) a concrete tailrace; (6) a 550-foot-long transmission line; and (7) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 40,600 MWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service, and the Michigan State Historic Preservation Officer was filed with the Commission on December 7, 1992, and supersedes some aspects of the application.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. Available Location of Application: A copy of the application and the Officer of Settlement Agreement are available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775–0176.

10 *a. Type of Application:* Surrender of License.

b. Project No.: 6786–018.

c. Date Filed: January 26, 1993.

d. Applicant: Jefferson National Bank.

e. Name of Project: Aurelius Avenue Project.

f. Location: Owasco Lake Outlet in Cayuga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Peter C. Kissel, Baller Hammett, P.C., 1225 Eye Street, NW., suite 1200, Washington, DC 20005, (202) 682–3300.

i. FERC Contact: Hank Ecton, (202) 219–2678.

j. Comment Date: April 22, 1993.

k. Description of Project: The license for this project, with a proposed capacity of 400 kilowatts, was issued on June 25, 1986, and transferred to Jefferson National Bank on August 19, 1992. The licensee states that it cannot develop the project. No construction has occurred, and the proposed site remains unaltered.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

11 *a. Type of Application:* Transfer of License.

b. Project No.: 7019–025.

c. Date Filed: November 5, 1992.

d. Applicant: City of Forsyth.

e. Name of Project: East Juliette Power Project.

f. Location: On the Ocmulgee River in Jones County, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Robert L. Rose, President, PK Ventures, Inc., P.O. Box 262628, Tampa, FL 33685–1628, (813) 287–0600.

i. FERC Contact: Ms. Donna Marie Sangimino-Perez, (202) 219–2798.

j. Comment Date: April 14, 1993.

k. Description of Project: The City of Forsyth proposes to transfer the license for the East Juliette Power Project No. 7019 to Mr. Robert L. Rose, the President of PK Ventures, Inc.

l. This notice also consists of the following standard paragraphs: B and C.

12 *a. Type of Application:* Major License (less than 5 MW).

b. Project No.: 10462–002.

c. Date Filed: May 31, 1990.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Allens Falls.

f. Location: On the West Branch of the St. Regis River, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Michael W. Murphy, System Law Department, C–3, Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–6941.

i. FERC Contact: Michael Dees, (202) 219–2807.

j. Deadline Date: Initial Comments April 20, 1993. Reply Comments June 4, 1993.

k. Status of Environmental Analysis: This application has been accepted for filing and is ready for environmental analysis at this time—see attached standard paragraph D9.

l. Description of Project: The proposed project would consist of: (1) An existing concrete gravity type dam with flashboards two feet high; (2) an existing intake structure; (3) an existing pipeline 9,344 feet long and seven feet in diameter; (4) an existing differential surge tank; (5) an existing penstock 886 feet long and seven feet in diameter; (6) an existing powerhouse housing a 4,400-kW hydropower unit; (7) an existing tailrace 450 feet long; (8) an existing 115-kV transmission line; and (9) appurtenant facilities. The estimated annual energy production is 23.4 GWh.

m. Purpose of Project: The purpose of the project is to generate energy that would be used by the applicant to satisfy its customers needs.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corp., 300 Erie Boulevard West, Syracuse, New York 13202.

13. *a. Type of Application:* Major License.

b. Project No.: 10808–000.

c. Date Filed: July 24, 1989.

d. Applicant: Wolverine Hydroelectric Corporation.

e. Name of Project: Edenville.

f. Location: On the Tittabawassee and Tobacco Rivers in Tobacco and Edenville Townships, Gladwin and Midland Counties, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. John D. Kuhns, P.O. Box 147, 6000 South M–30, Edenville, Michigan 48620, (517) 689–3161.

i. FERC Contact: Charles T. Raabe (dt) (202) 219–2811.

j. Deadline Date: Initial Comments April 20, 1993, Reply Comments June 4, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached standard paragraph D10.

l. Description of Project: The existing, operating project consists of: (1) A reinforced concrete multiple arch spillway and integral powerhouse dam with an overall length of about 118 feet, a base width of about 52 feet, and a crest height of about 42 feet; (2) three tainter gates at the crest, each about 20 feet wide by 10 feet high, and two low-level sluiceway gates, each about 8 feet square, in the dam; (3) three lengths of earth embankments, consisting of a central section about 3,840 feet long and 55 feet in maximum height, a right section about 2,040 feet long and 60 feet in maximum height, and a left section about 850 feet long and 55 feet in maximum height; (4) a reinforced concrete multiple arch spillway dam 72 feet long, with a base width of about 70 feet and a crest height of about 45 feet, located between the right and the central earth embankment sections; (5) three steel tainter gates surmounting the spillway dam, each 20 feet wide and 10 feet high; (6) a reservoir named Wixom Lake, with a surface area of 2,600 acres and gross storage of about 40,000 acre-feet; (7) an integral reinforced concrete and brick powerhouse, about 80 feet long, 51 feet wide, and 60 feet high, equipped with two Francis vertical axis turbine-generator units rated at 2,400 kW each; (8) certain transmission equipment; and (9) appurtenant facilities.

The project generates an estimated annual output of 16.8 GWh.

m. Purpose of Project: Power generated would be sold to Consumers Power Company.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371, and at the Wolverine Hydroelectric Corporation, 6000 South M–30, Edenville, Michigan 48620.

14. *a. Type of Application:* Minor License.

b. Project No.: 10809–000.

c. Date Filed: July 24, 1989.

d. Applicant: Wolverine Hydroelectric Corporation.

e. Name of Project: Secord.

f. Location: On the Tittabawassee River in Secord Township, Gladwin County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. John D. Kuhns, P.O. Box 147, 6000 South M–30, Edenville, Michigan 48620, (517) 689–3161.

i. FERC Contact: Charles T. Raabe (dt), (202) 219–2811.

j. Deadline Date: Initial Comments April 20, 1993 Reply Comments June 4, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached standard paragraph D10.

l. Description of Project: The existing, operating project consists of: (1) A reinforced concrete multiple arch spillway and integral powerhouse dam with an overall length of about 71 feet, a base width of about 85 feet, and a crest height of about 42 feet; (2) two tainter gates at the dam crest, each about 22 feet wide by 10 feet high; (3) a right side earth embankment about 400 feet long by 57 feet high maximum; (4) a reservoir named Secord Lake, with a surface area of about 1,100 acres and gross storage of about 15,000 acre-feet; (5) an integral reinforced concrete and brick powerhouse, about 64 feet long, 25 feet wide, and 57 feet high, equipped with one Francis vertical axis turbine-generator unit rated at 1,200 kilowatts (kW); (6) certain transmission equipment; and (7) appurtenant facilities.

The project has an estimated annual output of 4.0 GWh.

m. Purpose of Project: Power generated would be sold to Consumers Power Company.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wolverine Hydroelectric Corporation, 6000 South M–30, Edenville, Michigan 48620.

15 *a. Type of Application:* Major License.

b. Project No.: 10810–000.

c. Dated Filed: July 24, 1989.

d. Applicant: Wolverine Hydroelectric Corporation.

e. Name of Project: Smallwood.

f. Location: On the Tittabawassee River in Hay Township, Gladwin County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. John D. Kuhns, P.O. Box 147, 6000 South M–30, Edenville, Michigan 48620, (517) 689–3161.

i. FERC Contact: Charles T. Raabe (dt), (202) 219–2811.

j. Deadline Date: Initial Comments April 20, 1993. Reply Comments June 4, 1993.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached standard paragraph D10.

l. Description of Project: The existing, operating project consists of: (1) A reinforced concrete hollow gravity spillway dam about 52 feet long, 25 feet high, and 50 feet wide at the base, surmounted by two steel tainter gates, each 25.3 feet wide and 10 feet high; (2) a right side earth embankment about 100 feet long by 40 feet high maximum, and a left side earth embankment about 550 feet long by 40 feet high maximum; (3) a reservoir named Smallwood Lake,

with a surface area of about 500 acres; (4) a reinforced concrete powerhouse integral with the spillway, about 55 feet long, 27 feet wide, and 65 feet high; (5) powerhouse equipment consisting of one vertical axis, open flume turbine-generator unit rated at 1,200 kilowatts (kW); (6) certain transmission equipment; and (7) appurtenant facilities.

The project generates an estimated annual output of 2.65 GWh.

m. Purpose of Project: Power generated would be sold to Consumers Power Company.

n. This notice also consists of the following standard paragraphs: A4 and D10.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wolverine Hydroelectric Corporation, 6000 South M–30, Edenville, Michigan 48620.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a part to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 20, 1993 for Project No. 10462–002). All reply comments must be filed with the Commission within 105 days from the date of this notice. (June 4, 1993 for Project No. 10462–002).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 20, 1993 for Project Nos. 10808–000, 10809–000, 10810–000). All reply comments must be filed with the Commission within 105 days from the date of this notice. (June 4, 1993 for Project Nos. 10808–000, 10809–000, and 10810–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary

circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: March 16, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6446 Filed 3-6-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP93-238-000, et al.]

Northern Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Northern Natural Gas Company

[Docket No. CP93-238-000]

March 11, 1993.

Take notice that on March 9, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP93-238-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to operate one existing valve setting as a new delivery point to provide natural gas deliveries to Diamond Shamrock McKee Plant (Diamond Shamrock), an end-user located in Moore County, Texas, under the certificate issued to Northern in Docket No. CP82-401-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it will deliver 50,000 Mcf per day and 10,950,000 Mcf on an annual basis to Diamond Shamrock under Northern's Rate Schedule TI. Northern also states that Diamond Shamrock will use the natural gas volumes as fuel for running the refinery and ammonia plant.

Northern states that installation of facilities will not be involved in the proposed project. It is stated that Diamond Shamrock will reverse the flow of an existing meter owned by Diamond Shamrock through which Diamond Shamrock formerly delivered gas to Northern.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP93-237-000]

March 11, 1993.

Take notice that on March 9, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP93-237-000 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 for deliveries of natural gas to Peoples Natural Gas Company, a Division of UtiliCorp United Inc. (Peoples), under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install a small volume measuring station and appurtenant facilities as a delivery point to provide additional natural gas deliveries to Peoples to accommodate service under Northern's Rate Schedule TI to serve Liquid Corn, Inc., a commercial end-user in Platte County, Nebraska. Northern states that the peak day and annual volumes are estimated to be 30 Mcf and 6,600 Mcf, respectively. Northern explains that the gas would be used as fuel for grain drying. Further, Northern advises that the gas volumes would be within the current entitlements of Peoples and, more specifically, would be from the total firm entitlement currently assigned to Nebraska small volume taps. Northern estimates that the total cost of installing the delivery point would be $2,065.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Trunkline Gas Company

[Docket No. CP93-239-000]

March 12, 1993.

Take notice that on March 10, 1993, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP93-239-000, an application pursuant to section 7(b) of the Natural Gas Act, for an order permitting and approving abandonment of a transportation service provided under Rate Schedule T-81 to Northern Natural Gas Company (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern in its letter dated April 24, 1991, notified Trunkline of its intent to terminate the agreement designated as Rate Schedule T-81 of Trunkline's

FERC Gas Tariff. By letter dated April 29, 1991, both parties mutually agreed to terminate the agreement, effective December 1, 1993.

Comment date: April 2, 1993 in accordance with Standard Paragraph F at the end of the notice.

4. El Paso Natural Gas Company

[Docket No. CP93–235–000]

March 12, 1993.

Take notice that on March 8, 1993, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP93–235–000 a request pursuant to §§ 157.205 and 157.216 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon the firm transportation of natural gas to Westar Transmission Company (Westar) at certain miscellaneous delivery taps located in Crockett, Reagan and Sutton Countries, Texas, under El Paso's blanket authorization issued in Docket No. CP82–425–000, all as more fully set forth in the request on file with the Commission and open to public inspection. Instead, as all parties affected by the change agreed, El Paso will provide open-access interruptible transportation service to NatGas Inc. (NatGas) at these same delivery taps.

El Paso states that it received authority to sell to Westar (formerly Pioneer Natural Gas Company, a Division of Pioneer Corporation) for resale natural gas by order issued August 5, 1957 at Docket No. G–12373. Subsequently, by various Commission orders, El Paso also states that it received authority to add additional points of delivery to sell natural gas to Westar for resale to areas located in the State of Texas.

El Paso further states that El Paso and Westar were parties to a service agreement dated January 27, 1981, which provided for the sale and firm delivery of natural gas by El Paso to Westar for resale according to the authorization discussed above. According to the global settlement at Docket No. RP88–44–000, et al., Westar converted its sales entitlements to firm transportation service. That service is rendered according to the terms of a transportation service agreement (TSA) dated December 31, 1991, between El Paso and Westar. Among other things, the TSA provided for the cancellation of the other service agreement between El Paso and Westar dated January 27, 1981.

Under the provisions of the firm TSA, El Paso, *inter alia,* delivers volumes of gas for Westar at four delivery point locations, included as part of Exhibit B to the TSA and described as the: (i) Reagan Taps (EPNG Code IW41–180); (ii) Crockett Taps (EPNG Code (IW41–151); (iii) Crockett Taps (EPNG Code IW41–152); and (iv) Herbert Fields (EPNG Code 20410 62). These are the location descriptions for base meters used by El Paso for billing purposes, which aggregate the volumes delivered under six separate taps. More specifically, the delivery tap behind (i) above is the W.H. Dixon tap; the delivery taps behind (ii) above are the F.D. Strauss and Atlantic Refining tap; the delivery taps behind (iii) above are the John Childress and J.B. Parker taps; and the delivery tap behind (iv) is the Herbert Fields tap.

El Paso also states that NatGas has acquired from Energas Company a natural gas distribution system, which is comprised of, *inter alia,* the six delivery tap locations served by the above pipeline taps presently serving Westar. With NatGas' acquisition, NatGas desires natural gas service at these delivery points. Therefore, NatGas and El Paso have entered into an interruptible TSA dated February 4, 1993, to provide service to NatGas at these delivery taps. As a result, Westar will no longer require gas service at the taps. NatGas does not seek assignment of the natural gas firm transportation service that El Paso provide to Westar at these delivery points. Accordingly, El Paso proposes to abandon only the related natural gas service it provides Westar at these taps, but not the physical metering facilities.

El Paso further states that the proposed abandonment of service will have no adverse environmental effects. Because the facilities that provide the natural gas service will remain in place and be operated in the same manner as presently operated, there will be no soil or surface disturbance or any other physical activity taking place in or around the delivery taps. Therefore, the proposed action is not a major Federal action significantly affecting the quality of the human environment.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP93–233–000]

March 12, 1993

Take notice that on March 5, 1993, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP93–233–000 a request pursuant to § 157.205 of the Commission's Regulations to add the KB pipeline delivery point at the PGE Meter Station in Cowlitz County, Washington (PGE meter station) to its Rate Schedule ODL–1 Service Agreement dated November 1, 1992, (service agreement) with Northwest Natural Gas Company (Northwest Natural) and to reallocate portions of Northwest's existing maximum daily delivery obligation (MDDO) for firm service under the service agreement to the new delivery point under Northwest's blanket certificate issued in Docket No. CP82–433–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to add the KB pipeline delivery point at the PGE meter station to Northwest Natural's service agreement and to reallocate 300,000 therms of MDDO to that point from the existing Camas and Deer Island delivery points located in Clark and Columbia Counties, respectively for deliveries to Northwest Natural to provide natural gas supplies for Portland General Electric Company's (PGE) Beaver plant for use in the generation of electricity and for Northwest's Natural's system supply. Northwest states that no significant impact on Northwest's system peak day or annual deliveries is projected to result from the proposed delivery point and reallocations, since Northwest's total firm obligations under its service agreements with Northwest Natural remains unchanged.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

6. Alabama-Tennessee Natural Gas

[Docket No. CP93–232–000]

March 12, 1993

Take notice that on March 5, 1993, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P. O. Box 918, Florence, Alabama 35631, filed in Docket No. CP93–232–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate a new sales tap for the delivery of natural gas to American Fructose-Decatur, Inc. (American Fructose), an end user presently being served indirectly by Alabama-Tennessee through the municipally owned distribution facilities of the City of Decatur, Alabama. Alabama-Tennessee's request is being made under the blanket certificate of public convenience and necessity authorizing certain routine activities issued to Alabama-Tennessee in Docket No. CP85–359–000 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.

Alabama-Tennessee states that it proposes to add a sales tap on its system in Morgan County, Alabama in order to provide direct natural gas transportation deliveries to American Fructose. Alabama-Tennessee states that it will deliver up to 8,400 dekatherms of natural gas per day to American Fructose at this point under Alabama-Tennessee's currently effective Rate Schedule IT.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

7. Arkla Energy Resources Company

[Docket No. CP93–234–000]

March 12, 1993

Take notice that on March 5, 1993, Arkla Energy Resources Company (AER), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP93–234–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate facilities in Caddo County, Oklahoma, for deliveries into the intrastate system of Transok, Inc. (Transok), under AER's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

AER proposes to convert an existing receipt point into a delivery point to serve as an interconnection between AER and Transok. AER states that the delivery point would be used for the delivery of up to 50,000 MMBtu equivalent of natural gas per day under AER's Part 284 blanket certificate issued in Docket No. CP88–820–000.

It is stated that the existing receipt point was constructed for service from Tex-con Gas Marketing Company, whose services in Oklahoma were subsequently acquired by Transok. It is estimated that the cost of converting the facilities would be $2,300, to be financed with internally generated capital.

Comment date: April 26, 1993, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6445 Filed 3–19–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 93–09–NG]

Portal Municipal Gas; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Portal Municipal Gas (PMG) authorization to import up to 2,295 Mcf per day of natural gas from Canada beginning on March 5, 1993, and continuing through September 1, 2012. The gas will be purchased from SaskEnergy Incorporated, and will be imported at Portal, North Dakota, through new pipeline facilities to be constructed by PMG.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 15, 1993.

Anthony J. Como,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–6509 Filed 3–19–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93–21–NG]

Victoria Gas Corporation; Application for Blanket Authorization To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on February 19, 1993, of an application filed by Victoria Gas Corporation (Victoria) requesting blanket authorization to import up to 100 Bcf of natural gas and export up to 100 Bcf of natural gas from and to Mexico over a two-year term beginning on the date of first import or export after June 5, 1993, the date that Victoria's current blanket authorization expires. See DOE FE Opinion and Order No. 413 issued June 30, 1990 (1 FE ¶70,339). The proposed imports and exports would take place at any point on the United States/Mexico border where existing pipeline facilities are located. Victoria would file with DOE quarterly

reports detailing each import and export transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, April 21, 1993.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Yvonne Gabbay, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4587.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: Victoria, a natural gas marketer, is a Texas corporation with its principal place of business in Houston, Texas. Victoria requests authorization to import and export natural gas on its own behalf or as an agent on behalf of others. Victoria does not yet know the identity of the actual suppliers, transporters, or purchasers. Victoria would determine the specific terms of each import/export transaction through arms-length negotiations and states that these transactions would be short-term in nature. The domestically produced gas to be exported would be incremental to the needs of current domestic purchasers in the regions from which the supplies would be drawn.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose the application should comment in their responses on these issues. Victoria asserts that its proposal is in the public interest. Parties opposing Victoria's application bear the burden of overcoming these assertions.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Victoria's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 15, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs.

[FR Doc. 93–6506 Filed 3–19–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93–22–NG]

Victoria Gas Corporation; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Victoria Gas Corporation (Victoria) blanket authorization to import up to 100 Bcf of natural gas and export up to 100 Bcf of natural gas from and to Canada over a two-year term, beginning on the date of the first import or export after June 5, 1993, the date that Victoria's current blanket authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 15, 1993.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs.

[FR Doc. 93-6507 Filed 3-19-93; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-51815; FRL-4570-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 130 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93-364, 93-365, 93-366, 93-367, April 4, 1993.

P 93-368, April 24, 1993.

P 93-369, 93-370, 93-371, 93-372, 93-373, 93-374, 93-375, 93-376, 93-377, 93-378, 93-379, 93-380, 93-381, April 4, 1993.

P 93-382, 93-383, April 5, 1993.

P 93-384, 93-385, 93-386, April 6, 1993.

P 93-387, April 7, 1993.

P 93-388, 93-389, 93-390, April 6, 1993.

P 93-391, 93-392, 93-393, 93-394, 93-395, 93-396, 93-397, 93-398, April 7, 1993.

P 93-399, 93-400, 93-401, 93-402, 93-403, 93-404, 93-405, 93-406, April 10, 1993.

P 93-407, 93-408, 93-409, 93-410, 93-411, 93-412, 93-413, 93-414, 93-415, April 11, 1993.

P 93-416, April 13, 1993.

P 93-417, April 12, 1993.

P 93-418, April 14, 1993.

P 93-419, April 12, 1993.

P 93-420, April 13, 1993.

P 93-421, April 18, 1993.

P 93-422, 93-423, 93-424, 93-425, 93-426, 93-427, 93-428, 93-429, 93-430, 93-431, 93-432, 93-433, 93-434, 93-435, 93-436, 93-437, 93-438, 93-439, 93-440, 93-441, 93-442, 93-443,.93-444, 93-445, 93-446, 93-447, 93-448, 93-449, 93-450, 93-451, 93-452, 93-453, 93-454, April 20, 1993.

P 93-455, 93-456, 93-457, 93-458, 93-459, 93-460, 93-461, 93-462, 93-463, 93-464, 93-465, 93-466, 93-467, April 21, 1993.

P 93-468, 93-469, 93-470, 93-471, 93-472, 93-473, 93-474, 93-475, 93-476, April 24, 1993.

P 93-477, 93-478, 93-479, 93-480, 93-481, 93-482, 93-483, April 25, 1993.

P 93-484, 93-485, 93-486, 93-487, 93-488, 93-489, 93-490, 93-491, 93-492, April 26, 1993.

P 93-493, April 27, 1993.

Written comments by:

P 93-364, 93-365, 93-366, 93-367, March 5, 1993.

P 93-368, March 25, 1993.

P 93-369, 93-370, 93-371, 93-372, 93-373, 93-374, 93-375, 93-376, 93-377, 93-378, 93-379, 93-380, 93-381, March 5, 1993.

P 93-382, 93-383, March 6, 1993.

P 93-384, 93-385, 93-386, March 7, 1993.

P 93-387, March 8, 1993.

P 93-388, 93-389, 93-390, March 7, 1993.

P 93-391, 93-392, 93-393, 93-394, 93-395, 93-396, 93-397, 93-398, March 8, 1993.

P 93-399, 93-400, 93-401, 93-402, 93-403, 93-404, 93-405, 93-406, March 11, 1993.

P 93-407, 93-408, 93-409, 98--410, 93-411, 93-412, 93-413, 93-414, 93-415, March 12, 1993.

P 93-416, March 14, 1993.

P 93-417, March 13, 1993.

P 93-418, March 15, 1993.

P 93-419, March 13, 1993.

P 93-420, March 14, 1993.

P 93-421, March 19, 1993.

P 93-422, 93-423, 93-424, 93-425, 93-426, 93-427, 93-428, 93-429, 93-430, 93-431, 93-432, 93-433, 93-434, 93-435, 93-436, 93-437, 93-438, 93-439,93-440, 93-441, 93-442, 93-443, 93-444, 93-445, 193-446, 93-447, 93-448, 93-449, 93-450,93-451,93-452, 93-453, 93-454, March 21, 1993.

P 93-455, 93-456, 93-457, 93-458, 93-459, 93-460, 93-461, 93-462, 93-463, 93-464, 93-465, 93-466, 93-467, March 22, 1993.

P 93-468, 93-469, 93-470, 93-471, 93-472, 93-473, 93-474, 93-475, 93-476, March 25, 1993.11P 93-477, 93-478, 93-479, 93-480, 93-481, 93-482, 93-483, March 26, 1993.

P 93-484, 93-485, 93-486, 93-487, 93-488, 93-489, 93-490, 93-491, 93-492, March 27, 1993.

P 93-493, March 28, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS-51815]" and the specific number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460 (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), 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: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93-364

Importer. Confidential.

Chemical. (G) Poly epoxy polyol.

Use/Import. (G) Coatings. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Mutagenicity: negative.

P 93-365

Manufacturer. Eastman Chemical Progress.

Chemical. (S) Propene 1-butene prepolymer; 2,5-furandione; TiC1 4 MgC1 4; A1 (C2H5)3; (t-C4H9) 202.

Use/Production. (S) Adhesives, hot-melt. Prod. range: Confidential.

P 93-366

Manufacturer. Eastman Chemical Program.

Chemical. (S) Propene; 1-Hexene; prepolymer 2,5-furandione; TiC14,MgC12; A1 (C2H5)3 (t-C4H9)202.

Use/Production. (S) Adhesives, hot-melt. Prod. range: Confidential.

P 93-367

Manufacturer. Eastman Chemical Program.

Chemical. (S) Propene;1-butene ethene 2,5-furandione;prepolymer TiC14 MgC1 2; A1(C2H5)3;(t-C4H9)2O2.

Use/Production. (S) Adhesives, hot-melt. Prod. range: Confidential.

P 93-368

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Nylon salt.

Use/Production. (G) Polyamide intermediate; closed nondispersive use. Prod. range: Confidential.

P 93-369

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Polyether ketone.

Use/Production. (G) Open, nondispersive uses. Prod. range: Confidential.

P 93-370

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Polyether ketone.

Use/Production. (G) Open, nondispersive uses. Prod. range: Confidential.

P 93-371

Importer. Ciba-Geigy Corporation.

Chemical. (G) Epoxy resin, reaction products with acrylic acid.

Use/Import. (S) Solder mask matting agent for printed wiring board production. Import range: Confidential.

P 93-372

Importer. Ciba-Geigy Corporation.

Chemical. (G) Epoxy resin, reaction products with 4,4'-(1-methylethylidene)bis(2,6-dibromophenol acrylic acid.

Use/Import. (S) Solder mask resin and matting agent for printed wiring board production. Import range: Confidential.

P 93-373

Importer. Ciba-Geigy Corporation.

Chemical. (G) Epoxy resin, reaction products with 4,4'-(1-methylethylidene)bis (2,6-dibromophenol acrylic acid.

Use/Import. (S) Solder mask resin and matting agent for printed wiring board production. Import range: Confidential.

P 93-374

Importer. Ciba-Geigy Corporation.

Chemical. (G) Substituted benzotriazole derivative.

Use/Import. (S) Intermediate to manufacture. Import range: Condifidential.

P 93-375

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Substituted benzotriazole derivative.

Use/Production. (S) Intermediate to manufacture. Prod. range: Confidential.

P 93-376

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Substituted benzotriazole derivative.

Use/Production. (S) UV Light stabilizer for coatings, primarily automotive coatings. Prod. range: Confidential.

P 93-377

Manufacturer. Pi-Tech Inc.

Chemical. (S) Titanium IV tetrakis tridecanolate.

Use/Production. (S) Chemical imtermediate. Prod. range: Confidential.

P 93-378

Manufacturer. Pi-Tech Inc.

Chemical. (S) Zirconium IV tetrakis tridecanolato.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93-379

Manufacturer. Pi-Tech Inc.

Chemical. (S) Titanium IV tetrakis ethoxylated butanolato.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93-380

Manufacturer. Pi-Tech Inc.

Chemical. (S) Zirconium IV tetrakis ethoxylated butanolato.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93-381

Manufacturer. Confidential.

Chemical. (G) Subnstituted alkane aniline.

Use/Production. (G) Commercial and consumer contained use in an article. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat).

P 93-382

Manufacturer. Confidential.

Chemical. (G) Sulfo substituted heterocyclic derivative.

Use/Production. (G) Commercial and consumer contained use in. Prod. range: Confidential.

P 93-383

Importer. Confidential.

Chemical. (G) Polyester polyurethane aqueous disperson.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 93-384

Importer. American Cyanmid Company.

Chemical. (S) 2,4,4-trimethylphentylphosphine.

Use/Import. (G) Chemical intermediate nondispersive. Import range: Confidential.

P 93-385

Manufacturer. Confidential.

Chemical. (G) Complex epoxy resin/amine.

Use/Production. (S) Crosslinking agent for epoxy type adhesives. Prod. range: Confidential.

P 93-386

Manufacturer. Amoco Chemical Company.

Chemical. (G) Rubber modified polyamide.

Use/Production. (S) Engineering polymer for use in the manufacture of articles. Prod. range: Confidential

P 93-387

Importer. Ruetgers.

Chemical. (G) Epoxydized polyacrylamine.

Use/Import. (S) Hardner for epoxy resin. Import range: 5,000–15,000 kg/yr.

P 93-388

Importer. Ciba-Geigy Corporation.

Chemical. (G) Cyclohexane, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethyl-homopolymer, acrylate blocked.

Use/Import. (S) Resin component for solder mask for production of printed wiring boards. Import range: Confidential.

P 93-389

Importer. Ciba-Geigy Corporation.

Chemical. (S) Reaction products of acrylate ester with 1,3,5-tris(6-isocyanatohexyl)-1,3,5-triazine-2,4,6(*1H,3H,5H*)-trione.

Use/Import. (S) Resin component for solder mask for production of printed wiring boards. Import range: Confidential.

P 93-390

Importer. Ciba-Geigy Corporation.

Chemical. (G) Reaction products of acrylate ester with 1,3,5-tris(6-isocyanatohexyl)-1,3,5-triazine-2,4,6(*1H,3H,5H*)-trione.

Use/Import. (S) Resin component for solder mask for production of printed wiring boards. Import range: Confidential.

P 93-391

Importer. Ruetgers.

Chemical. (G) Polyfunctional epoxy resin.

Use/Import. (S) Epoxy resin. Import range: 5,000–15,000 kg/yr.

P 93-392

Importer. Ruetgers.

Chemical. (G) Epoxy resin of epoxydized bisphenol-*A*-novolac.

Use/Import. (S) Epoxy resin. Import range: 5,000–15,000 kg/yr.

P 93-393

Importer. Ruetgers.

Chemical. (G) Acrylated epoxy resin, solution methoxypropylacetate.

Use/Import. (S) Epoxy resin. Import range: 5,000–15,000 kg/yr.

P 93-394

Importer. Ruetgers.

Chemical. (G) *N*-Substitutued diaminodiphenylmethane.

Use/Import. (S) Hardener for epoxy resin. Import range: 5,000–15,000 kg/yr.

P 93–395

Importer. Confidential.
Chemical. (G) Alcohol propoxylate.
Use/Import. (S) Gasoline additive. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: strong species (rtabbit). Skin irritation: strong species (rabbit). Mutagenicity: negative.

P 93–396

Manufacturer. H.B. Fuller Company.
Chemical. (G) Acid modified polyether prepolymer.
Use/Production. (S) Prepolymer Prod. range: Confidential.

P 93–397

Manufacturer. Confidential.
Chemical. (G) 2-Methyl-2-propenoic acid, copolymer.
Use/Production. (S) Boiler and cooling water treatment compound. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (rat). Static acute toxicity: LC50 96h 19,524 species (pimephales prameling). Mutagenicity: negative.

P 93–398

Manufacturer. H.B. Fuller Company.
Chemical. (G) Polyurethane.
Use/Production. (S) Adhesive. Prod. range: 53,000–320,000.

P 93–399

Manufacturer. Confidential.
Chemical. (G) polyurethane acrylate.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 93–400

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyacrylate polymethacrylate.
Use/Production. (G) Component of spray applied coating. Prod. range: 90,000–540,000 kg/yr.

P 93–401

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyacrylate polymethacrylate.
Use/Production. (G) Component of spray applied coating. Prod. range: 90,000–540,000 kg/yr.

P 93–402

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyacrylate polymethacrylate.
Use/Production. (G) Component of spray applied coating. Prod. range: 90,000–540,000 kg/yr.

P 93–403

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyacrylate polymethacrylate.
Use/Production. (G) Component of spray applied coating. Prod. range: 90,000–540,000.

P 93–404

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyacrylate polymethacrylate.
Use/Production. (G) Component of spray applied coating. Prod. range: 90,000–540,000.

P 93–405

Manufacturer. Confidential.
Chemical. (G) Polyurethane polyacrylate polymethacrylats.
Use/Production. (G) Component of spray applied coating. Prod. range: 90,000–540,000 kg/yr.

P 93–406

Importer. Zeneca.
Chemical. (S) 2,3,5,6-Tetrachloro-4-(methylsulphonyl) pyridine.
Use/Import. (G) Preservative. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: strong species (rabbit). Mutagenicity: negative.Static acute toxicity: EC50 48 h4.23 mg/l species (daphnia magna). Skin irritation: strong species (rabbit). Skin sensitization: positive species (guinea pig).

P 93–407

Manufacturer. Anitec, Division of Internation Paper.
Chemical. (G) 2-Substituted benzothiazole.
Use/Production. (S) Intermediate in synethesis of photographic sensitizing dye. Prod. range: 25–50 kg/yr.

P 93–408

Manufacturer. Anitec, Division of International Paper.
Chemical. (G) 3-(3-Substituted)-2-((3-substituted)thio)-benzothiazolium hydroxide, inner salt.
Use/Production. (S) Intermediate in synethesis of photographic sensitizing dye. Prod. range: 25–50 kg/yr.

P 93–409

Manufacturer. Allied-Signal Inc.
Chemical. (S) Ethane, pentaluoro
Use/Production. (G) Dispersive use. Prod. range: Confidential.

P 93–410

Importer. Ciba-Geigy Corporation.
Chemical. (G) Substituted azo naphthalenedisulfonic acid.
Use/Import. (S) Direct dye for paper and cellulosic products. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit).Skin irritation: negligible species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 93–411

Manufacturer. Confidential.
Chemical. (G) Methacrylate/acrylate/styrene copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–412

Manufacturer. Confidential.
Chemical. (G) Methacrylate/acrylate/styrene copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–413

Manufacturer. Confidential.
Chemical. (G) Methacrylate/acrylate/styrene copolymer.
Use/Production. (G) Open, nondispersive uise. Prod. range: Confidential.

P 93–414

Manufacturer. Confidential.
Chemical. (G) Methacrylate/acrylate/styrene copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–415

Manufacturer. Confidential.
Chemical. (G) Methacrylate/acrylate/styrene copolymer.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–416

Manufacturer. Rohm Tech Inc.
Chemical. (G) Aliphatic polyurethane.
Use/Production. (S) Base or top coating material for leather finishing, surface coating. Prod. range: Confidential.

P 93–417

Importer. Confidential.
Chemical. (G) Reaction azo dyestuff.
Use/Import. (S) Textile dye for fabric and yarn. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rats). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rats). Eye irritation: none species (rabbit). Mutagenicity: negative. Skin irritation: negligible species (rabbit).

P 93–418

Manufacturer. FMC Corporation.

Chemical. (S) Hydroxyphononoacetic acid, nonoethanolamine salt.

Use/Production. (S) Corrosion control agent for cooling system. Prod. range: Confidential.

P 93–419

Importer. Confidential.

Chemical. (G) Heterocyclic monoazo dye.

Use/Import. (G) Dyeing of polyester fibers. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,200 mg/kg species (rat). Static acute toxicity: LC50 3399≤100 mg/l species (zebra fish 3).

P 93–420

Manufacturer. Moore Business Forms, Inc.

Chemical. (G) Polyamide.

Use/Production. (G) Carbonless paper coating. Prod. range: 400,000–1,000,000 kg/yr.

P 93–421

Manufacturer. Allied Signal.

Chemical. (S) Ethane 1,1,1-trifluoro.

Use/Production. (G) Dispersive. Prod. range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 93–422

Manufacturer. International Specialty Products.

Chemical. (S) 4-Propenyloxymethyl 1.3-2-dioxolanone.

Use/Production. (S) Reaction diluent in radiation curing. Prod. range: Confiddential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–423

Importer. Confidential.

Chemical. (G) Macrocyclico lactone.

Use/Import. (G) Ingredient for use in consumer products; Highly dispersive use. Import range: 50–300 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit).Skin irritation: moderate species (rabbit). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 93–424

Manufacturer. Worthen Industries Inc.

Chemical. (G) Adipic acid polymer with 1,4-butanediol, 1,6-hexane diol, neopentyl glycol,isophthalic acid, polymerwith 1,6-hexane diol, neopentyl glycol, glycol of 1,3-butadiene homopolymer, alkyl amine, 2,4,4-trimethyl hexamethylene diisocyanate, 3,5,5-trimethyl,3-isocyanatomethyl cyclohexyl isocyanate and propanoic acid, 3-hydroxy-2- (hydroxy methyl) 2-methyl,adduct with N,N' diamine adipamide.

Use/Production. (G) Adhesive. Prod. range: Confidential.

P 93–425

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst premix precursor.

Use/Production. (S) Olefin catalyst premix precursor. Prod. range: Confidential.

P 93–426

Importer. Unichema North America.

Chemical. (G) Polyol ester of short chain carboxylic acids.

Use/Import. (G) Dispersive use and open nondispersive use. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 93–427

Manufacturer. Courtaulds Aerospace, Inc.

Chemical. (S) Ethanethiol, 2,2'-(1,2-(1,2ethanediylbis(oxy); bis-;formic acid, ethylester.

Use/Production. (S) Additive for adhesives and sealants. Prod. range: 10,000–20,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 93–428

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Substituted monoazo indole.

Use/Production. (S) Site-limited intermediate used in the manufacture of liquid dye and powder dye. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rat). Skin irritation: negligible species (rabbit).Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 93–429

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–430

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–431

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–432

Manufacturer. The Dow ChemicaL Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–433

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–434

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–435

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–436

Manufacturer. The Dow Chemical Company.

Chemical. (G) Ziegler catalyst precursor.

Use/Production. (G) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–437

Manufacturer. E.I. Du Pont De Nemours Company, Inc.

Chemical. (G) Polysubstituted methacrylic copolymer latex.

Use/Production. (G) Fabric finish - open, nondispersive use. Prod. range: Confidential.

P 93–438

Importer. Confidential.

Chemical. (G) Terminally blocked polyglycol ether.

Use/Import. (S) Technical, cleaning (bottle, metal surfaces) cleaning agent for dishwashers. Import range: Confidential.

P 93–439

Manufacturer. U.S. Polymers Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phathalic anhydride, dimer acid and petroleum by product.

Use/Production. (G) Resins are made into paints for industrial enamels & primners. Prod. range: Confidential.

P 93–440

Manufacturer. U.S. Polymers Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phathalic acid, dimer acid, tall oil fatty acid, petroleum by product.

Use/Production. (G) Resins are made into paints for industrial enamels & primners. Prod. range: Confidential.

P 93–441

Manufacturer. U.S. Polymers, Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol. diethylene glycol, phthalic anhydride.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–442

Manufacturer. U.S. Polymers, Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phthalic anhydride.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–443

Manufacturer. U.S. Polymers, Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phthalic anhydride, dimer acid.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–444

Manufacturer. U.S. Polymers, Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phthalic anhydride, dimer acid..

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–445

Manufacturer. U.S. Polymers, Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phthalic anhydride, dimer acid.

Use/Production. (G) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–446

Manufacturer. U.S. Polymers, Inc.

Chemical. (G) Reaction product of branched aliphatic alcohol, diethylene glycol, phthalic anhydride, dimer acid.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–447

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyethylene glycol dibutyl ether.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–448

Manufacturer. The Dow Chemical Company.

Chemical. (G) Polyethylene glycol dibutyl ether.

Use/Production. (S) Olefin polymer catalyst precursor. Prod. range: Confidential.

P 93–449

Importer. Hoechst Celanese Corporation.

Chemical. (G) Polyethylene glycol dibutyl) ether.

Use/Import. (S) Volatile organic chemicals absorption recovery. Import range: 25,000–50,000 kg/yr.

P 93–450

Importer. Hoechst Celanese Corporation.

Chemical. (G) Alkyl glycol.

Use/Import. (S) Volatile organic chemicals absorption recovery. Import range: 25,000–50,000 kg/yr.

P 93–451

Importer. Hoechst Celanese Corporation.

Chemical. (G) Alkyl glycol.

Use/Import. (S) Volatile organic chemicals absorption recovery. Import range: 25,000–50,000 kg/yr.

P 93–452

Importer. Hoechst Celanese Corporation.

Chemical. (G) Alkyl glycol.

Use/Import. (S) Volatile organic chemicals absorption recovery. Import range: 25,000–50,000 kg/yr.

P 93–453

Manufacturer. Pi-Tech Inc.

Chemical. (S) Titanium IV tetrakis tridecanolato, adduct 2 moles of tris tridecyl phosphate.

Use/Production. (S) Process aid/ surfactant. Prod. range: Confidential.

P 93–454

Manufacturer. Pi-Tech, Inc.

Chemical. (S) Zirconium IV Tetrakis tridecanolato, adduct 2 moles of tris tridecyl phosphate.

Use/Production. (S) Process aid/ surfactant. Prod. range: Confidential.

P 93–455

Manufacturer. Texaco Chemical Co.

Chemical. (G) Alkylphenyl polyetheramidoalkanolamine.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5.0 g/kg species (rat). Acute dermal toxicity: LD50 > 3.0 g/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 93–456

Manufacturer. Confidential.

Chemical. (S) 2-Propenoic acid, 2-methyl-, 3-(trimethoxysilyl) propyl ester hydrolysate.

Use/Production. (G) Closed, nondispersive use, site limited. Prod. range: Confidential.

P 93–457

Manufacturer. The Minerals Laboratory.

Chemical. (S) Tungstate (W12(OH)2O386-), hexalithium.

Use/Production. (S) Minerals separations by solution/ suspension density. Prod. range: 5,000–10,000 kg/ yr.

P 93–458

Importer. Basf Corporation.

Chemical. (G) Alkanelate of alkanelated polymer.

Use/Production. (G) Thickening agent for textile printing. Prod. range: Confidential.

P 93–459

Manufacturer. Eastman Kodak Comany.

Chemical. (G) Reaction product od alicyclic diol and symmetricalaromatic isocyanate.

Use/Production. (G) Chemical intermediate. Prod. range: 80–1,200 kg/ yr.

P 93–460

Manufacturer. Confidential.

Chemical. (G) Polyamide.

Use/Production. (G) Isolated intermediate. Prod. range: Confidential.

P 93–461

Manufacturer. Confidential.

Chemical. (G) Polyethanolamine diester with fatty acids dialkyl sulfate salts.

Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 93–462

Manufacturer. Confidential.

Chemical. (G) Polyethanolamine diester with fatty acids dialkyl sulfate salts.

Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 93–463

Manufacturer. Confidential.

Chemical. (G) Polyethaneolamine diester with fatty acids dialkylsulfate salts.

Use/Production. (G) Softening of cellulose. Prod. range: Confidential.

P 93–464

Manufacturer. Texaco Chemical Co.

Chemical. (G) Alkylphenylpolyetheramine.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2.13 g/kg species (rat). Acute dermal toxicity: LD50 > 3.0 g/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: moderate species (rabbit).

P 93–465

Manufacturer. Texaco Chemical Co.

Chemical. (G) Alkyl morpholinone.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2.13 g/kg species (rat). Acute dermal toxicity: LD50 > 3.0 g/kg species (rabbit). Eye irritation: strong species (rabbit). Skin irritation: moderate species (rabbit).

P 93–466

Manufacturer. Confidential.

Chemical. (G) Benzenemethanamine, *N*-((((3-((((((bis (phenylmethyl) amino) substituted) carboxyl) amino)methyl)-3,5,5-trimethylcyclohexyl)amino) carbonyl) substituted)-*N*-. (phenylmethyl)-.

Use/Production. (S) Antioxidant open, nondispersive use. Prod. range: Confidential.

P 93–467

Manufacturer. Confidential.

Chemical. (G) Polyaminoamide-epichlorohydrin resin.

Use/Production. (G) Papermaking aid. Prod. range: Confidential.

P 93–468

Importer. Ciba-Geigy Corporation.

Chemical. (G) Azo metal complex dye.

Use/Import. (G) Textile dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 93–469

Importer. Ciba-Geigy Corporation.

Chemical. (G) Azo metal complex dye.

Use/Import. (G) Textile dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 4,425 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: positive.

P 93–470

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) Bis(hydrogenated tallow alkyl)amines, oxidized.

Use/Production. (S) Processing stabilizer for poly-propylen, primarily fiber. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rat). Static acute toxicity: LC50 96h76 ppm species (zebra fish). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

P 93–471

Manufacturer. Confidential.

Chemical. (G) Modified polyester urethane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 93–472

Manufacturer. Confidential.

Chemical. (G) Modified polyester urethane.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 93–473

Manufacturer. Confidential.

Chemical. (S) Tall oil fatty acid modified dicyclopentadiene -styrene polymer with acrylic acid and magnesium hyroxide acid and magnesium hydroxide and soya oil.

Use/Production. (S) Printing ink (gravure). Prod. range: 5,000,000–10,000,000 kg/yr.

P 93–474

Manufacturer. Confidential.

Chemical. (G) Epoxy amine adduct.

Use/Production. (G) Crosslinking agent for epoxy compounds. Prod. range: Confidential.

P 93–475

Manufacturer. Westvaco Corporation.

Chemical. (G) Lignin, kraft, reaction product with tall oil fatty acids, C_{21} dicarboxylic acid and ethyleneamines.

Use/Production. (S) Asphalt emulsifier. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2.2 g/kg species (rat). Static acute toxicity: EC50 48H 10.8 species (daphnia magna). Eye irritation: strong species (rabbit). Skin irritation: strong species (rabbit).

P 93–476

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) Nitrogen containing heterocyclic ester.

Use/Production. (G) Chemical processing aid. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Mutagenicity: negative.

P 93–477

Manufacturer. Pi-Tech, Inc.

Chemical. (S) Titanium IV bis(ethoxylated) butanolato, cyclo (bis tridecyl) diphospato.

Use/Production. (S) Process aid for PVC extrusion. Prod. range: Confidential.

P 93–478

Manufacturer. Confidential.

Chemical. (G) Aromatic copolyamic acid.

Use/Production. (G) Adhesive-closed system. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: slight species (rabbit).

P 93–479

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–480

Importer. High Pont Chemical Corporation.

Chemical. (S) Polyloxy-1,2-ethanediyl)-alpha-(carboxymethyl)-, omega,- (9-octadecenyloxy)-.

Use/Import. (S) Emulsifier for industrial applications (metal working industrial cleaners, etc.). Import range: 50,000–200,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat).

P 93–481

Manufacturer. Confidential.

Chemical. (G) Polyurethane prepolymer.

Use/Production. (G) This is a destructive use polyurethane intermediate. Prod. range: Confidential.

P 93–482

Importer. Confidential.

Chemical. (G) Polyurethane.

Use/Import. (G) Open, nondispersive use as a plastics additive. Import range: Confidential.

P 93–483

Importer. Confidential.

Chemical. (S) 1,4-bis(3-Hydroxy-4-benzoylphenoxy) butane.

Use/Import. (G) Open, nondispersive use in fibers. Import range: Confidential.

P 93-484

Importer. Confidential.

Chemical. (G) Cyano ethyl sorbitol.

Use/Import. (S) Binder for inorganic powder. Import range: Confidential.

P 93-485

Manufacturer. Stepan Company.

Chemical. (G) Alkylaryl sulfonic acid.

Use/Production. (G) Intermediate for surfactant. Prod. range: Confidential.

P 93-486

Manufacturer. Stepan Company.

Chemical. (G) Alkylarylsulfonic acid, magnesium salt.

Use/Production. (G) Surfactant for oil based formulations. Prod. range: Confidential.

P 93-487

Manufacturer. Stepan Company.

Chemical. (G) Alkylarylsulfonic acid, barium salt.

Use/Production. (S) Surfactant for oil based formulations. Prod. range: Confidential.

P 93-488

Manufacturer. Stepan Company.

Chemical. (G) Alkylarylsulfonic acid, calcuim salt.

Use/Production. (G) Surfactant for oil based formulations. Prod. range: Confidential.

P 93-489

Manufacturer. Stepan Company.

Chemical. (G) Alkylarylsulfonic acid, potassium salt.

Use/Production. (G) Surfactant for oil based formulations. Prod. range: Confidential.

P 93-490

Manufacturer. Stepan Company.

Chemical. (G) Alkylarylsulfonic acid, sodium salt.

Use/Production. (G) Surfactant for oil based formulations. Prod. range: Confidential.

P 93-491

Importer. International Specialty Chemicals, Inc.

Chemical. (S) 2.3-Dimethyl-1-butene.

Use/Import. (S) Synthetic intermediate in the preparation of musk fragrances. Import range: 1,000,000–1,350,000 Kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2 ml/kg species (rat). Inhalation toxicity: LC50 6054 ppm species (rat). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 93-492

Manufacturer. Confidential.

Chemical. (G) Mixture of reaction products of diphenylmethanediisocyanate polymer; oxirane, methyl-. polymer with oxirane; and alkanolamine with methacrylate end groups.

Use/Production. (S) Graphic arts printing plates. Prod. range: Confidential.

P 93-493

Importer. Confidential.

Chemical. (G) Molybdenum alkylamine complex.

Use/Import. (G) Additive for a lubricant. Import range: Confidential.

Dated: March 5, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-6517 Filed 3-19-93; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Celebrity Cruises Inc. and Fifth Transoceanic Shipping Co. Ltd., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Amerikanis

Celebrity Cruises Inc. and Ruza Cruising Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: The Azur

Celebrity Cruises Inc. and Ajax Navigation Corp., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Britanis

Celebrity Cruises Inc. and Fantasia Cruising Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Horizon

Celebrity Cruises Inc. and Fourth Transoceanic Shipping Co. Ltd., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Meridian

Celebrity Cruises Inc. and Zenith Shipping Corporation, 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Zenith

Dated: March 16, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93-6409 Filed 3-19-93; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Celebrity Cruises Inc. and Fifth Transoceanic Shipping Co. Ltd., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Amerikanis

Celebrity Cruises Inc. and Ruza Cruising Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: The Azur

Celebrity Cruises Inc. and Ajax Navigation Corp., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Britanis

Celebrity Cruises Inc. and Fantasia Cruising Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Horizon

Celebrity Cruises Inc. and Fourth Transoceanic Shipping Co. Ltd., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Meridian

Celebrity Cruises Inc. and Zenith Shipping Corporation, 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: Zenith

Dated: March 16, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93-6410 Filed 3-19-93; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Gulf Coast Bank Holding Company, 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 April 15, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Gulf Coast Bank Holding Company, Inc., New Orleans, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Gulf Coast Bank & Trust Company, New Orleans, Louisiana.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Quad City Holdings, Inc., Bettendorf, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Quad City Bank and Trust Company, Bettendorf, Iowa, a *de novo* bank.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Trust Financial Corporation, Clinton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Clinton, Clinton, Kentucky, which will subsequently purchase certain assets and assume certain liabilities of the Hickman, Fulton, and Clinton, Kentucky branch offices of First Trust Federal Savings and Loan Association, Knoxville, Tennessee, pursuant to section 5(d)(3) of the Federal Deposit Insurance Act.

Board of Governors of the Federal Reserve System, March 16, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6470 Filed 3–19–93; 8:45 am]

BILLING CODE 6210–01–F

Stephen J. Lyon, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 12, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Stephen J. Lyon, legal representative of the George J. Lyon estate, to acquire 38.80 percent of the voting shares of Minowa Bancshares, Inc., Decorah, Iowa, and thereby indirectly acquire Decorah State Bank, Decorah, Iowa, and First National Bank of Mabel, Mabel, Minnesota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Ernest Hulon Bay, Anderson, Texas; to acquire an additional 2.36 percent of the voting shares of First Anderson Bancshares, Inc., Anderson, Texas, for a total of 22.09 percent, and thereby indirectly acquire The First National Bank, Anderson, Texas.

Board of Governors of the Federal Reserve System, March 16, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6471 Filed 3–19–93; 8:45 am]

BILLING CODE 6210–01–F

Olmsted Bancorporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Olmsted Bancorporation, Inc., Byron, Minnesota; to engage *de novo* in selling primarily hail insurance but may also sell multi-peril, accident, health, and life insurance pursuant to §

225.25(b)(8)(iii)(A) of the Board's Regulation Y. These activities will be conducted in Byron, Minnesota.

Board of Governors of the Federal Reserve System, March 16, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-6469 Filed 3-19-93; 8:45 am]

BILLING CODE 6210-01-F

RNYC Holdings; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

This notice corrects a previous notice (FR Doc. 93-5558) published at page 13494 of the issue for Thursday, March 11, 1993.

Under the Federal Reserve Bank of New York heading, the entry for RNYC Holdings is revised to read as follows:

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Saban S.A., Panama City, Panama; to acquire 100 percent of the voting shares of RNYC Holdings, Marina Bay, Gibraltar, and Republic New York Corporation, New York, New York, and thereby indirectly acquire Republic National Bank of New York, New York, New York, and The Manhattan Savings Bank, New York, New York. In connection with this application, RNYC Holdings, Marina Bay, Gibraltar, has applied to become a bank holding company by acquiring 27.5 percent of the voting shares of Republic New York Corporation, New York, New York, and thereby indirectly acquire Republic National Bank of New York, New York, New York, and The Manhattan Savings Bank, New York, New York.

In connection with this application, RNYC Holdings Limited, Marina Bay, Gibraltar, has applied to engage through its subsidiaries, Republic New York Corporation, New York, New York; Republic Clearing Corporation, New York, New York, in futures commission merchant activities with respect to foreign exchange, government securities, certificates of deposits, other money market instrument, and bullion contracts pursuant to § 225.25(b)(18) of the Board's Regulation Y; Republic Factors Corporation, New York, New York, in factoring, including old line maturity factoring of accounts receivable (purchase of accounts receivable) and lending against accounts receivable collateral, pursuant to § 225.25(b)(1)(v) of the Board's Regulation Y; Republic Information and Communications Services, Inc., New York, New York, in providing processing, systems, programming, communications, technical support and related services to RNYC Group members, and to provide equipment and technical support regarding such equipment to non-RNYC Group members for disaster recovery actions by them, pursuant to §§ 225.22(a)(2)(iii) and 225.25(b)(7) of the Board's Regulation Y; Republic New York Trust Company of Florida, National Association, North Miami, Florida, limited to trust and other fiduciary services, pursuant to § 225.25(b)(3) of the Board's Regulation Y; Republic New York Mortgage Corporation, Pompano Beach, Florida, in originating and servicing mortgage loans for members of the RNYC Group, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y; Republic New York Securities Corporation, New York, New York, in (1) providing investment advisory services and financial advisory services, including advice regarding mergers, acquisitions, and capital raising proposals by institutional customers, pursuant to §§ 225.25(b)(4) and (15) of the Board's Regulation Y; (2) providing securities brokerage services on an individual basis as well as in combination with investment advisory services (full-service brokerage), including exercising limited investment discretion on behalf of institutional customers, (*Saban, S.A.*, 78 Federal Reserve Bulletin 955 (1992)); (3) purchasing and selling all types of securities on the order of institutional and retail customers as a "riskless principal," *Saban, S.A.*, 78 Federal Reserve Bulletin 955 (1992)); and (4) engaging in securities credit activities under the Board's Regulation T, pursuant to § 225.25(b)(15) of the Board's Regulation Y, including acting as a "conduit" or "intermediary" in securities borrowing and lending, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 16, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-6472 Filed 3-19-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0438]

Worldwide Biologicals, Inc.; Opportunity for Hearing on Intent to Revoke U.S. License No. 832-003

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for a hearing on a proposal to revoke the establishment license (U.S. License No. 832-003) and the product license issued to Worldwide Biologicals, Inc., for the manufacture of Source Plasma. The proposed revocation is based on significant noncompliance with certain provisions of the biologics regulations specified in this document.

DATES: The firm may submit a written request for a hearing to the Dockets Management Branch by April 21, 1993, and any data justifying a hearing by May 21, 1993. Other interested persons may submit written comments on the proposed revocation by May 21, 1993.

ADDRESSES: Submit written requests for a hearing, any data justifying a hearing, and any written comments on the proposed revocation to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Stephen Ripley, Center for Biologics Evaluation and Research (HFM-635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-295-9074.

SUPPLEMENTARY INFORMATION: FDA is proposing to revoke the establishment license (U.S. License No. 832-003) and the product license issued to Worldwide Biologicals, Inc., 508-A Owen Dr., Fayetteville, NC 28304, for the manufacture of Source Plasma. Other locations under the Worldwide Biologicals, Inc., license are not affected by this proposed revocation. The mailing address for Worldwide Biologicals, Inc., is 1085 Ohio Pike, Cincinnati, OH 45245. The proposed revocation is based on inspections of the firm which documented significant deviations from the Federal regulations in 21 CFR parts 600, 601, 606, 610, and 640 and the applicable standards in its license.

FDA conducted an inspection of Worldwide Biologicals, Inc., located at Fayetteville, NC, from June 24 through

July 2, 1991. FDA also conducted an inspection of Worldwide Biologicals, Inc., located at 1085 Ohio Pike, Cincinnati, OH, from July 18 through August 26, 1991. This Cincinnati location was the site of the testing laboratory approved to perform all required testing for the Fayetteville facility. These inspections documented numerous significant deviations from the applicable Federal regulations. Deviations identified during the inspection of the Fayetteville location included, but were not limited to, the following: (1) Failure to assure that each donation of blood to be used in preparing a biological product was tested for the antibody to human immunodeficiency virus type 1 (HIV–1), or hepatitis B surface antigen; (2) failure to assure that donor serum protein electrophoresis patterns were reviewed by a qualified physician within 21 days after the sample was drawn to determine if the donor may continue in the program; (3) failure to adequately explain acquired immunodeficiency syndrome (AIDS) educational material to donors; (4) failure to assure that the skin at the site of the phlebotomy was prepared by a method that gave maximum assurance of a sterile container of blood; (5) failure to maintain records concurrently, in that, donor record files frequently lacked important information, and refrigerator/freezer recorder charts contained unexplained overlaps or double tracings; and (6) failure to assure that equipment was standardized and calibrated on a regularly scheduled basis. Deviations identified at the testing laboratory included, but were not limited to, the following: (1) Failure to assure that personnel have the capabilities commensurate with their assigned functions, a thorough understanding of the manufacturing operations which they perform, the necessary training and experience relating to individual products, and adequate information concerning the application of the pertinent provisions of 21 CFR parts 600 through 640 to their respective functions, in that, personnel did not establish scientifically sound and appropriate test procedures to assure that blood components are safe, pure, potent and effective, did not monitor the reliability, accuracy, precision and performance of laboratory test procedures and did not use adequate test specimen identification procedures; (2) failure to maintain records of calibration and standardization of laboratory instruments; (3) failure to maintain refrigerator temperature records for the storage of laboratory test kits and donor specimens; (4) failure to maintain blood processing records, including results and interpretation of all tests and retests; (5) failure to maintain records concurrently with the performance of each significant step in the processing of each unit of blood and blood component so that all steps can be clearly traced; (6) failure to maintain adequate written standard operating procedures for all steps to be followed in the processing of blood components; and, (7) the absence of supervisory review of test results prior to their release.

FDA determined that the deviations from Federal regulations constituted a danger to public health. In a letter to Worldwide Biologicals, Inc., dated October 1, 1991, FDA suspended the firm's licenses. The suspension was based on the serious deviations documented during the above-referenced inspections. In a letter to FDA dated October 2, 1991, the firm requested that revocation of the licenses be held in abeyance pending resolution of the matters involved.

In letters to FDA dated October 21, 1991, and November 15, 1991, Worldwide Biologicals, Inc., addressed the inspectional findings outlined in FDA's October 1, 1991, letter. In a letter to Worldwide Biologicals, Inc., dated November 29, 1991, FDA indicated that the firm had responded satisfactorily to FDA's October 1, 1991, letter and permitted the firm to resume collecting and storing Source Plasma on a limited basis for the purpose of reinspection of the firm. It was emphasized that this was not a release from the suspension and that the prepared Source Plasma may not be shipped until written permission from FDA was received.

At an inspection completed on January 27, 1992, it was noted that only one individual was currently employed at the firm. A letter from the firm dated January 31, 1992, failed to provide assurance that one employee could simultaneously manage the facility and provide adequate donor safety. In a letter to Worldwide Biologicals, Inc., dated February 5, 1992, FDA notified the firm that approval to operate under limited operation was rescinded based on the firm's operating with an inadequate number of employees. In a facsimile to FDA dated February 5, 1992, the firm indicated that a second employee was hired and included the employee's resume. In a letter to the firm dated February 6, 1992, FDA permitted the firm to resume collecting and storing Source Plasma under limited operation.

A letter to Worldwide Biologicals, Inc., dated April 17, 1992, evaluated the firm's February 6, 1992, responses to the most recent inspection of January 17 through January 27, 1992. FDA indicated that inspection of the firm found that even under limited operations, compliance with all applicable standards was not demonstrated. The corrections outlined in responses by the firm to the noted deviations were adequate except for a few items. Therefore, an expedited reinspection was scheduled.

In a letter to Worldwide Biologicals, Inc., dated May 15, 1992, FDA indicated that inspections conducted January 17 through January 27, 1992, and again on May 5 and 6, 1992, documented continuing noncompliance with applicable standards and regulations. Therefore, the approval to resume limited operations for the purpose of reinspection at the firm was rescinded. FDA indicated that the original request of October 2, 1991, that license revocation be held in abeyance, was under evaluation.

The May 5 and 6, 1992, inspection documented deviations which included, but were not limited to, the following: (1) Failure to assure that the skin at the site of the phlebotomy was prepared by a method that gave maximum assurance of a sterile container of blood; (2) failure to obtain the physicians's signed approval to perform plasmapheresis on repeat donors who had not returned at the time the 4-month sample was due to be collected and where it had been longer than 6 months since the last collected sample; (3) failure to process as new donors, repeat donors who were not evaluated for a total period exceeding 6 months; and, (4) failure to assure that personnel have capabilities that are commensurate with their assigned functions, a thorough understanding of the manufacturing operations which they perform, the necessary training and experience relating to individual products and adequate information concerning the application of the pertinent provisions of 21 CFR parts 600 through 640 to their respective functions, in that no documentation of training was available for an employee hired in February 1992. In a letter to the firm dated June 15, 1992, FDA denied the firm's original request that license revocation be held in abeyance, based on continued inspections of the firm which documented failure to adequately implement previously promised corrections and which gave no assurance that the proposed corrective action plan would be properly implemented to correct the recently noted deficiencies. In the same letter, FDA issued the firm notice of FDA's

intent to revoke U.S. License 832–003 and announced its intent to offer an opportunity for a hearing. In a facsimile dated June 24, 1992, the firm notified FDA of its intent to request a hearing concerning the proposed license revocation.

Accordingly, FDA is issuing a notice of an opportunity for a hearing pursuant to 21 CFR 12.21(b) on a proposal to revoke the licenses for Worldwide Biologicals, Inc.

FDA has placed copies of documents supporting the proposed license revocation on file with the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice. These documents include the following: The List of Observations (Form FDA–483) from the inspections of June 24 through July 2, 1991, January 17 through January 27, 1992, and May 5 and 6, 1992; FDA letters of October 1, and November 8 and 29, 1991, and February 5 and 6, April 17, May 15, and June 15 and 29, 1992; the firm's letters or facsimiles of October 2 and 21, November 15, and January 31, 1991, and February 5 and 6, March 24, May 8, and June 24, 1992. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Worldwide Biologicals, Inc., may submit a written request for a hearing to the Dockets Management Branch by April 21, 1993, and any data justifying a hearing must be submitted by May 21, 1993. Other interested persons may submit comments on the proposed license revocation to the Dockets Management Branch by May 21, 1993. The failure of a licensee to file a timely written request for a hearing constitutes an election by the licensee not to avail itself of the opportunity for a hearing concerning the proposed license revocation.

FDA procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, grant or denial of a hearing, and submission of data and information to justify a hearing on proposed revocation of a license are contained in 21 CFR parts 12 and 601. A request for a hearing may not rest upon mere allegations or denials but must set forth a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses submitted in support of the request for a hearing that there is no genuine and substantial issue of fact for resolution at a hearing, or if a request for a hearing is not made within the specified time, or with required format or required analyses, the Commissioner of Food and Drugs will deny the hearing request, making findings and conclusions that justify the denial.

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Such submissions, except for data and information prohibited from public disclosure under 21 CFR 10.20(j)(2)(i), 21 U.S.C. 331(j), or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351 (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 505, 701 (21 U.S.C. 321, 351, 352, 355, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.67).

Dated: March 10, 1993.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 93–6459 Filed 3–19–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1993:

Name: Advisory Committee on Infant Mortality.

Date & Time: April 16, 1993, 8:30 a.m.

Place: Stonehenge, room 615 F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary on the following: Department programs which are directed at reducing infant mortality and improving the health status of pregnant women and infants; how best to coordinate the variety of Federal, State, local and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start initiative and infant mortality objectives from *Healthy People: 2000: National Health Promotion and Disease Prevention Objectives*

Agenda: Topics that will be discussed include: PHS Interagency Committee on Infant Mortality analysis of FY 1994 budget; and completion of recommendations.

Anyone requiring information regarding the Committee should contact Mr. Ronald Carlson, Executive Secretary, Advisory Committee on Infant Mortality, Health Resources and Services Administration, room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2460.

Persons interested in attending any portion of the meeting should contact Ms. Kyungeun Carol Han, Public Health Analyst, Office of the Planning, Evaluation and Legislation, Health Resources and Services Administration, Telephone (301) 443–2204.

Agenda Items are subject to change as priorities dictate.

Dated: March 16, 1993.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 93–6460 Filed 3–19–93; 8:45 am]

BILLING CODE 4160–15–P

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

The following advisory committee meeting is announced:

Joint Meeting of the Anti-Infective Drugs and Dermatologic Drugs Advisory Committees

Date, time, and place. March 31, 1993, 8:30 a.m., Holiday Inn, Silver Spring Plaza, Plaza Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; Ermona B. McGoodwin or Mary Elizabeth Donahue, Center for Drug

Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committees. The Anti-Infective Drugs Advisory Committee reviews and evaluates data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders. The Dermatologic Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of dermatologic diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 26, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. There will be a joint meeting of the Anti-Infective Drugs Advisory Committee and the Dermatologic Drugs Advisory Committee to discuss new drug application (NDA) 20–013, Maxaquin® (lomefloxacin hydrochloride, G.D. Searle & Co.) and recent reports of phototoxicity thought to be associated with the use of lomefloxacin. The committees will also discuss a recent animal photocarcinogenicity study in which lomefloxacin appears to act as a dermal tumor promoter. The relevance of these findings to humans, various regulatory options regarding the drug product, and various information dissemination options will be discussed.

FDA is giving less than 15 days public notice of this joint Anti-Infective Drugs and Dermatologic Drugs Advisory Committee meeting because of the need to address the relevancy of these recent findings as soon as possible. The agency decided that it was in the public interest to hold this scientific discussion on March 31, 1993, even if there was not sufficient time for the customary 15-day public notice.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting. This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 16, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–6579 Filed 3–18–93; 11:30 am]

BILLING CODE 4160–01–F

National Institutes of Health

Division of Research Grants; Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications and Small Business Innovation Research Program Applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534, will furnish summaries of the meetings and rosters of panel members.

Meetings To Review Small Business Innovation Research Program Applications

Scientific Review Administrator: Dr. Peggy McCardle (301) 496–7640.

Date of Meeting: March 26, 1993.

Place of Meeting: Holiday Inn, Chevy Chase, MD.

Time of Meeting: 8:30 a.m.

Scientific Review Administrator: Dr. Teresa Levitin (301) 496–7025.

Date of Meeting: April 8, 1993.

Place of Meeting: Embassy Suites, Chevy Chase, MD.

Time of Meeting: 8:30 a.m.

This notice is being published less than 15 days prior to the meetings due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 16, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–6559 Filed 3–19–93; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–010–03–4320–10]

Meeting of the Worland District Grazing Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Worland District Grazing Advisory Board.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Worland District Grazing Advisory Board.

DATES: April 20, 1993, 10 a.m.

ADDRESSES: Bureau of Land Management, Worland District Conference Room, 101 South 23rd Street, Worland, Wyoming.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, District Manager, Worland District Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401–0119, (307) 347–9871.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Discussion of the Worland District Grazing Advisory Board Charter.
2. Election of a chairperson and a vice chairperson.
3. Animal Damage Control Decision and Appeal.
4. Review of current allotment management plan development.
5. Review of fiscal year 1992–93 range projects and discussion and recommendations for proposed 1994 range improvement projects.
6. Review the range program summary progress for resource areas.
7. Briefing concerning the Grass Creek Area Planning schedule.
8. Wild horse management update.
9. Other discussion of business.
10. Opportunity for the public to present information or make comments.

The meeting is open to the public. Interested persons may make oral statements to the Board during the public comment period or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager at the above address by April 12, 1993.

Dated: March 12, 1993.

Gregg R. Berry,

Associate District Manager.

[FR Doc. 93–6468 Filed 3–19–93; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Mississippi River Corridor Study Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE & TIME: April 26, 1993, 2 p.m. to 5 p.m.; and April 28, 1993, 8 a.m. until 4 p.m. From 4:00 p.m. until completed, public comments will be heard.

ADDRESSES: Omni Georgetown Hotel, 2121 P Street NW., Washington, DC 20037.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Region, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: David N. Given, Associate Regional Director, Planning and Resources Preservation, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102, (402) 221–3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by Public Law 101–398, September 28, 1990.

Don H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 93–6430 Filed 3–19–93; 8:45 am]

BILLING CODE 4310–70–P

United States Geological Survey

[516 DM 6, Appendix 2]

National Environmental Policy Act, Proposed Implementing Procedures

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of proposed revised instructions for the U.S. Geological Survey (USGS).

SUMMARY: This notice announces a proposed revised appendix to the Department's National Environmental Policy Act (NEPA) procedures for the USGS. The proposed revision primarily reflects changes in USGS organization and responsibilities and deletes references to functions that have been transferred to the Bureau of Land Management, and the Minerals Management Service. The Department's procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541) and revised on May 21, 1984 (49 FR 21437). Appendix 2 for the USGS was published on January 23, 1981 (46 FR 7485).

DATES: Comments are due by May 21, 1993.

ADDRESSES: Comments may be addressed to James F. Devine, Assistant Director for Engineering Geology, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 106, Reston, VA 22092.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Devine, address above, or call Mr. Clifford A. Haupt, telephone (703) 648–6832.

SUPPLEMENTARY INFORMATION: This proposed revised appendix to the Departmental Manual (516 DM 6, Appendix 2) provides specific NEPA compliance instructions for the USGS. In particular, it updates information about the USGS's organizational responsibilities, deletes activities transferred to the Bureau of Land Management and the Minerals Management Service and makes other minor technical changes.

The Appendix must be taken in conjunction with the Department's procedures (516 DM 1–6) and the Council on Environmental Quality's regulations implementing the procedural provisions of NEPA (40 CFR parts 1500–1508).

Outline

Dated: February 23, 1993.

James F. Devine,

Assistant Director for Engineering Geology.

516 DM 6, Appendix 2

U.S. Geological Survey

2.1 NEPA Responsibility

A. The *Director* of the U.S. Geological Survey (USGS) is responsible for National Environmental Policy Act (NEPA) compliance for USGS activities.

B. *The Assistant Director for Engineering Geology* produces policy guidance, direction and oversight for environmental activities including implementation of NEPA, and approves Environmental Impact Statements (EIS) prepared by the USGS. The Assistant Director is also responsible for approving USGS reviews of environmental documents, regulations or rules proposed by other agencies.

C. *The Chief, Environmental Affairs Program* (Reston, VA), is the focal point for NEPA matters and develops NEPA-related policy and guidance for the USGS. The Chief is responsible for: assuring the quality control of USGS environmental documents; monitoring USGS-wide activities to ensure NEPA compliance; reviewing and commenting on other bureaus' and agencies' environmental documents; managing the assignment of USGS personnel to assist other agencies in developing EISs; and assisting in the performance of specialized studies to support environmental analyses. Information about USGS environmental documents or the NEPA process can be obtained by contacting the Environmental Affairs Program office.

D. *The Chiefs of the Divisions* or *Independent Offices* are responsible within their respective organizations for ensuring compliance with NEPA and applicable consultation requirements.

2.2 Guidance to Applicants

Because the USGS does not have any regulatory responsibilities in this area, the USGS has no applicable programs requiring guidance to applicants.

2.3 Major Actions Normally Requiring an EIS

A. Approval of construction of major new USGS research centers or test facilities normally will require the preparation of an EIS.

B. If it is initially decided not to prepare an EIS, an Environmental Assessment (EA) will be prepared in accordance with regulations for implementing NEPA, specifically Section 1501.4(c) and Section 1508.9.

2.4 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions specified in Appendix 1 of 516 DM 2, many of which the USGS also performs, the following USGS actions are designated categorical exclusions unless the action qualifies as an exemption under Appendix 2 of 516 DM 2. The exclusions shall apply to internal program initiatives performed in the United States and its Trust Territories and Possessions, including Federal lands and the Outer Continental Shelf (OCS).

A. Topographic, land use and land cover, geological, mineralogic, resources evaluation, and hydrologic mapping activities, including aerial topographic surveying, photography, and geophysical surveying.

B. Collection of data and samples for geologic, paleontologic, hydrologic, mineralogic, geochemical and surface or subsurface geophysical investigations, and resource evaluation, including contracts therefor.

C. Acquisition of existing geological, hydrological or geophysical data from private exploration ventures.

D. Well logging, aquifer response testing, digital modeling, inventory of existing wells and water supplies, water-sample collection.

E. Operation, construction and installation of: a) water-level or water-quality recording devices in wells; b) pumps in wells; c) surface-water flow measuring equipment such as weirs and stream-gaging stations, and d) telemetry systems, including contracts therefor.

F. Exploratory or observation ground-water drilling operations, including contracts therefor.

G. Test or exploration drilling and downhole testing, including contracts therefor.

H. Establishment of survey marks, placement and operation of field instruments, and installation of any research/monitoring devices.

I. Digging of exploratory trenches.

J. Establishment of seasonal and temporary field camps.

K. Offroad travel to drilling, data collection or observation sites.

L. Hydraulic fracturing of rock formations for the singular purpose of in situ stress measurements.

M. Reports to Surface Management Agencies, or any State, Territorial, Commonwealth or Federal Agencies concerning mineral and water resources appraisals.

N. Other actions where USGS has concurrence or coapproval with another Department of the Interior bureau and the action is a categorical exclusion for that bureau.

O. Minor, routine, or preventive maintenance activities at USGS facilities and lands, and geological, hydrological, or geophysical data collection stations.

P. Gaining or preparing an access to sites selected for completion of exploration drilling operations or construction of stations for hydrologic, geologic, or geophysical data collection.

[FR Doc. 93-6415 Filed 3-19-93; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Under OMB Review

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Nancy Sipes, (202) 927-5040. Comments regarding this information collection should be addressed to Nancy Sipes, Interstate Commerce Commission, room 1312, Washington, DC 20423 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer of ICC, Washington, DC 20503. When submitting comments, refer to the OMB number or the title of the form.

Type of Clearance: Extension without change of a currently approved form
Bureau/Office: Office of Economics
Title of Form: Annual Report Form R-1 Class I Railroads
OMB Form Number: 3120-0029
Agency Form Number: R-1
Frequency: Annually
No. of Respondents: 13
Total Burden Hours: 10,400

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-6474 Filed 3-19-93; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 248X)]

Chicago and North Western Transportation Company—Abandonment Exemption—In Pocahontas County, IA

AGENCY: The Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C.

10903–10904, the abandonment by the Chicago and North Western Transportation Company of its 1.4-mile line of railroad extending between milepost 474.0 and milepost 475.4, near Laurens, in Pocahontas County, IA. The Commission issues a notice of interim trail use for the line and also makes the exemption subject to standard employee protective conditions and a public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 21, 1993. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by April 1, 1993, petitions to stay must be filed by April 6, 1993, and petitions to reopen must be filed by April 16, 1993. Requests for a public use condition must be filed by April 12, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB–1 (Sub-No. 248X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Robert T. Opal, Chicago and North Western Transportation Company, One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927–5610 [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721].

Decided: March 15, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6518 Filed 3–19–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 444X)]

CSX Transportation, Inc.—Abandonment Exemption—in Scioto County, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by CSX Transportation, Inc. (CSXT), of a 4.6-mile segment of rail line in Scioto County, OH, extending from milepost BBD–49.4 at Harding Avenue in Sciotoville to milepost BBD–54.0 at the Young Street Viaduct in Portsmouth, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on April 21, 1993. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by April 1, 1993, requests for a public use condition must be filed by April 12, 1993, petitions to stay must be filed by April 6, 1993, and petitions for reconsideration must be filed by April 16, 1993.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 444X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Charles M. Rosenberger, Senior Counsel, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder (202) 927–5610 [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

Decided: March 15, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6519 Filed 3–19–93; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 514 (A)]

Privacy Act: Establishment of a System of Records; Office of Inspector General; Complaint and Investigative Files

AGENCY: Interstate Commerce Commission.

ACTION: Notice of establishment of new system of records.

SUMMARY: The Interstate Commerce Commission (ICC) proposed to establish a new system of records under the Privacy Act of 1974, as amended (5 U.S.C. 552a), Pub. L. 93–579, to consist of the complaint and investigatory files of the ICC's Office of Inspector General (OIG). The new system of records facilitates the OIG's ability to collect, maintain, use, and disclose information pertaining to individuals, thus helping to ensure that the OIG may efficiently and effectively perform its investigations and other authorized duties and activities. The Commission is adopting that proposal in this notice.

EFFECTIVE DATE: This notice is effective April 21, 1993.

FOR FURTHER INFORMATION CONTACT: S. Arnold Smith, Freedom of Information/Privacy Officer (202) 927–6317, [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: As required by 5 U.S.C. 552a(e)(4), the ICC notified the public of the proposed establishment of a new system of records in its OIG (32–20–0015) through a notice published in the **Federal Register** at 58 FR 580 (January 6, 1993). This system is being established as part of the formal creation of an OIG within the ICC under the authority of the 1988 amendments to the Inspector General Act of 1978. See Pub. L. No. 100–504, 102 Stat. 251 (amending 5 U.S.C. App. 3 (1978)). Among the OIG's statutory duties are the prevention and detection of fraud, waste, and abuse relating to the ICC's programs and operations through the conduct of audits and investigations and the preparation of reports to the ICC's Chairman and to Congress.

The system of records being established consists of complaint and investigatory files compiled and maintained by the OIG. Due to the law enforcement nature of these records, the proposed system may be exempted by the ICC from certain provisions of the Privacy Act including disclosure to individuals who are the subject of a record in the system. See 5 U.S.C. 552a(j)(2) and (k)(2). The exemption of the system was the subject of a notice of proposed rulemaking to amend ICC Rule 49 CFR 1007.12 which was

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[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

published in the **Federal Register** at 58 FR 531 (January 6, 1993). That notice of final rulemaking that adopts that rule is published in the rules and regulation section of today's **Federal Register**.

No comments have been received from the public or the Office of Management and Budget on the proposed establishment of this system of records. Accordingly, the ICC adopts the proposal to establish the following system of records.

System 32–20–0015

SYSTEM NAME:

OIG Complaint and Investigative Files.

SYSTEM LOCATION:

OIG, ICC. Room 2121, Washington, DC 20423.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in complaints reported to and investigations conducted by the OIG relating to the programs and operations of the ICC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files containing information relevant to complaints and investigations. Files include all relevant correspondence, internal staff memoranda, copies of all subpoenas issued, affidavits, witness statements, transcripts of testimony and accompanying exhibits, working papers of the staff, and any other reports, documents, and records. These records are used as a basis for the issuance of subpoenas, suitability determinations, and civil, criminal, and administrative actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for maintenance of the system is found under the Inspector General Act Amendments of 1988, Pub. L. 100–504, 102 Stat. 251 (amending 5 U.S.C. App. 3 (1978)).

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

In addition to the disclosures generally permitted under 5 U.S.C. 552a(b), these records or information in these records may specifically be disclosed pursuant to 5 U.S.C. 552a(b)(3) as follows, provided that no routine use specified herein shall be construed to limit or waive any other routine use specified herein:

(1) To other agencies, offices, establishments, and authorities, whether federal, state, local, foreign, or self-regulatory (including, but not limited to, organizations such as professional associations or licensing boards), authorized or with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information:

(a) Indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, or

(b) Indicates a violation or potential violation of a professional, licensing, or similar regulation, rule or order, or otherwise reflects on the qualifications or fitness of an individual who is licensed or seeking to be licensed;

(2) To any source, private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of a legitimate investigation or audit;

(3) To agencies, offices, or establishments of the executive, legislative, or judicial branches of the federal or state government:

(a) Where such agency, office, or establishment has an interest in the individual for employment purposes, including a security clearance or determination as to access to classified information, and needs to evaluate the individual's qualifications, suitability, or loyalty to the United States Government, or

(b) Where an agency, office, or establishment conducts an investigation of the individual for purposes of granting a security clearance, or making a determination of qualifications, suitability, or loyalty to the United States Government or access to classified information or restricted areas, or

(c) Where the records or information in those records are relevant and necessary to a decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning the employee, or

(d) Where disclosure is requested in connection with the award of a contract or other determination relating to a government procurement, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter, including but not limited to, disclosure to any Federal agency responsible for considering suspension or debarment action where such record would be germane to a determination of the propriety or necessity of such action, or disclosure to the United States General Accounting Office, the General Services Administration Board of Contract Appeals, or any other Federal contract board of appeals in cases relating to an agency procurement;

(4) To the Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel, of records or portions thereof relevant and necessary to carry out their authorized functions, such as, but not limited to, rendering advice requested by the OIG, investigations of alleged or prohibited personnel practices (including unfair labor or discriminatory practices), appeals before official agencies, offices, panels or boards, and authorized studies or reviews of civil service or merit systems or affirmative action programs;

(5) To independent auditors or other private firms with which the OIG has contracted to carry out an independent audit or investigation, or to analyze, collate, aggregate or otherwise refine data collected in the system of records, subject to the requirement that such contractors shall maintain Privacy Act safeguards with respect to such records;

(6) To any authorized component of the ICC, the Department of Justice, or other law enforcement authority, and for disclosure by such parties:

(a) To the extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where (i) the United States is a party to or has an interest in the litigation, including where the ICC, or an ICC component, or an ICC official or employee in his or her official capacity, or an individual ICC official or employee whom the Department of Justice has agreed to represent, is or may likely become a party, and (ii) the ligation is likely to affect the agency or any component thereof, or

(b) For purposes of obtaining advice, including advice concerning the accessibility of a record or information under the Privacy Act or the Freedom of Information Act;

(7) To the National Archives and Record Administration for records management inspections conducted under authority of 44 U.S.C. 2904 and 2096;

(8) To a Congressional office from the record of a subject individual in response to an inquiry from the Congressional office made at the request of the individual, but only to the extent that the record would be legally accessible to that individual;

(9) To any direct recipient of federal funds, such as a contractor, where such record reflects serious inadequacies

with a recipient's personnel and disclosure of the record if for purpose of permitting a recipient to take corrective action beneficial to the Government;

(10) To debt collection contractors for the purposes of collecting debts owed to the Government, as authorized under the Debt Collection Act of 1982, 31 U.S.C. 3718, and subject to applicable Privacy Act safeguards;

(11) To a grand jury pursuant either to a federal or state grand jury subpoena, or to a prosecution request that such record be released for the purposes of its introduction to a grand jury where subpoena or request has been specifically approved by a court;

(12) To OMB for the purposes of obtaining advice regarding ICC obligations under the Privacy Act or

(13) To the Secretary of the ICC for the purpose of placing any ex parte communication, which has not already been reported to the Secretary pursuant to 49 CFR 1102.2(e), in the correspondence section of the appropriate public docket.

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

STORAGE:

The OIG files consist of paper records maintained in binders or folders, and on automated data storage devices. Files are secured at all times.

RETRIEVABILITY:

Indexed on disk by case number. Paper records are filed numerically by case number. At this time, records are not cross-indexed by name and/or by subject but are expected to be retrieved in this fashion in the near future.

ACCESS CONTROL:

Access to the records is limited to authorized staff in OIG and to other authorized officials or employees of ICC on a need-to-know basis as determined by the OIG. All records are kept in limited access areas during duty hours and in locked files at all other times.

RETENTION AND DISPOSAL:

To be retained for an unlimited period of time.

SYSTEM MANAGER AND ADDRESS:

Inspector General, OIG, ICC, Room 2121, Washington, DC 20423.

NOTIFICATION PROCEDURE:

See 49 CFR part 1007.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Information in these records is obtained from all individuals and entities who may assist OIG in evaluating complaints and conducting investigations authorized by Pub. L. 100–504.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempted from 5 U.S.C. 552a, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11) and (i), under 552a(j)(2) to the extent the system of records pertains to the enforcement of criminal laws; and is exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) under 5 U.S.C. 552a(k)(2), to the extent the system of records consists of investigatory materials compiled for law enforcement purposes, other than that material within the scope of the exemption at 5 U.S.C. 552a(j)(2).

5 U.S.C. App. 3 (1978) prohibits disclosure by the OIG of the identity of any employee, without the consent of the employee, who submits a complaint or provides information concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety.

Decided: March 15, 1993.

By the Commission, S. Arnold Smith, Freedom of Information/Privacy Officer.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–6473 Filed 3–19–93; 8:45 am]

BILLING CODE 7035–01

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; United States v. Alpha Cellulose Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Alpha Cellulose Corporation*, Civil Action No. 91–97–Civ–3–H, was lodged on March 9, 1993, with the United States District Court for the Eastern District of North Carolina. This is an action seeking civil penalties for violations of section 301(a) of the Clean Water Act (the Act), 33 U.S.C. 1311(a), brought pursuant to section 309(d) of the Act, 1319(d). The action involves the Alpha Cellulose Corporation (Alpha) located in Lumberton, North Carolina. Alpha is a cotton fiber paper mill that has been operating in North Carolina since 1968. Alpha owns and operates a wastewater treatment facility that treats wastes from its paper mill operation. Alpha was issued a National Pollutant Discharge Elimination System (NPDES) permit by the state of North Carolina in 1986. The permit authorized Alpha to discharge from its treatment facility to the Lumber River subject to meeting certain effluent limitations. The complaint alleges that from November 1988 through October 1990, Alpha chronically exceeded the effluent limitations contained in its NPDES permit. Alpha is now in compliance with its NPDES Permit, and thus no injunctive relief is sought. The company has agreed to pay a civil penalty of $850,000 in settlement of this action.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Alpha Cellulose Corporation*, DOJ Ref. # 90–5–1–1–3784.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of North Carolina, 301 Green Street, Fayetteville, North Carolina 28302; Office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–6414 Filed 3–19–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act; United States v. Fina Oil and Chemical Co.

In accordance with Departmental policy at 28 CFR 50.7, notice is hereby given that on March 10, 1993, a proposed consent decree in *United States* versus *Fina Oil and Chemical Company*, Civil Action No. 1:93CV–114, was lodged with the United States

District Court for the Eastern District of Texas. The complaint filed by the United States sought injunctive relief and civil penalties for violations by defendant Fina Oil and Chemical Company, Inc. ("Fina") of sections 301 and 402 of the Clean Water Act and the terms and conditions of its National Pollutant Discharge Elimination System (NPDES) permit issued by the U.S. Environmental Protection Agency (EPA) in 1988. Pursuant to the proposed consent decree, Fina has agreed to pay a $450,000 civil penalty for these violations, to implement a Compliance Plan, and to pay stipulated penalties for future violations.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive written comments relating to the proposed consent decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20530, and should refer to *United States* versus *Fina Oil and Chemical Company*, DOJ# 90–5–1–1–2527A.

The proposed consent decree may be examined at the offices of the United States Attorney for the Eastern District of Texas, 700 North Street, suite 102, Beaumont, Texas 77701 and at the office of the United States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202 (Attention: Ralph Corley, Assistant Regional Counsel). A copy of the consent decree may also be examined at the Consent Decree Library, 1120 G Street, NW.,4th Floor, Washington, DC 20005. A copy of the proposed Consent Decree can be obtained in person or by mail from the consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $3.50 (25 cents per page reproduction charge) payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–6413 Filed 3–6–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree in United States v. Inland Steel Corporation, Under the Clean Water Act, Safe Drinking Water Act, Clean Air Act and Resource Conservation and Recovery Act

In accordance with the policy of the Department of Justice established in 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Inland Steel Corp.*, Civil Action No. H90–0328 was lodged with the United States District Court for the Northern District of Indiana, Hammond Division, on March 9, 1993. This action was brought on October 16, 1990 to address violations of the Clean Water Act ("CWA"), 33 U.S.C. 1251 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.* and the Clean Air Act ("CAA"), 42 U.S.C. 7401 *et seq.* that have occurred at Inland's Indiana Harbor Works facility in East Chicago, Indiana. The violations concern, in part, the emission of airborne pollutants to the atmosphere, the discharge of waterborne pollutants from the Indiana Harbor Works to the Indiana Harbor, Indiana Ship Canal and other navigable waters, and the release of hazardous wastes and hazardous constituents from the Indiana Harbor Works to the environment. The Consent Decree requires Inland, *inter alia*, to come into complete compliance with the pollutant discharge limits set forth in its permit issued pursuant to Section 1342 of the CWA, and to come into complete compliance with all applicable CAA emission standards. The Consent Decree provides further that Inland shall investigate its entire Harbor Works facility for releases of hazardous wastes and undertake those corrective measures the Environmental Protection Agency deems appropriate. In mitigation of the civil penalty and to restore prior degradations of the environment, Inland shall spend $26,000,000 on supplemental environmental projects, including $19,000,000 in sediment remediation of the Grand Calumet River. Also, under the Decree Inland will pay a civil penalty of $3,500,000.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Acting Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Inland Steel Corp.*, DJ Ref. # 90–5–1–1–2320A.

The proposed consent decree may be examined at the Office of the United States Attorney for the Northern District of Indiana, U.S. Courthouse, 1001 Main St., Suite A, Dyer, Indiana 46311; the Region V Office of the U.S. Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Washington, DC 20004 (202–347–2072). A copy of the proposed consent decree may be obtained in person or by mail from the U.S. Department of Justice Consent Decree Library, 1120 G Street, NW., Fourth Floor, Washington, DC 20005 (202 624–0892). In requesting a copy, please enclose a check in the amount of $124.50 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 93–6411 Filed 3–19–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Clean Air Act; United States v. LaRoche Industries, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 20, 1993, a proposed consent decree in *United States* v. *LaRoche Industries, Inc.*, Civil Action No. 4–93–00141, was lodged with the United States District Court for the Eastern District of Missouri. The proposed consent decree resolves claims for violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and its implementing regulations codified at 40 CFR part 60, at the Crystal City Plant which is located in Crystal City, Missouri.

The complaint alleged that defendant violated the New Source Performance Standards ("NSPS") for nitric acid plants by emitting into the environment large quantities of air pollutants including NO_x. The complaint sought injunctive relief to require compliance with the NSPS and civil penalties for past violations.

The proposed Consent Decree requires defendant LaRoche to pay $60,000 in settlement of the United States' claims for civil penalties against it. In addition, the decree requires defendant to develop and implement a NO_x refrigeration unit designed to minimize NO_x emissions.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the consent decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *LaRoche Industries, Inc.*, Ref. No. 90–5–2–1–1559.

The proposed consent decree may be examined at the following locations: (a) Office of the United States Attorney for

the Eastern District of Missouri, 1114 Market Street, St. Louis, Missouri 63101; (b) the Environmental Protection Agency, Region VII, Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, Kansas 66101; (c) the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy of the decree, please enclose a check for copying costs in the amount of $2.50, (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–6412 Filed 3–19–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Final Judgments and Competitive Impact Statement

United States v. Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Midland, N.A.

United States v. Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Beaumont, N.A.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) that proposed Final Judgments, Stipulations and a Competitive Impact Statement have been filed with the United States District Court for the Northern District of Texas in *United States* v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-(Midland, N.A.* (Case Number 3–93CV0294–G) and in *United States* v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Beaumont, N.A.* (Case Number 3–93CV0368–D). The proposed Final Judgments are subject to approval by the Court after the expiration of the statutory 60-day public comment periods and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

The Complaints in these cases allege that the proposed acquisition of New First City Bank-Midland, N.A. and New First City Beaumont, N.A. by defendants would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, in the markets for business banking services in those areas. The proposed Midland Final Judgment directs the defendants to sell New First City-Midland's only bank office, retaining only the trust business of that bank. Under the Beaumont Judgment defendants are required to sell at least two and as many as three of New First City-Beaumont's three branch offices and the loans and deposits associated with those offices, as well as all commercial loans of more than $500,000 and the deposits of those commercial loan customers.

Public comment is invited within the statutory 60-day comment periods. Such comments, and the responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Richard L. Rosen, Chief, Communications & Finance Section, Antitrust Division, Room 8104, 555 Fourth Street, NW., Washington, DC 20001 (202–514–5621).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Northern District of Texas

United States of America, Plaintiff, v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Midland, N.A.*, Defendants. Filed: February 11, 1993. Civ. No. 3–93CV0294–G. Judge Fish.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. The parties shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment.

3. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation will be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: February 11, 1993.

Counsel for the Plaintiff:

John W. Clark,

Acting Assistant Attorney General.

Constance K. Robinson,

Deputy Director of Operations, Antitrust Division, U.S. Department of Justice, Washington, DC 20530.

Richard L. Rosen,

Chief, U.S. Department of Justice, Antitrust Division, Communications and Finance Section, 555 Fourth Street, NW., Washington, DC 20001.

Richard Liebeskind (NY-no bar number),

Don Allen Resnikoff,

David R. Myers,

Attorneys, U.S. Department of Justice, Antitrust Division, Communications and Finance Section, 555 Fourth Street, NW., Washington, DC 20001, (202) 514–5807.

Richard H. Stephens,

United States Attorney.

Katherine McGovern (TX–13632080),

Assistant United States Attorney, Northern District of Texas, U.S. Federal Building and Courthouse, 1100 Commerce Street, Dallas,Texas 75242, (214) 767–3679.

Counsel for the Defendants:

Charles E. Koob,

Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, NY 10017–3909, (212) 455–2000.

John H. Marks, Jr. (TX–12998000),

Liddell Sapp Zively Hill & LaBoom, 1200 Texas Commerce Tower, 2200 Ross Avenue, Dallas, Texas 75201, (214) 220–4458.

United States of America, Plaintiff, v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Midland, N.A.*, Defendants. Filed February 11, 1993. Civ. No. 3–93CV0294–G. Judge Fish.

Final Judgment

Whereas, Plaintiff United States of America, having filed its Complaint herein on February 11, 1993, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, prompt and certain divestitures of a bank, bank office, deposits and commercial loans are the essence of this agreement, and defendants have represented to plaintiff that the defendants believe the divestitures required herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained herein;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II. Definitions

A. As used in this Final Judgment:

1. *Acquisition* means the acquisition of assets and deposit liabilities of New First City-Midland, N.A., by Texas Commerce Bank-Midland, N.A.

2. "Business banking services" means banking services offered to business customers, including at least:

a. *Transaction accounts, i.e.,* money deposited with a depository institution either at an interest rate or at no interest, in practice withdrawable upon demand, and upon which third-party drafts may be drawn by the depositor, including interest-bearing and non-interest-bearing checking accounts; and

b. *Commercial loans, i.e.,* secured or unsecured loans to businesses, including but not limited to commercial operating loans, *i.e.,* loan to businesses for operating or cash flow finance, including lines of credit.

Business banking services may also include other services, such as equipment finance loans, loans to finance the purchase or improvement of commercial property, cash and coin, cash management services (including lockbox, account reconciliation and controlled disbursement), and business expertise and advice offered to business customers. Business banking services excludes services offered only to individual consumers.

3. *Defendants* means Texas Commerce Bancshares, Inc. ("TCB"), its parent (Chemical Banking Corporation), and subsidiaries, including without limitation Texas Commerce Bank-Midland, N.A.

4. *Divestiture Assets* means all assets and deposit liabilities of New First City Bank-Midland, N.A. ("New First City-Midland") acquired by TCB from the Federal Deposit Insurance Corporation ("FDIC"), including:

a. All personal property; cash on hand; all safe deposit boxes at the Divestiture Office, exclusive of contents; all prepaid expenses, including security deposits of the Office, determined in accordance with generally accepted accounting principles, as of the closing date; all rights of defendants to all contracts relating to the Office; all records and original documents in defendants' possession pertaining to the leasehold or the personal property; all loans originated at, serviced at or booked to the Office; any leasehold; any real estate, buildings, structures, drive-in teller facilities, ATMs, fixtures and improvements thereon which are owned and used by defendants as premises for the Office; and any other assets so acquired that are required for the Office to compete effectively in offering business banking services; and

b. All deposit liabilities that constitute the unpaid balance of money or its equivalent received or held by New First City-Midland in the usual course of business and for which the Office has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, investment, retirement or thrift account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the Office.

Notwithstanding the foregoing, Divestiture Assets do not include those assets that at the request of the purchaser are excluded from a sale, including among other things signs and computer equipment not useful to a purchaser. Moreover, Divestiture Assets will not include (1) Trust Assets, or (2) New First City-Midland's indirect consumer loans, subject to the provisions of Section IV.G of this Final Judgment.

5. *Divestiture Office* or *Office* means the main office of New First City-Midland, located at 500 West Texas Avenue, Midland, Texas 79701, including all Divestiture Assets, as herein defined.

6. *Medium-sized business* means a business with annual sales from approximately $5 million to approximately $100 million.

7. *Relevant geographic market* or *Midland market* means the Midland, Texas, MSA, which consists of Midland County, Texas.

8. *Small business* means a business with annual sales of less than approximately $5 million.

9. *Trust assets* means all trust accounts maintained by New First City-Midland, all trust assets under management, and all ancillary papers, files, and other assets dedicated to that business.

III. Applicability

A. The provisions of this Final Judgment shall apply to the defendants; to their successors and assigns; to their subsidiaries, affiliates, directors, officers, managers, agents, and employees; and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the negotiated sale or other negotiated disposition of the Divestiture Office, that the acquiring party agree to be bound by the provisions of this Final Judgment.

C. Nothing herein shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV. Divestiture of Office and Assets

A. Defendants are hereby ordered and directed to divest to a qualified purchaser, within three (3) months of the date of entry of this Final Judgment, all of their direct and indirect ownership and control of the Divestiture Office. The purchaser shall be independent of defendants; shall be a federally insured financial institution that offers to business customers, at a minimum, transaction accounts and commercial loans; and shall deliver promptly to plaintiff following the execution of a binding contract, an affidavit from an authorized officer stating a present intention that the Office purchased will offer business banking services to small businesses and medium-sized businesses in the geographic market served by the Office. Plaintiff in its sole discretion shall have the right to approve any purchaser as competitively suitable. The obligation to divest shall be satisfied if, within three (3) months of the date of entry of this Final Judgment, defendants enter into a binding contract with a qualified purchaser for the sale of the Divestiture Office to a purchaser according to terms approved by plaintiff that are contingent upon compliance with the terms of this Final Judgment and that specify a prompt and reasonable date for closing after compliance with all federal or state bank regulatory requirements and if the sale is completed pursuant to the contract. In the event that any proposed sale of the Divestiture Office is denied approval by any applicable federal or state bank regulatory agency, the time period specified herein in which defendants must satisfy the obligation to divest will still expire on the three (3)

month anniversary date of the entry of this Final Judgment, unless plaintiff under Section IV.B. grants additional time.

B. If defendants have not accomplished the required divestitures, within three (3) months of the entry date of this Final Judgment, plaintiff may, in its sole discretion, extend this time period for divestiture for an additional period of time, if defendants request such an extension and demonstrate to plaintiff's satisfaction that it is then engaged in negotiations with a prospective purchaser that are likely to result in the required divestitures but that the contract cannot be completed by the three (3) month anniversary date of the entry of this Final Judgment.

C. Defendants agree to take all reasonable steps to accomplish said divestitures promptly. In carrying out their obligation to divest the Divestiture Office, defendants may at their election divest along with the Divestiture Office any other assets of TCB or of New First City-Midland.

D. Defendants shall use reasonably diligent means to solicit purchasers for the Divestiture Office. In the event Defendants' efforts do not, within two (2) months of the date of this Final Judgment, yield a prospective purchaser with whom Defendants have by then reached agreement or are then in good faith negotiations for sale of the Divestiture Office, Defendants shall promptly thereafter make known in the Wall Street Journal, the American Banker, and in the State of Texas, by usual and customary means, the availability of the Divestiture Office for sale as an ongoing office that offers business banking services, and shall also make known by the same means the availability of the Divestiture Assets. The defendants shall notify any person making an inquiry regarding the possible purchase of the Divestiture Office and any or all of the Divestiture Assets that the sale is being made pursuant to this Final Judgment and that this Final Judgment requires approval of this Court. The defendants shall provide any such person with a copy of this Final Judgment. The defendants shall also offer to furnish to all bona fide prospective purchasers of the Divestiture Office, subject to customary confidentiality assurances, all pertinent information regarding the Divestiture Office and the Divestiture Assets. Defendants shall provide such information to the plaintiff as soon as possible, but no later than two (2) business days after it furnishes such information to any other person. Defendants shall permit prospective purchasers of the Divestiture Office to consult personnel at such Office, and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of the Divestiture Office. Defendants shall not be required to permit prospective purchasers to have access to any documents or information relevant to defendants' banking business, except to the extent it relates to the Divestiture Office's operations and business. Defendants shall not object to any application for new bank charters sought to facilitate any divestitures.

E. Following accomplishments of the divestiture, defendants shall not acquire or attempt to acquire from the purchaser the Divestiture Office or any Divestiture Assets divested pursuant to this Final Judgment without first receiving prior approval from the plaintiff during the duration of this Final Judgment.

F. Except to the extent otherwise approved by plaintiff, the Divestiture Office divested pursuant to this Final Judgment shall be divested free and clear of (1) all mortgages, encumbrances and liens to defendants, and (2) any contractual commitments or obligations to defendants existing as of the date of divestiture, unless plaintiff is satisfied that the purchaser of the Divestiture Office wishes to voluntarily assume the future performance of any such existing contracts, and plaintiff consents thereto.

G. Notwithstanding the provisions of section II.4, defendants shall be required to divest the indirect consumer loans of New First City-Midland to the purchaser of the Divestiture Office, if said purchaser can demonstrate to the plaintiff in its sole discretion that those loans are reasonably necessary for purchaser to operate as a viable bank offering business banking services to small and medium-sized business customers in the Midland market.

V. Appointment of Trustee

A. If defendants have not accomplished the divestitures required by this Final Judgment by the two (2) month anniversary date of the entry of this Final Judgment, defendants shall notify plaintiff in writing of that fact. Within ten (10) days of that date, or twenty (20) days prior to the expiration of any extension granted pursuant to section IV.B., whichever is later, plaintiff shall provide defendants with written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestitures. Defandents shall notify plaintiff within ten (10) days thereafter whether either or both of such nominees are acceptable. If either or both of such nominees are acceptable to defendants, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to defendants, they shall furnish to plaintiff, within ten (10) days after plaintiff provides the names of its nominees, written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestitures. If either or both of such nominees are acceptable to plaintiff, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to plaintiff, it shall furnish the Court with the names and qualifications of its proposed nominees and the names and qualifications of the nominees proposed by defendants. The Court may hear the parties as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

B. If defendants have not accomplished the divestitures required by this Final Judgment at the expiration of the time period specified in sections IV.A. or IV.B. of this Final Judgment, as applicable, the appointment by the Court of the trustee shall become effective. The trustee shall then take steps to effect divestiture of the not yet divested Divestiture Office according to the terms of this Final Judgment; provided, however, that the appointment of the trustee shall not become effective if, prior to expiration of the applicable time period, defendants have notified plaintiff pursuant to section VI. of this Final Judgment of the proposed divestiture of the Divestiture Office, and plaintiff has not filed a written notice that it objects to said proposed divestiture.

C. After the trustee's appointment has become effective, only the trustee shall have the right to sell the Divestiture Office or any Divestiture Assets as to which it has been designated to effect divestiture. The trustee shall have the power and authority to accomplish divestitures to a purchaser acceptable to the plaintiff at such price and on such terms as are then obtainable upon a reasonable effort by the trustee, subject to the provisions of section VI. of this Final Judgment, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale of the Divestiture Office or Divestiture Assets by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendants must be conveyed in writing to plaintiff and the trustee within fifteen

(15) days after the trustee has notified defendants of the proposed sale in accordance with section VI. of this Final Judgment.

D. The trustee shall serve at the cost and expense of defendants, shall receive compensation based upon a fee arrangement which includes an incentive based upon the price of the divestitures and the speed with which they are accomplished, and shall serve on such other terms and conditions as the Court may prescribe; provided, however, that the trustee shall receive no compensation, nor incur any costs or expenses, prior to the effective date of his or her appointment. The trustee shall account for all costs and expenses incurred in connection with this matter. After approval of the Court of the trustee's accounting, including fees and reasonable expenses for his or her services, all remaining monies shall be paid to defendants and the trust shall then be terminated.

E. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestitures and shall, if requested by the trustee, use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee shall have full and complete access to the personnel, books, records, and facilities of the Divestiture Office which the trustee is designated to divest, and defendants shall develop such financial or other information relevant to the Divestiture Office and Divestiture Assets being divested as the trustee may request.

F. After his or her appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestitures as contemplated under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted, or made an inquiry about acquiring, any ownership interest in the Divestiture Office or Divestiture Assets, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the Divestiture Office or Divestiture Assets, and shall provide additional information to plaintiff upon its request.

G. Within six (6) months after his or her appointment has become effective, if the trustee has not accomplished the divestitures required by this Final Judgment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why any required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent the report contains information that the trustee deems confidential, the report shall not be filed in the public docket of the Court. The trustee shall at the same time furnish the report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust and the term of the trustee's appointment.

VI. Notification

Immediately following execution of a binding contract, contingent upon compliance with the terms of this Final Judgment, to effect any proposed divestitures pursuant to Section IV. of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify plaintiff of the proposed divestitures. If the trustee is responsible, he or she shall similarly notify defendants. The notice shall set forth the details of the proposed transactions and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in the Divestiture Office or Divestiture Assets, together with full details of same. Within fifteen (15) days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestitures and the proposed purchaser. Defendants and/or the trustee shall furnish any additional information requested within twenty (20) days of receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within twenty (20) days after plaintiff has been provided the additional information requested (including any additional information requested of persons other than the defendants or the trustee), whichever is later, plaintiff shall provide written notice to defendant and to the trustee, if there is one, stating whether or not it objects to the proposed divestitures. If plaintiff provides written notice to defendants and/or the trustee that it does not object, then the divestitures may be consummated, subject only to defendants' limited right to object to the sale under the proviso in section V.C. Upon objection by plaintiff, a divestiture proposed under Section IV. shall not be consummated. Upon objection by plaintiff, or by defendants under the proviso in section V.C., a divestiture proposed under Section V. shall not be consummated unless approved by the Court. The requirements of this Section VI. are subject to waiver by the plaintiff.

VII. Affidavits

Within fifteen (15) business days of entry of this Final Judgment and every thirty (30) days thereafter until the divestitures have been completed or authority to effect divestitures passes to the trustee pursuant to section V. of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of compliance with section IV. of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in the Divestiture Office or Divestiture Assets, and shall describe in detail each contact with any such person during that period. Defendants shall maintain full records of all efforts made to divest the Divestiture Office and Divestiture Assets.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to sections IV. or V. of this Final Judgment without plaintiff's prior consent.

VIII. Preservation of Assets

Until the divestiture of the Divestiture Office and Divestiture Assets, as required by this Final Judgment, have been accomplished:

A. The defendants shall take all steps necessary to manage the Divestiture Office and Divestiture Assets prudently so as to maintain the Divestiture Office as an economically viable, ongoing office that offers business banking services. Defendants shall hold the Divestiture Office and all Divestiture Assets separately from their own operations, and shall operate the Divestiture Office separately from the management and personnel of defendants. The defendants shall use all reasonable efforts to maintain and increase sales of business banking services provided through the Divestiture Office, and continue with

any current plans for development of business banking services at those locations. Defendants shall not solicit any existing or new small or medium-sized business customers of the Divestiture Office except for the account and benefit of the Divestiture Office.

B. The defendants shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, any Divestiture Assets required to be divested pursuant to this Final Judgment, except that any component of such Divestiture Assets as is replaced in the ordinary course of business with a newly purchased component may be sold or otherwise disposed of, provided the newly purchased component is so identified as a replacement component for one to be divested.

C. The defendants shall provide and maintain sufficient working capital to preserve the business of the Divestiture Office and of the Divestiture Assets, including funds for commercial lending, as a viable, ongoing office that offers business banking services.

D. Defendants shall, to the extent they do not acquire ownership or leasehold interests for the physical premises now occupied by the Divestiture Office (including all office, parking and support facilities) in the Acquisition, arrange to lease or otherwise occupy such physical premises during the period pending divestiture. In the event that the FDIC or its successor, or other owner or lessee, does not permit defendants to continue to occupy the premises, defendants will make other reasonable arrangements, upon prior consent of plaintiff or of the Court, consistent with defendants' obligations to preserve the businesses of the Divestiture Office as viable businesses as set forth in this Section VIII.

E. Defendants shall preserve the physical assets of the Divestiture Office, except those replaced with newly acquired assets in the ordinary course of business, in a state of repair equal to their state of repair as of the date of this Final Judgment, ordinary wear and tear excepted. Defendants shall preserve the documents, books and records of the Divestiture Office of otherwise related to the Divestiture Assets until the date of divestiture.

F. Pending completion of the divestiture, except in the ordinary course of business, or as is otherwise consistent with the requirements of section X, the defendants shall refrain from terminating or altering any current employment, salary, or benefit agreements for any managerial or commercial loan personnel of the Divestiture Office, and shall refrain from transferring any employee so employed without the prior written approval of plaintiff.

G. Defendants shall refrain from taking any action that would jeopardize the sale of the Divestiture Office or the Divestiture Assets.

IX. Employment Offers

Defendants are hereby enjoined and restrained until two (2) years following the date of divestiture, from employment of, or making offers of employment to, any person who currently is a commercial loan manager, officer or representative, (1) the preponderance of whose duties relate to the successful operation of the Divestiture Office, or (2) who is reasonably needed by the purchaser to continue the successful operation of the Divestiture Office and the servicing of the business customers of the Divestiture Office. This provision, however, does not apply to any employee who is terminated by the purchaser of the Divestiture Office. Defendants shall make available for interview and employment offers by purchaser sufficient Divestiture Office personnel needed to handle the business customers of the Divestiture Office. Defendants shall encourage and facilitate employment by the purchaser of such employees, and shall remove any impediments that may deter such employees from accepting employment with the purchaser of any Divestiture Office, including, but not limited to, the payment of all bonuses accrued up to the closing date of sale of the Divestiture Office to which such employees would otherwise have been entitled had they remained in the employment of defendants until the date of said closing. In connection with the purchaser's solicitation of any employees under this Section, defendants shall not make competing offers.

X. Visitorial Clause

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendants made to their principal offices, be permitted:

1. Access during office hours of the defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of the defendants and without restraint or interference from it, to interview officers, employees and agents of the defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the defendants at their principal offices, the defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section XI. shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by the defendants to plaintiff, the defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to the defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendants are not a party.

XII. Expiration of Judgment

This Final Judgment will expire on the tenth anniversary of its date of entry or, with respect to any particular provision, on any earlier date specified.

XIII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIV. Statement of Public Interest

Entry of this Final Judgment is in the public interest.

Dated: Dallas, Texas.

United States District Judge

United States of America, Plaintiff, v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Beaumont, N.A.*, Defendants. No. 3–93CV0368–D.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgement in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. The parties shall abide by and comply with the provisions of theproposed Final Judgment pending entry of the Final Judgment.

3. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation will be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: February 23, 1993.

Counsel for the Plaintiff:

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Acting Assistant Attorney General.

Constance K. Robinson,

Deputy Director of Operations, Antitrust Division, U.S. Department of Justice, Washington, DC 20530.

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United States of America, Plaintiff, v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Beaumont, N.A.*, Defendants. Civ. No. 3–93–CV0368–D, Filed February 23, 1993.

Final Judgment

Whereas, Plaintiff United States of America, having filed its Complaint herein on February 19, 1993, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, prompt and certain divestitures of bank offices, deposits, and commercial loans are the essence of this agreement, and defendants have represented to plaintiff that the defendants believe the divestitures required herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained herein;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

A. As used in this Final Judgment:

1. *Acquisition* means the acquisition of assets and deposit liabilities of New First City-Beaumont, N.A., by Texas Commerce Bank-Beaumont, N.A.

2. *Business banking services* means banking services offered to business customers, including at least:

a. *Transaction accounts, i.e.*, money deposited with a depository institution either at an interest rate or at no interest, in practice withdrawable upon demand, and upon which third-party drafts may be drawn by the depositor, including interest-bearing and non-interest-bearing checking accounts; and

b. *Commercial loans, i.e.*, secured or unsecured loans to businesses, including but not limited to commercial operating loans, *i.e.*, loan to businesses for operating or cash flow finance, including lines of credit.

Business banking services may also include other services, such as equipment finance loans, loans to finance the purchase or improvement of commercial property, cash and coin, cash management services (including lockbox, account reconciliation and controlled disbursement), and business expertise and advice offered to business customers. Business banking services excludes services offered only to individual consumers.

3. *Defendants* means Texas Commerce Bancshares, Inc. ("TCB"), its parent (Chemical Banking Corporation), and subsidiaries, including without limitation Texas Commerce Bank-Beaumont, N.A.

4. *Designated Employee* means

a. any person who currently is a commercial loan manager, officer or representative whose regular place of business is a Divestiture Branch and

(1) The preponderance of whose duties relate to the successful operation of any Divestiture Branch, or

(2) Who is reasonably needed by the purchaser to continue the successful operation of any Divestiture Branch and the servicing of the business customers of the Divestiture Branch; or

b. if, pursuant to section IV.G of this Final Judgment, the divestiture purchaser also purchases New First City-Beaumont's operations or main cash vault facilities, any person who is currently an employee of New First City-Beaumont and

(1) The preponderance of whose duties relate to the successful operation of New First City-Beaumont's operations or main cash vault facilities, or

5. *Divestiture Assets* means

a. The Divestiture Branches, as hereinafter defined, and all assets and deposit liabilities of New First City Bank-Beaumont, N.A. ("New First City-Beaumont") associated with those branches and acquired by TCB from the Federal Deposit Insurance Corporation ("FDIC"), including:

(1) All personal property; cash on hand; all safe deposit boxes at the Divestiture Branch, exclusive of contents; all prepaid expenses, including security deposits of the Branch, determined in accordance with generally accepted accounting principles, as of the closing date; all rights of defendants to all contracts relating to the Branch; all records and original documents in defendants' possession pertaining to the leasehold or the personal property; all loans originated at, serviced at or booked to the Branch; any leasehold; any real estate, buildings, structures, drive-in teller facilities, ATMs, fixtures and improvements thereon which are owned and used by defendants as premises for the Branch; and any other assets so acquired that are required for the Branch to compete effectively in offering business banking services; and

(2) All deposit liabilities that constitute the unpaid balance of money or its equivalent received or held by New First City-Beaumont in the usual course of business and for which the Branch has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, investment, retirement or thrift account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the Branch; and

b. All commercial loans (including without limitation operating loans, equipment loans, and commercial mortgages) acquired from New First City-Beaumont that have a note or commitment amount of $500,000 or greater, and all deposit accounts of the business debtors of those loans.

Notwithstanding the foregoing, Divestiture Assets do not include (1) those assets that at the request of the purchaser are excluded from a sale, including, among other things, signs and computer equipment not useful to the purchaser; (2) Trust Assets; or (3) indirect consumer loans.

6. *Divestiture Branch(es)* or *Branch(es)* means the following branch offices of New First City-Beaumont, and all Divestiture Assets of those branches, as herein defined:

a. Central Branch, located at 4285 East Lucas, Beaumont, Texas 77706, which as of June 30, 1992, held deposits of $65,846,000; and

b. Spindletop Branch, located at 3915 Phelan Boulevard, Beaumont, Texas 77706, which as of June 30, 1992 held deposits of $42,896,000.

In addition, *Divestiture Branches* shall include the Gateway Branch, located at 3775 Stagg Drive, Beaumont, Texas 77702, which as of June 30, 1992, held deposits of $62,279,000, and all Divestiture Assets of that Branch, if plaintiff in its sole discretion concludes that the purchaser would not be competitively suitable without acquiring the Gateway Branch and its Divestiture Assets.

7. *Main Office* means the Main Office of New First City-Beaumont, located at Orelans and Bowie Streets, Beaumont, Texas 77704.

8. *Medium-sized business* means a business with annual sales from approximately $5 million to approximately $100 million.

9. *Relevant geographic market* or *Beaumont market* means the Beaumont-Port Arthur, Texas, MSA, which consists primarily of the greater part of Jefferson County, Texas.

10. *Small business* means a business with annual sales of less than approximately $5 million.

11. *Trust assets* means all trust accounts maintained by New First City-Beaumont, all trust assets under management, and all ancillary papers, files, and other assets dedicated to that business.

III. Applicability

A. The provisions of this Final Judgment shall apply to the defendants; to their successors and assigns; to their subsidiaries, affiliates, directors, officers, managers, agents, and employees; and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the negotiated sale or other negotiated disposition of any of the Divestiture Assets, that the acquiring party agree to be bound by the provisions of this Final Judgment.

C. Nothing herein shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV. Divestiture of Branches and Assets

A. Defendants are hereby ordered and directed to divest to a qualified purchaser, within three (3) months of the date of entry of this Final Judgment, all of their direct and indirect ownership and control of the Divestiture Assets. Defendants shall not divide the Divestiture Assets without the prior written consent of plaintiff. The purchaser shall be independent of defendants; shall be a federally insured financial institution that offers to business customers, at a minimum, transaction accounts and commercial loans; and shall deliver promptly to plaintiff following the execution of a binding contract, an affidavit from an authorized officer stating a present intention that the Divestiture Branches (either singly or in combination) will offer business banking services to small businesses and medium-sized businesses in the Beaumont market. Plaintiff in its sole discretion shall have the right to approve any purchaser as competitively suitable. The obligation to divest shall be satisfied if, within three (3) months of the date of entry of this Final Judgment, defendants enter into a binding contract with a qualified purchaser for the sale of the Divestiture Assets to a purchaser according to terms approved by plaintiff that are contingent upon compliance with the terms of this Final Judgment and that specify a prompt and reasonable date for closing after compliance with all federal or state bank regulatory requirements and if the sale is completed pursuant to the contract. In the event that any proposed sale of the divestiture Assets is denied approval by any applicable federal or state bank regulatory agency, the time period specified herein in which defendants must satisfy the obligation to divest will still expire on the three (3) month anniversary date of the entry of this Final Judgment, unless plaintiff under section IV.B. grants additional time.

B. If defendants have not accomplished the required divestitures within three (3) months of the entry date of this Final Judgment, plaintiff may, in its sole discretion, extend this time period for divestiture for an additional period of time, if defendants request such an extension and demonstrate to plaintiff's satisfaction that it is then engaged in negotiations with a prospective purchaser that are likely to result in the required divestitures but that the contract cannot be completed by the three (3) month anniversary date of the entry of this Final Judgment.

C. Defendants agree to take all reasonable steps to accomplish said divestitures promptly. In carrying out their obligation to divest the Divestiture Assets, defendants may at their election divest along with the Divestiture Assets any other assets of TCB or of New First City-Beaumont.

D. Defendants shall use reasonably diligent means to solicit purchasers for the Divestiture Assets. In the event Defendants' efforts do not, within two (2) months of the entry of this Final Judgment, yield a prospective purchaser with whom Defendants have by then reached agreement or are then in good faith negotiations for sale of the Divestiture Assets, Defendants shall

promptly thereafter make known in the Wall Street Journal, the American Banker, and in the State of Texas, by usual and customary means, the availability of the Divestiture Branches for sale as ongoing offices that offer business banking services, and shall also make known by the same means the availability of the remaining Divestiture Assets. The defendants shall notify any person making an inquiry regarding the possible purchase of the Divestiture Branches and any or all of the Divestiture Assets that the sale is being made pursuant to this Final Judgment and that this Final Judgment requires approval of this Court. The defendants shall provide any such person with a copy of this Final Judgment. The defendants shall also offer to furnish to all bona fide prospective purchasers of the Divestiture Assets, subject to customary confidentiality assurances, all pertinent information regarding the Divestiture Branches and the Divestiture Assets. Defendants shall provide such information to the plaintiff as soon as possible, but no later than two (2) business days after it furnishes such information to any other person. Defendants shall permit prospective purchasers of a Divestiture Branch to consult personnel at such Branch, and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of the Divestiture Assets. Defendants shall not be required to permit prospective purchasers to have access to any documents or information relevant to defendants' banking business, except to the extent it relates to the Divestiture Branches' operations and business or otherwise relates to the Divestiture Assets. Defendants shall not object to any application for new bank charters sought to facilitate any divestitures.

E. Following accomplishment of the divestiture, defendants shall not acquire or attempt to acquire from the purchaser any Divestiture Branch or Divestiture Assets divested pursuant to this Final Judgment without first receiving prior approval from the plaintiff during the duration of this Final Judgment.

F. Except to the extent otherwise approved by plaintiff, each Divestiture Branch divested pursuant to this Final Judgment shall be divested free and clear of (1) all mortgages, encumbrances and liens to defendants, and (2) any contractual commitments or obligations to defendants existing as of the date of divestiture, unless plaintiff is satisfied that the purchaser of the Divestiture Branch wishes to voluntarily assume the future performance of any such existing contracts, and plaintiff consents thereto.

G. Defendants shall offer for sale to the purchaser of the Divestiture Assets all operations and cash vault facilities, acquired from New First City-Beaumont, and all tangible personal property acquired from New First City-Beaumont that relates to the provision of business banking services and that is now located at the Main Office.

H. Plaintiff and defendants understand and acknowledge that the real property and improvements currently occupied and operated as the Main Office is currently owned by the FDIC. Defendants will take such steps as are reasonable to permit the purchaser of the Divestiture Assets to acquire that property, should the purchaser elect to do so. Reasonable steps are deemed to include (1) exercising defendants' option to acquire the property, should the purchaser of the divestiture assets so instruct defendants; and (2) negotiating reasonable extensions of the option. Defendants shall not themselves seek to acquire ownership or leasehold of the Main Office real property (except in connection with Defendant's obligations under section VIII of this Final Judgment) prior to consummation of the divestiture required by this Final Judgment.

V. Appointment of Trustee

A. If defendants have not accomplished the divestitures required by this Final Judgment by the two (2) month anniversary date of the entry of this Final Judgment, defendants shall notify plaintiff in writing of that fact. Within ten (10) days of that data, or twenty (20) days prior to the expiration of any extension granted pursuant to section IV.B., whichever is later, plaintiff shall provide defendants with written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestitures. Defendants shall notify plaintiff within ten (10) days thereafter whether either or both of such nominees are acceptable. If either or both of such nominees are acceptable to defendants, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to defendants, they shall furnish to plaintiff, within ten (10) days after plaintiff provides the names of it nominees, written notice of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestitures. If either or both of such nominees are acceptable to plaintiff, plaintiff shall notify the Court of the person upon whom the parties have agreed and the Court shall appoint that person as the trustee. If neither of such nominees is acceptable to plaintiff, it shall furnish the Court with the names and qualifications of its proposed nominees and the names and qualifications of the nominees proposed by defendants. The Court may hear the parties as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

B. If defendants have not accomplished the divestitures required by this Final Judgment at the expiration of the time period specified in sections IV.A. or IV.B. of this Final Judgment, as applicable, the appointment by the Court of the trustee shall become effective. The trustee shall then take steps to effect divestiture of the not yet divested Divestiture Assets according to the terms of this Final Judgment; provided, however, that the appointment of the trustee shall not become effective if, prior to expiration of the applicable time period, defendants have notified plaintiff pursuant to Section VI. of this Final Judgment of the proposed divestiture of the Divestiture Assets, and plaintiff has not filed a written notice that is objects to said proposed divestiture.

C. After the trustee's appointment has become effective, only the trustee shall have the right to sell any Divestiture Branches or Divestiture Assets as to which it has been designated to effect divestiture. The trustee shall have the power and authority to accomplish divestitures to a purchaser acceptable to the plaintiff at such price and on such terms as are then obtainable upon a reasonable effort by the trustee, subject to the provisions of section VI. of this Final Judgment, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale of the Divestiture Branches or Divestiture Assets by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendants must be conveyed in writing to plaintiff and the trustee within fifteen (15) days after the trustee has notified defendants of the proposed sale in accordance with section VI. of this Final Judgment.

D. The trustee shall serve at the cost and expense of defendants, shall receive compensation based upon a fee arrangement which includes an incentive based upon the price of the divestitures and the speed with which they are accomplished, and shall serve on such other terms and conditions as the Court may prescribe; provided, however, that the trustee shall receive no compensation, nor incur any costs or

expenses, prior to the effective date of his or her appointment. The trustee shall account for all costs and expenses incurred in connection with this matter. After approval by the Court of the trustee's accounting, including fees and reasonable expenses for his or her services, all remaining monies shall be paid to defendants and the trust shall then be terminated.

E. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestitures and shall, if requested by the trustee, use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee shall have full and complete access to the personnnel, books, records, and facilities of the Divestiture Branches or otherwise related to the Divestiture Assets which the trustee is designated to divest, and defendants shall develop such financial or other information relevant to the Divestiture Branches and Divestiture Assets being divested as the trustee may request.

F. After his or her appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestitures as contemplated under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted, or made an inquiry about acquiring, any ownership interest in the Divestiture Branches or Divestiture Assets, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the Divestiture Branches or Divestiture Assets, and shall provide additional information to plaintiff upon its request.

G. Within six (6) months after his or her appointment has become effective, if the trustee has not accomplished the divestitures required by this Final Judgment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitutes, (2) the reasons, in the trustee's judgment, why any required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent the report contains information that the trustee deems confidential, the report shall not be filed in the public docket of the Court. The trustee shall at the same time furnish the report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust and the term of the trustee's appointment.

VI. Notification

Immediately following execution of a binding contract, contingent upon compliance with the terms of this Final Judgment, to effect any proposed divestitures pursuant to section IV. of this Final Judgement, defendants or the trustee, whichever is then responsible for effecting the divestitures, shall notify plaintiff of the proposed divestitures. If the trustee is responsible, he or she shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in the Divestiture Branches or Divestiture Assets, together with full details of same. Within fifteen (15) days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestitures and the proposed purchaser. Defendants and/or the trustee shall furnish any additional information requested within twenty (20) days of receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within twenty (20) days after plaintiff has been provided the additional information requested (including any additional information requested of persons other than the defendants or the trustee), whichever is later, plaintiff shall provide written notice to defendant and to the trustee, if there is one, stating whether or not it objects to the proposed divestitures. If plaintiff provides written notice to defendants and/or the trustee that it does not object, then the divestitures may be consummated, subject only to defendants' limited right to object to the sale under the proviso in secion V.C. Upon objection by plaintiff, a divestiture proposed under Section IV. shall not be consummated. Upon objection by plaintiff, or by defendants under the proviso in section V.C., a divestiture proposed under Section V. shall not be consummated unless approved by the Court. The requirements of this Section VI. are subject to waiver by the plaintiff.

VII. Affidavits

Within fifteen (15) business days of entry of this Final Judgment and every thirty (30) days thereafter until the divestitures have been completed or authority to effect divestitures passes to the trustee pursuant to section V. of this Final Judgment, defendants shall deliver to plaintiff an affidavit as to the fact and manner of compliance with section IV. of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in the Divestiture Branches or Divestiture Assets, and shall describe in detail each contact with any such person during that period. Defendants shall maintain full records of all efforts made to divest the Divestiture Branches and Divestiture Assets.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to sections IV. or V. of this Final Judgment without plaintiff's prior consent.

VIII. Preservation of Assets

Until the divestiture of the Divestiture Branch and Divestiture Assets, as required by this Final Judgment, have been accomplished:

A. The defendants shall take all steps necessary to manage the Divestiture Branches and Divestiture Assets prudently so as to maintain the Divestiture Branches as economically viable, ongoing offices that (individually or collectively) offer business banking services to small and medium-sized businesses. Defendants shall hold the Divestiture Branches and all Divestiture Assets separately from their own operations, and shall operate the Divestiture Branches separately from the management and personnel of defendants. The defendants shall use all reasonable efforts to maintain and increase sales of business banking services to small and medium-sized businesses provided through the Divestiture Branches, and continue with any current plans for development of business banking services at those locations. Defendants shall not solicit any existing or new small or medium-sized business customers of the Divestiture Branches, or any customers whose loans are among the Divestiture Assets, except for the account and benefit of the Divestiture Branches.

B. The defendants shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, any of the Divestiture Assets required to be divested pursuant to this Final Judgment, except that any component of such Divestiture Assets as is replaced in the ordinary course of business with a newly purchased component may be sold or otherwise disposed of, provided the newly purchased component is so identified as a replacement component for one to be divested.

C. The defendants shall provide and maintain sufficient working capital to preserve the business of the Divestiture Branches and of the Divestiture Assets, including funds for commercial lending, as viable, ongoing offices that (individually or collectively) offer business banking services to small and medium-sized businesses.

D. Defendants shall, to the extent they do not acquire ownership or leasehold interests for the physical premises now occupied by the Divestiture Branches (including all office, parking and support facilities) in the Acquisition, arrange to lease or otherwise occupy such physical premises during the period pending divestiture. In the event that the FDIC or its successor, or other owner or lessee, does not permit defendants to continue to occupy the premises, defendants will make other reasonable arrangements, upon prior consent of plaintiff or of the Court, consistent with defendants' obligations to preserve the businesses of the Divestiture Branches as viable businesses as set forth in this section VIII.

E. Defendants shall preserve the physical assets of the Divestiture Branches, except those replaced with newly acquired assets in the ordinary course of business, in a state of repair equal to their state of repair as of the date of this Final Judgment, ordinary wear and tear excepted. Defendants shall preserve the documents, books and records of the Divestiture Branches or otherwise related to the Divestiture Assets until the date of divestiture.

F. Pending completion of the divestiture, except in the ordinary course of business, or as is otherwise consistent with the requirements of section IX., the defendants shall refrain from terminating or altering any current employment, salary, or benefit agreements for any managerial or commercial loan personnel of the Divestiture Branches, and shall refrain from transferring any employee so employed without the prior written approval of plaintiff.

G. Defendants shall refrain from taking any action that would jeopardize the sale of the Divestiture Branches or the Divestiture Assets.

IX. Employment Offers

A. Defendants shall permit the purchaser of the Divestiture Assets to interview all commercial loan managers and officers who are employees of New First City-Beaumont at the time of consummation of the Acquisition, and to make offers of employment to such personnel. The purchaser may designate two-thirds of the total number of commercial loan managers and officers who are employees of New First City-Beaumont at the time of consummation of the Acquisition as "Designated Loan Officers" subject to the provisions of section IX.B of this Final Judgment.

B. Defendants are hereby enjoined and restrained until two (2) years following the date of divestiture, from employment of, or making offers of employment to, any Designated Employee or Designated Loan Officer. This provision, however, does not apply to any Designated Employee or Designated Loan Officer who is terminated by the purchaser of the Divestiture Assets or who is not offered such employment, or to any designated Loan Officer who does not accept an offer of such employment or who resigns such employment. Defendants shall make available all Designated Employees for interview and employment offers by purchaser and sufficient additional Divestiture Branch personnel needed to handle the business customers of the Divestiture Branches. Defendants shall encourage and facilitate employment by the purchaser of all such employees, and shall remove any impediments that may deter such employees from accepting employment with the purchaser of any Divestiture Branch. Defendants shall pay all bonuses accrued up to the closing date of sale of the Divestiture Branches to which such employees would otherwise have been entitled had they remained in the employment of defendants until the date of said closing. In connection with the purchaser's solicitation of any employees under this section IX, defendants shall not make competing offers.

X. Visitorial Clause

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendants made to their principal offices, be permitted:

1. Access during office hours of the defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of the defendants and without restraint or interference from it, to interview officers, employees and agents of the defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to the defendants at their principal offices, the defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section XI. shall be divulged by any representative of Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by the defendants to plaintiff, the defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days' notice shall be given by plaintiff to the defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendants are not a party.

XII. Expiration of Judgment

This Final Judgment will expire on the tenth anniversary of its date of entry or, with respect to any particular provision, on any earlier date specified.

XIII. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the

parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIV. Statement of Public Interest

Entry of this Final Judgment is in the public interest.

Dated: Dallas, Texas.

United States District Judge

United States of America, Plaintiff, v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Midland, N.A.*, Defendants. No. 3–93CV0294–G.

United States of America, Plaintiff, v. *Texas Commerce Bancshares, Inc. and Texas Commerce Bank-Beaumont, N.A.*, Defendants. No. 3–93CV0368–D.

Competitive Impact Statement

The United States, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgments submitted for entry in these civil antitrust proceedings.

I. Nature and Purpose of the Proceedings

On February 11, 1993, the United States filed a civil antitrust complaint under section 15 of the Clayton Act, as amended, 15 U.S.C. 25, alleging that the proposed acquisition of New First City Bank-Midland, N.A. ("New First City-Midland") by Texas Commerce Bank-Midland, N.A. would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18 (the "Midland action"). On February 23, 1993, the United States filed a civil antitrust complaint under section 15 of the Clayton Act, as amended, 15 U.S.C. 25, alleging that the proposed acquisition of New First City Bank-Beaumont, N.A. ("New First City-Beaumont") by Texas Commerce Bank-Beaumont, N.A. would also violate section 7 of the Clayton Act (the "Beaumont action").

New First City-Beaumont and New First City-Midland are two of the 20 bridge banks (collectively "New First City") established by the Federal Deposit Insurance Corporation ("FDIC") from the assets of the failed First City Bancorporation ("First City"), which the FDIC took control of on October 30, 1992. Texas Commerce Bank-Beaumont, N.A. and Texas Commerce Bank-Midland, N.A. are affiliates of defendant Texas Commerce Bancshares, Inc. (collectively "TCB"), a bank holding company based in Houston, Texas. TCB is in turn controlled by Chemical Banking Corp., New York, N.Y.

The complaints allege that the effect of the acquisitions may be substantially to lessen competition in the provision of business banking services in the Beaumont and Midland geographic markets. Business banking services offered to business customers include, either collectively or individually, transaction accounts (money deposited with a depository institution either at an interest rate or at no interest, in practice withdrawable on demand, and upon which third party drafts may be drawn by the depositor, *i.e.*, checking accounts, whether interest-bearing or non-interest-bearing), and commercial loans (*i.e.*, secured or unsecured loans to businesses, including but not limited to commercial operating loans, *i.e.*, loans to businesses for operating or cash flow finance, including lines of credit, as well as equipment finance loans); and may also include loans to finance the purchase or improvement of commercial real property ("commercial mortgages"); cash and coin; cash management services (including lockbox, account reconciliation and controlled disbursement); and business expertise and advice offered to business customers.

Both TCB and New First City compete directly in offering a variety of business banking services to business customers in each of the geographic markets. The proposed acquisitions would result in substantial increases in concentration in markets that are already highly concentrated, in which it appears that the merger would likely result in anticompetitive effects, and for which regulatory and other market factors make it unlikely that effective entry will be sufficient or timely to prevent a substantial lessening of competition in the relevant markets.

The complaints allege that the proposed acquisitions would, in particular, adversely affect competition for medium-sized business customers purchasing business banking services in the Beaumont and Midland markets, and small businesses purchasing these services in Midland. The complaints seek, among other relief, to enjoin the proposed transactions and thereby to prevent their anticompetitive effects.

On February 11, 1993, the United States and TCB filed a Stipulation in the Midland action by which the parties consented to the entry of a proposed final judgment (the "Midland Judgment"). Under the Midland Judgment, as explained more fully below, defendants would be required to sell New First City-Midland's only bank office, retaining only the trust business of that bank. (Under certain conditions, defendants might also retain that bank's indirect consumer loan business.)

On February 23, 1993, the United States and TCB filed a Stipulation in the Beaumont action by which the parties consented to the entry of a proposed final judgment (the "Beaumont Judgment"). Under the Beaumont Judgment, as explained more fully below, defendants would be required to sell at least two and as many as three of New First City-Beaumont's three branch offices and the loans and deposits of those offices, as well as all commercial loans of more than $500,000 and the deposits of those commercial loan customers. TCB will retain the remaining assets (including loans) and deposits of New First City-Beaumont's main office, including its trust business and the small business and consumer loans originated at that main office. The main office's real estate and improvements, and New First City-Beaumont's operations facilities and cash vault, will be made available to the purchaser of the divested branches.

Under the Bank Merger Act, 12 U.S.C. 1828(c)(7)(A), the timely commencement of an antitrust action by the United States challenging a proposed bank merger creates an automatic stay of the transaction. In each of these actions, upon filing a Stipulation whereby the parties agreed to be bound by and seek the entry of the proposed Final Judgment, the United States moved to vacate the automatic stay so that the transaction could proceed, while the relief specified in the Judgments could be entered. In each action the Court vacated the automatic stay, permitting the FDIC to transfer the bridge banks promptly.

The United States and the defendants have stipulated that the proposed Final Judgments may be entered after compliance with the APPA, unless the government withdraws its consent. Entry of the proposed Final Judgments would terminate these actions, except that the Court would retain jurisdiction to construe, modify, and enforce the proposed Final Judgments and to punish violations of the Judgments.

II. Events Giving Rise to the Alleged Violation

A. The Proposed Transactions

On October 30, 1992, the FDIC took control of First City and its 20 affiliate banks in Texas, and reorganized them into 20 bridge banks. The New First City Banks of Beaumont and Midland, two of the 20 bridge banks, formerly operated in the State of Texas as First City Bank

of Beaumont and First City Bank of Midland, respectively. After establishing the bridge banks, the FDIC solicited bids for the purchase of these banks pursuant to its congressional authority to arrange assisted transactions. See 12 U.S.C. 1823(c).

Congress mandated that FDIC-assisted transactions be subject to antitrust review, both by the bank regulatory agencies whose approval is required and by the Department of Justice. See 12 U.S.C. 1823(f)(7), 1828(c)(6), 1828(c)(7)(a). Congress also expressly provided that the United States can challenge assisted transactions that would violate Section 7 of the Clayton Act. 12 U.S.C. 1828(c)(7)(a).

On January 26, 1993, the FDIC selected TCB as the winning bidder for the bridge banks in Beaumont and Midland, among others.[1] By the terms of TCB's winning bid, TCB would purchase the assets and assume the liabilities of the two bridge banks for a total of approximately $32 million.

TCB is the second largest bank holding company operating in the State of Texas, with total deposits of more than $15 billion, which represent nearly 10 percent of total commercial bank deposits in the State. Through its 16 banks, TCB operates approximately 110 offices or branches throughout Texas. First City was the fourth largest bank holding company in Texas, with nearly $7 billion in deposits statewide, which represented about four percent of total commercial bank deposits in the State. Through its 20 banks, First City operated approximately 113 offices and branches throughout the State of Texas.

In January 1993, TCB submitted to the Comptroller of the Currency its applications to purchase the assets and assume the deposits of New First City-Beaumont and New First City-Midland, among others. The applications were treated as emergency transactions for expedited review and, on February 8, 1993, the Comptroller approved TCB's application for the Midland acquisition. Under the Bank Merger Act,[2] the United States had five days from the date of its notice of the Comptroller's decision, or until February 12, 1993, to prevent the proposed acquisition by filing a complaint with the Court. The United States timely filed the Midland action on February 11, 1993.

The Comptroller's review of the Beaumont transaction was delayed pending further public comment, relating primarily to TCB's performance under the Community Reinvestment Act, 12 U.S.C. 2901–2906. On February 19, 1993, the Comptroller approved TCB's application for the Beaumont acquisition. The United States again had five days from the date of its notice of the Comptroller's decision, until February 23, 1993, to prevent the proposed acquisition by filing a complaint with the Court. The United States timely filed the Beaumont action on February 23, 1993.

B. The Government's Competitive Analysis

The United States filed its complaints because the proposed acquisition would tend to reduce competition in the provision of business banking services in the Beaumont and Midland geographic markets. Medium-sized businesses in Beaumont, and both small and medium-sized businesses in Midland, are the customers that the United States believes are most likely to be adversely affected. The proposed acquisitions would eliminate one of only a few financial institutions serving these customers and would substantially increase the risk of anticompetitive conduct resulting in higher prices for business banking services.

The United States investigated and analyzed the proposed acquisitions under the framework outlined in the Department of Justice and Federal Trade Commission *Horizontal Merger Guidelines*, 57 FR 41552, 4 Trade Reg. Rep. (CCH) ¶13,104 (1992) (*"Merger Guidelines"*). Investigation by the United States shows that TCB and New First City compete in the provision of a wide range of banking services, including services to individual consumers and services to businesses in Texas. Business customers generally have fewer alternatives for their banking needs than do individuals.[3] Therefore, in this as in other bank merger investigations, the government focused its analysis on two groups of commercial customers: Small businesses (generally those with annual revenues of less than $5 million) and medium-sized or "middle market" businesses (those businesses with annual revenues of between approximately $5 million and approximately $100 million).[4]

Each of these groups of business customers have different borrowing needs, and have access to different types of suppliers, than do large corporations. While the largest businesses might be able to obtain operating finance from distant institutions or from the public debt securities markets, neither small businesses nor medium-sized businesses generally have these options. Small businesses and medium-sized businesses are therefore more likely to be adversely affected by a merger of two banks in the same geographic market than are large businesses.

In this investigation and in prior bank merger investigations, the government has learned that small businesses and medium-sized businesses rely on commercial banks for operating or working capital credit to meet short-term or seasonal funding needs. The purpose and characteristics of these loans generally make other credit products, including loans to finance equipment purchases, poor substitutes. While some operating loans are secured by real estate (as well as by the borrowers' other assets, if any), loans to purchase real estate generally are not

[1] TCB was also selected as the winning bidder for New First City Bank-Dallas, N.A.; New First City Bank-El Paso, N.A.; and New First City Bank-Houston, N.A. The United States has not challenged TCB's acquisition of the Dallas or Houston bridge banks. In response to the United States' intention to challenge TCB's acquisition of the El Paso bridge bank TCB abandoned that transaction and assigned its right to acquire that bridge bank to Boatmen's Bancshares, Inc., of St. Louis, Missouri. The United States has concluded that Boatmen's is a competitively suitable purchaser for the El Paso bridge bank, and will not challenge that acquisition.

[2] 12 U.S.C. § 1828(6) and (7)(a), provide in pertinent part that "[t]he responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. . . . [T]he transaction may not be consummated before the fifth calendar day after the date of approval by the agency. . . . Any action brought under the antitrust laws arising out of a merger transaction shall be commenced prior to the earliest time under paragraph (6) at which a merger transaction approved under paragraph (5) might be consummated. The commencement of such an action shall stay the effectiveness of the agency's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented."

[3] Thrifts and credit unions typically compete with commercial banks for retail transaction and savings accounts, and for some consumer loans. The United States therefore typically focuses its bank merger investigations on business banking services; if a bank merger presents a likely adverse effect on competition, and the government obtains relief, that relief typically introduces a new bank competitor into the market, or strengthens an existing fringe competitor. Such relief is likely to prevent a substantial lessening of competition in consumer banking as well as in commercial banking. As discussed below, the United States believes that the proposed relief here likely will preserve competition in both consumer and commercial banking in the Baumont and Midland areas.

[4] The government's demarcation between small and medium-sized businesses is based on an analysis of the facts in any given market. For example, the point of demarcation in Seattle, Washington, appeared to the government to be $10 million in sales, see Letter of James F. Rill to Alan Greenspan, March 12, 1992, regarding the proposed acquisition by BankAmerica Corp. of Security Pacific Corp ("BankAmerica Letter"), as compared to the $5 million approximation that the government considers is appropriate in these markets, based on its investigation. The common feature, however, is that all such customers were found to be locally limited.

substitutes for operating or cash flow finance loans, which generally take the form of lines of credit.

There are sound economic reasons that lead small- and medium-sized businesses to tend to purchase business banking services (particularly commercial operating loans and transaction accounts) locally, and for banks to provide these products (particularly credit products) only to businesses located in their general area. Many small- and medium-sized businesses also find that there are good reasons to obtain operating credit, transaction accounts and their primary cash management services, if any, from the same bank.

The United States concluded that, for business banking services in Texas, the relevant geographic markets were those defined by the Federal Reserve Bank of Dallas.[5] The government considered whether a larger Midland/Odessa market would be appropriate, but concluded that banks in Odessa do not and would not significantly constrain anticompetitive activity in Midland. The government also investigated whether a smaller or larger Beaumont market was appropriate, and found that, while banks in Beaumont might compete for customers in Orange, Beaumont customers were unlikely to consider Orange banks to be alternatives. The government also investigated whether Houston banks compete for Beaumont business customers, and learned that there did not appear to be banks in Houston (that were not themselves present in Beaumont) that were competing or likely would compete for the business of Beaumont commercial customers. The government therefore concluded that it was not appropriate to modify the bounds of the relevant geographic markets from those defined by the Federal Reserve Bank of Dallas for use in considering business banking services to small- and medium-sized businesses.

The government then examined whether business banking customers turned or would turn to suppliers other than commercial banks as alternatives to obtaining business banking services from commercial banks. As in prior investigations,[6] it appeared that in the markets here at issue few other financial institutions offer substitutes for the business banking services currently provided by commercial banks in the relevant markets. Nor do such firms appear likely to start offering such substitutes within a reasonably short period of time. Commercial banks are the only firms that provide business banking services, as defined in the complaints, in the Beaumont and Midland markets. In both of these geographic markets, TCB and New First City are two of the largest of these few firms. TCB and New First City each offer a variety of business banking services, and compete directly with one another in these relevant geographic markets. A significant number of small- and medium-sized business customers purchase both transaction accounts and commercial loans as well as other business banking services from TCB and New First City.

Thrift institutions—federal savings and loan associations ("FSLAs") and federal savings banks ("FSBs")—are limited by law in the extent to which they make commercial loans, and thrifts' ability to offer these services to businesses is substantially affected by capital requirements and their own capital positions.[7] The thrifts that had entered business banking and lending in the past decade have generally withdrawn from those markets, and managers of other thrifts have learned from the thrift industry's general lack of success in commercial banking.[8] Thrifts in the Beaumont and Midland markets do not currently provide business banking services to medium-sized businesses or, in most cases, to small businesses. Our investigation revealed that the above factors, coupled with other economic factors concerning the cost, scale and expertise involved in offering business banking services, make it unlikely that savings and loan associations in these markets would enter into the provision of such services either as uncommitted entrants (*i.e.*, rapidly and without incurring significant sunk costs) or as committed entrants (*i.e.*, within approximately two years and having incurred significant sunk costs).[9]

Non-depository institutions may provide one or even a few of the services provided by commercial banks and certain thrift institutions. For example, investment or brokerage houses offer products that in certain circumstances substitute for products offered to consumers by commercial banks or thrift institutions. Non-depository institutions, however, do not provide certain important business banking services, such as transaction accounts for business customers, which are offered by commercial banks and some thrift institutions. Moreover, knowledgeable persons interviewed in this investigation did not indicate that those firms were active competitors to commercial banks in these Texas markets, at least for businesses with sales of less than $100 million. Thus, they are not included as suppliers of business banking services.[10]

The United States' investigation indicates that a substantial majority of business banking customers in each of the Beaumont and Midland markets are served by five or fewer firms. In Beaumont, New First City is the leading firm by a significant margin, and TCB appears to be second. In Midland, TCB and First City are second and third, respectively. Absent the divestitures proposed in the Judgments, the acquisition of New First City-Beaumont would create a firm nearly three times the size of its next largest competitor (measured by deposits). The Midland acquisition would have resulted in two firms, NationsBank and TCB, having more than 70% of the market's

[5] The Federal Reserve Bank of Dallas defined the Beaumont market to be the Beaumont/Port Arthur Metropolitan Statistical Area ("MSA"), which consists of the greater part of Jefferson County and portions of Hardin and Orange Counties. The Midland market was defined as the Midland MSA, which essentially consists of Midland County.

[6] See BankAmerica Letter; Competitive Impact Statement, *United States* v. *Society Corp.* (N.D. Ohio Mar. 13, 1992) (No. 1:92CV0525); Competitive Impact Statement, *United States* v. *Fleet/Norstar Financial Group, Inc.* (D. Me. 1991) (No. 91–0221–P); Competitive Impact Statement, *United States* v. *First Hawaiian, Inc.* (D. Hawaii Mar. 7, 1990) (Civ. No. 90–00904 DAE).

[7] Under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 1464(t), new, more significant capital requirements and other restrictions were placed upon the lending activities of thrift institutions.

[8] The thrifts in the geographic markets at issue in these actions have not entered, and generally are not expected to enter, business banking. The fact that some thrifts are carrying commercial loans on their balance sheets does not necessarily indicate that those thrifts are making new commercial loans or are actively seeking business customers. Some thrifts with commercial portfolios succeeded to those portfolios when they acquired assets and deposits of earlier failed institutions from the Resolution Trust Corporation or Federal Home Loan Bank Board.

[9] In assessing competition in business banking services, the Department's consistent approach since *United States* v. *First Hawaiian, Inc.* (D. Hawaii 1990), has been to identify those thrifts that are current providers of business banking services in the geographic markets at issue, as well as those thrifts that are uncommitted entrants into those markets, and include those thrifts as competitors. *Merger Guidelines* § 1.3. The Department has at times adjusted estimates of their capacity to reflect the additional regulatory constraints that thrifts face. See *United States* v. *Society Corp.* (N.D. Ohio 1992). The Department generally recognizes that thrifts are full competitors in retail or consumer banking services.

[10] The government's investigations of bank mergers have indicated that credit unions generally are not current or potential competitors in business banking services. Credit unions offer services to individual consumers, but are not permitted to offer business banking services such as those provided to the business customers served by commercial banks. The investigation did not reveal any contrary evidence in these markets.

commercial bank deposits between them. These concentrations of business, together with other relevant factors discussed below, indicated to the United States that these acquisitions would create a substantial possibility that one or a few firms in these markets could exercise market over, profitably raising price and restricting output.

Some banks in the Beaumont and Midland markets are part of statewide banks or of statewide or larger bank holding companies, and those banks may have some ability to shift loanable funds from one market to another. While those banks might therefore offer more loans or larger loans in a particular market than their deposits in that market alone would support, there are other constraints on the amount of out-of-market funds that a depository institution can use effectively to make loans in a market. In addition to risk considerations, an institution needs an effective means of delivering banking services, including loans, to customers. Among other things, it needs a network of branch offices, trained loan personnel familiar with the market, its economy and its businesses, and the technical capability to deliver at least basic cash management services to medium-sized businesses. Therefore, a bank's ability to draw on out-of-market funds does not by itself indicate that it will be able profitably to expand output, and the United States does not believe that such firms' holding company affiliations necessarily warrant attributing to those firms greater measures of capacity that their historical performance indicates is appropriate.[11]

Under the Merger Guidelines, when the Herfindahl-Hirschman Index ("HHI"),[12] a measure of market concentration, is over 1800, the market is considered highly concentrated. A merger that increases the HHI by more than 50 points potentially raises significant competitive concerns, depending upon an analysis of all other relevant factors. Mergers producing an increase in the HHI of more than 100 points in moderately concentrated markets (*i.e.*, in markets where the post-merger HHI exceeds 1000) potentially raise significant competitive concerns, depending upon an analysis of all other relevant factors. Merger Guidelines § 1.51.

In the Midland market, the HHI, calculated on the basis of total deposits of firms now offering business banking services, would increase by approximately 408 to 2450.[13] This and other investigations have indicated that commercial bank deposit concentration is a good early indicator of instances of competitive concern in business banking services arising from bank mergers.[14] In Midland, the government's investigation indicated that concentration in business banking services to medium-sized businesses likely would be significantly greater than indicated by the HHI figures above, because substantially fewer local commercial banks could provide the necessary credit or more sophisticated cash management service required by medium-sized businesses. For example, while seven local commercial banks could provide business banking services in Midland, only five had the capability to provide these services to medium-sized businesses. TCB and New First City were two of the largest of these few banks. Based on all available information, the government concluded that the markets for business banking services to medium-sized and small businesses in Midland would be highly concentrated, and concentration would increase substantially, as a result of these acquisitions. The government estimates the post-merger HHI in the market for medium-sized business banking services in Midland (measured by total deposits of those firms offering those services) at 3328, increasing by 599.

In the Beaumont market, the government's investigation revealed that there were relatively few local banks that could meet the credit needs and provide the necessary cash management services demanded by medium-sized local businesses, banking services currently provided by New First City and TCB. Smaller local banks either did not have the capability to extend loans in the necessary amounts to individual customers, or could not expand in sufficient amounts to prevent an anticompetitive price increase by the larger banks. Hence, HHI calculations that include all commercial banks in Beaumont would understate significantly the level of concentration for medium-sized businesses that are not active participants in these markets. The government found that the markets for business banking services to medium-sized customers were highly concentrated, and the merger would increase that concentration substantially, eliminating one of a few large competitors for such medium-sized businesses. The government estimates that, absent divestiture, the post-merger HHI in the market for medium-sized business banking services (measured by total deposits of those firms offering those services) would be 3368, increasing by 1197 as a result of the proposed acquisition.[15]

However, examination of concentration alone does not exhaust the issues for analysis of competitive impact. In conducting its analysis, the government carefully reviewed evidence of potential competitive effects, such as conditions that would make coordinated or unilateral price increases likely or unlikely to occur or succeed. The evidence we have gathered, together with our growing understanding of competition in business banking services gained in these and other investigations, raised concerns that—in the absence of adequate divesture—the transactions could substantially lessen competition by creating an increased likelihood of supracompetitive pricing of business banking services by leading banks in these markets.

The government's investigation concluded that, without divestiture,

[11] As discussed below, the United States considered, in evaluating the competitive effects of the proposed acquisitions, the likelihood that incumbents would follow or undercut an anticompetitive price rise. In that analysis, the United States considered, among other things, trends in historical deposit and commercial loan volumes and shares.

[12] The HHI is a measure of market concentration calculated by squaring the market share of each firm in the market and then summing the resulting numbers. For example, for a market supplied by four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2+30^2+20^2+20^2=900+900+400+400=2600$). The HHI takes into account the relative sizes and distribution of firms in a market. It approaches zero when a market is supplied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is supplied by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparities in size among these firms increases. Merger Guidelines § 1.51.

[13] Bank deposit data are available, with some delay, for each bank and thrift branch. Other data, such as loan data, are not readily obtainable on a branch-by-branch basis, although such data are obtainable for some banks in Texas on a county-by-county basis. The United States therefore examines deposit concentration, together with whatever other relevant data it can obtain, in the course of bank merger investigations. In this investigation, the United States examined deposit data and estimates of commercial loans to businesses generally and to medium-sized businesses in particular. The loan estimates, while somewhat imprecise, nonetheless were consistent with and did not contradict the inferences drawn from deposit data.

[14] The government's further investigation of markets with high deposit concentration not infrequently reveals more specific reasons for competitive concern. At the same time, some investigations prompted by high levels of deposit concentration reveal information that leads the government to conclude that, notwithstanding such concentration, adverse competitive effects are unlikely. In such instances (including some instances involving other New First City bridge banks), the Department of Justice takes no further action.

[15] The HHI for the Beaumont market, calculated on the basis of total deposits of firms now offering business banking services, would increase by 520 to 1698 if the proposed acquisition occurred and if there was no divestiture.

these transactions would serve to facilitate coordinated behavior in the provision of business banking services by the leading banks in the Beaumont and Midland markets, particularly to medium-sized businesses in both markets and to small businesses in Midland. The acquisitions would reduce the number of leading banks in Beaumont from five to four, and in Midland from four to three. There appear to be opportunities in both markets for banks to monitor the movement of customers among competitors, and possibly to monitor pricing, thereby providing competitors with the ability to detect and punish firms that do not participate in coordinated activity. The past behavior and current plans of the remaining firms in these markets generally did not lead the government to find that those firms would be likely to act to defeat an anticompetitive price rise by the market leaders. The government also concluded that entry by outside firms or expansion by firms already operating within the market would not be likely, timely or of sufficient magnitude to remedy possible anticompetitive concerns.

The United States understands that there were additional bids above liquidation value for each of Beaumont and Midland bridge banks, and some of those bids would therefore constitute less anticompetitive alternatives to selling those bridge banks to TCB. For that reason, the United States does not believe that a successful "failing company" defense could be made out on these facts.[16] The United States has previously rejected the argument that the failing company defense is automatically applicable to any assisted transaction. Competitive Impact Statement, *United States* v. *Fleet/Norstar, Inc.*, at 12–13.

For all the above reasons, the United States found that each of these markets is or would become highly concentrated as a result of these acquisitions; that the increase in concentration would be substantial; that the relevant market factors created a likelihood of anticompetitive effects; that entry and expansion were unlikely to offset the anticompetitive effects; and that failing firm defenses were inapplicable.

III. Explanation of the Proposed Final Judgments

The risk to competition posed by these acquisitions would be substantially reduced by the structural relief provided in the proposed Final Judgments in each of the relevant markets through divestiture of commercial bank offices, branches, assets and deposits.

TCB is required, by section IV of the respective proposed Final Judgments, within three months from the entry of judgment, to divest the following commercial bank offices:

1. In the Beaumont market, at least two and as many as three New First City branches, including all assets and deposits of those offices;[17] all commercial loans over $500,000, and the deposits of those loan customers. Approximately $100 million in deposits and approximately $38 million in outstanding commercial loans, together with approximately $8 million in direct consumer loans, would be divested. In addition, the purchaser will have the right to acquire New First City's main office facility (without deposits or loans, other than those specified above) and its operations and cash value facilities. TCB will be permitted to retain New First City's trust and indirect consumer loan businesses, wherever served.[18]

2. In the Midland market, New First City's main office, including all assets and deposits of that office; except that TCB will be permitted to retain New First City's trust business and, under certain circumstances, its indirect consumer loan business, wherever served.

To ensure that the divestitures are accomplished in such a way as to maintain competition, the proposed Final Judgments require that the offices be sold to firms determined by the government to be competitively suitable. The divestitures will bring about the entry of a new provider or make larger an existing, small provider of business banking services in each of these markets, thereby ensuring that competition is not substantially lessened by the acquisition.

All purchasers must demonstrate to the satisfaction of the United States that they have a good faith intention to operate the divested branches and offices as banking offices that offer business banking services to small and medium-sized businesses. The proposed Final Judgments also requires that TCB preserve the assets of the divested banking offices and businesses until purchased by a buyer. If TCB fails to sell the branches within three months of the entry date of the proposed Final Judgments, TCB shall file with the court and notify plaintiff within thirty days of the date the purchase contracts were required to be entered into by TCB. The United States can then proceed under the terms of section V of the proposed Final Judgments to appoint a trustee to accomplish the branch divestitures.

It is the intent and belief of the United States that the proposed relief will prevent a reduction of competition in the markets for banking services in Beaumont and Midland, including in particular the markets for business banking services to medium-sized businesses in both markets and for small businesses in Midland. This relief should establish or strengthen new bank competitors in these markets, which are anticipated to provide a full range of banking services to customers, small businesses and medium-sized businesses. Such full service banks with broad bases of commercial and retail business are likely to ensure that a viable competitor will replace the competition that otherwise might be lost in those markets.

The United States and TCB have stipulated that the proposed Final Judgments may be entered by the Court at any time after compliance with the APPA. The proposed Final Judgments constitute no admission by any party as to any issue of fact or law. Under provisions of section 2(e) of the APPA, entry of the proposed Final Judgments is conditioned upon a determination by the Court that the proposed Final Judgments are in the public interest.

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[16] The failing company defense, which has been recognized since *International Shoe Co.* v. *Federal Trade Comm'n*, 280 U.S. 291, 299–303 (1930), provides a defense for mergers that are otherwise anticompetitive that involve a failing or failed firm. To establish the defense, it is necessary to show:

(1) the allegedly failing firm probably would be unable to meet its financial obligations in the near future; (2) it probably would not be able to reorganize successfully . . . .; (3) it has made unsuccessful good faith efforts to elicit reasonable alternative acquisition offers of an acquisition of the failing firm that would both keep the firm in the market and pose a less severe danger to competition than the proposed merger; and (4) absent the acquisition, the assets of the failing firm would exit the relevant market.

Merger Guidelines ¶ 5.1. The burden of establishing these elements, including the burden of showing the unavailability of a less anticompetitive alternative purchaser, rests on the merging parties. *United States* v. *General Dynamics Corp.*, 415 U.S. 486, 507 (1974); *Citizen Publishing Co.* v. *United States*, 394 U.S. 131, 138–39 (1969). TCB did not contend that the failing company defense was applicable in these markets.

[17] If the purchaser of the Beaumont divestiture package persuades the Department that divestiture of two branches is sufficient to permit that purchaser to operate as a viable competitor capable of providing business banking services to the full range of small and medium-sized businesses in the Beaumont market, the Final Judgment would require the divestiture of only two branches, the Central and Spindletop branches. Otherwise, all three branches (not including the main office) would be divested.

[18] Direct consumer loans are loans originated by the bank's personnel directly to consumers. Indirect consumer loans are loans originated by others (especially by automobile dealers) and sold to the bank.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys fees.[19] Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust actions under the Clayton Act. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgments have no *prima facie* effect in any private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgments within which any person may submit to the United States written comments regarding the proposed Final Judgments. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register.** The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and response(s) of the United States will be filed with the Court and published in the **Federal Register.**

Written comments should be submitted to Richard L. Rosen, Chief, Communications and Finance Section, Antitrust Division, U.S. Department of Justice, 555 Fourth Street, NW., room 8104, Washington, DC 20001.

The proposed Final Judgments provide that the Court retains jurisdiction over these actions, and any party may apply to the Court for any order necessary or appropriate for their modification, interpretation or enforcement.

VI. Alternatives to the Proposed Final Judgments

The United States considered the following alternatives regarding divestiture of bank branches. In the Beaumont market, the United States considered the alternative of divesting one or two branches, without the commercial loans that are to be divested under the proposed Final Judgment. In the Midland market, the United States considered the alternative of divestiture of a TCB branch, together with the grant of an option on the facility currently occupied by another TCB branch. The United States concluded in each instance that such divestitures would be unlikely to provide a sufficient entry vehicle so that a new competitor could enter the market for business banking services to medium-sized businesses, and that therefore the alternative would not be sufficient to ameliorate the likely anticompetitive effect of the acquisitions.

The United States also considered requiring TCB to divest all of the assets and deposits of the New First City bridge banks. The United States concluded that divestiture of less than all of those assets and deposits would be sufficient to provide an effective remedy to the government's concerns, and that acquisition of those assets that TCB would acquire, in light of the divestiture of other assets to competitively suitable purchasers, would not be significantly adverse to competition.

As a final alternative to the proposed Final Judgments, the United States considered litigation seeking a permanent injunction preventing TCB's acquisition of New First City. The United States rejected that alternative because the sale of the commercial bank branches will establish viable independent competitors to TCB in all the relevant markets and likely will prevent the proposed acquisition from having significant anticompetitive effects in those markets, and will avoid delaying the final resolution of those bank failures by the FDIC. The United States also recognized that such litigation would require determination of several disputed issues of law and fact, and that there could be no assurance that the position of the United States would prevail.

VII. Standard of Review Under the Tunney Act for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States are subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed final judgment "is in the public interest." In making that determination, the court *may* consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). The courts have recognized that the term "public interest" "take[s] meaning from the purposes of the regulatory legislation." *NAACP* v *Federal Power Comm'n*, 425 U.S. 662, 669 (1976). Since the purpose of the antitrust laws is to "preserv[e] free and unfettered competition as the rule of trade," *Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4 (1958), the focus of the "public interest" inquiry under the Tunney Act is whether the proposed final judgment would serve the public interest in free and unfettered competition. *United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983), *cert. denied*, 465 U.S. 1101 (1984); *United States* v. *Waste Management, Inc.*, 1985–2 Trade Cas. ¶66,651, at 63,046 (D.D.C. 1985). In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."[20] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making the public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

It is also unnecessary for the district court to "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert.*

[19] The Bank Merger Act, 12 U.S.C. 1828, however, prevents the filing of an antitrust suit (other than a suit under section 2 of the Sherman Act) later than five days after the Comptroller's orders of February 8 and February 19, 1993, regarding the Midland and Beaumont acquisitions, respectively.

[20] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted in* (1974) U.S. Code Cong. & Ad. News 6535, 6538.

denied, 454 U.S. 1083 (1981). Precedent requires that

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[21]

A proposed consent decree is an agreement between the parties which is reached after exhaustive negotiations and discussions. Parties do not hastily and thoughtlessly stipulate to a decree because, in doing so, they

> waive their right to litigate the issues involved in the case and thus save themselves the time, expense, and inevitable risk of litigation. Naturally, the agreement reached normally embodies a compromise; in exchange for the saving of cost and the elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.

United States v. *Armour & Co.*, 402 U.S. 673, 681 (1971).

The proposed consent decree, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a merger or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[22]

VIII. Determinative Documents

No documents were determinative in the formulation of the proposed Final Judgments. Consequently, the United States has not attached any such documents to the proposed Final Judgment.

[21] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted); *see United States* v. *BNS, Inc.*, 838 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (D.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F.2d at 565.

[22] *United States* v. *American Tel. and Tel Co.*, 552 F. Supp. 131, 150 (D.D.C.), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1982) *quating United States* v. *Gillette Co., supra*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky 1985).

March 8, 1993.

Respectfully submitted.

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Certificate of Service

I hereby certify that I have caused to be served a true and correct copy of the foregoing upon the following by placing same in the United States Postal Service mail, first class, postage prepaid this 8th day of March, 1993.

Mr. Charles E. Koob, Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, N.Y. 10017–3909.

Mr. John H. Marks, Jr., Liddell, Sapp, Zively, Hill & LaBoon, 1200 Texas Commerce Tower, 2200 Ross Avenue, Dallas, Texas 75201.

Katherine Savers McGovern,

Assistant United States Attorney.

[FR Doc. 93–6407 Filed 3–19–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Ahmed Gaber, M.D.; Revocation of Registration

On December 21, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ahmed Gaber, M.D., of 8 Table Lane, Hicksville, New York, 11801. The Order to Show Cause sought to revoke his DEA Certificate of Registration, BG0417623, and deny any pending applications for renewal of such registration. The Order to Show Cause alleged that on April 28, 1992, the State of New York Department of Health/State Board for Professional Medical Conduct, revoked Dr. Gaber's license to practice medicine, and as a result, he is no longer authorized by state law to handle controlled substances. 21 U.S.C. 824(a)(3).

The Order to Show Cause was sent to Dr. Gaber by registered mail and was returned to DEA unclaimed. DEA Investigators were advised by local law enforcement authorities that Dr. Gaber is no longer at his registered location and repeated attempts to locate him have been unsuccessful. The law enforcement authorities further informed DEA Investigators that there is no indication that Dr. Gaber will be returning in the near future. As a result, Dr. Gaber is deemed to have waived his opportunity for a hearing. The Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that, on May 24, 1991, Dr. Gaber was arrested by the Nassau County (New York) Police Department. The arrest was the result of complaints by six female patients, all under the age of sixteen, that Dr. Gaber had sexually abused them.

Following a formal hearing on the matter, the New York State Board for Professional Medical Conduct revoked Dr. Gaber's license to practice medicine in the State of New York, effective April 28, 1992. The board determined that Dr. Gaber breached his patients' trust in the physician-patient relationships and took advantage of individuals who were vulnerable in part because of their age.

The Administrator finds that as of April 28, 1992, Dr. Gaber's license to practice medicine in the State of New York has been revoked, and he is without authority to handle controlled substances. The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See James H. Nickens, M.D., 57 FR 59847 (1992); Elliott Monroe, M.D., 57 FR 23246 (1992); Bobby Watts, M.D., 53 FR 11919 (1988).

Based on the foregoing, it is clear that Dr. Gaber's DEA Certificate of Registration must be revoked. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that Dr. Gaber's DEA Certificate of Registration, BG0417623, be, and it hereby is, revoked and that any pending applications for renewal of such registration be, and they hereby are, denied.

This order is effective March 22, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-6438 Filed 3-19-93; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 3, 1993, Ganes Chemical, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Methadone (9250)	II
Methadone-Intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than 30 days from publication.

Dated: March 15, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93-6442 Filed 3-19-93; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 92-1]

Lowell O. Kirk, M.D.; Revocation of Registration

On September 4, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Lowell O. Kirk, M.D. (Respondent), of 10799 Western Avenue, Stanton, California 90680, proposing to revoke his DEA Certificate of Registration, AK1051907, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's continued registration is inconsistent with the public interest, as that term is used in 12 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, timely filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held, beginning on February 25, 1992, in Long Beach, California.

On August 3, 1992, Judge Tenney issued his opinion and recommended decision, recommending that Respondent's DEA Certificate of Registration be revoked in its entirety. Neither party filed exceptions pursuant to 21 CFR 1316.66.

On September 8, 1992, Judge Tenney transmitted the record of the proceedings to the Administrator. The Administrator has carefully considered the record in its entirety and adopts the opinion and recommended decision of the administrative law judge. Pursuant to 21 CFR 1316.67, the Administrator hereby issues his final order in this matter.

The Administrator finds that in 1984, Respondent initially was warned by the California Board of Medical Quality Assurances (Board) about prescribing controlled substances to his patients without adequate medical examinations and indications. In 1985, the Board initiated an investigation of Respondent after receiving a complaint about Respondent's controlled substance prescription practices. In response to these complaints, three undercover agents went to Respondent's office posing as patients. Two of the three obtained prescriptions for controlled substances from Respondent without receiving any medical examinations and in the absence of any legitimate medical purposes. Based upon the latter investigation, Respondent submitted an affidavit acknowledging that he had been warned by the Physician Peer Counseling Panel of the Board regarding his prescribing of controlled substances without good medical indications.

Notwithstanding the action by the Board, in 1988 the California Bureau of Narcotic Enforcement (Bureau) received complaints regarding Respondent's prescribing practices. Based upon these complaints, the Bureau commenced an undercover investigation of Respondent's controlled substance prescribing practices. On September 7 and October 14, 1988, an undercover operative made visits to Respondent's office. On both occasions, Respondent prescribed the operative 100 dosage units of Valium, a Schedule IV controlled substance, even though she indicated she had no medical problems and wanted the Valium to "mellow out." During the second visit, Respondent also prescribed the operative 50 dosage units of Darvon, a Schedule IV controlled substance, even though the operative stated she was not in pain.

On November 29, 1988, a Bureau agent, posing as the undercover operative's boyfriend, went to Respondent's office and informed Respondent that he used some of his "girlfriend's" Valium to relax and requested a Valium prescription from Respondent. Although the agent never indicated that he had any medical problems, Respondent issued the undercover agent a prescription for 50 dosage units of Valium. On December 22, 1988, this same agent returned to Respondent's office seeking another prescription. After the agent indicated that he was not having any medical problems, Respondent issued him a prescription for 100 dosage units of Valium. During this visit the agent requested Darvon and Fastin on behalf of his "girlfriend." Despite the fact that she was not present and that Respondent had never obtained any information about her medical need for such drugs, he issued the requested prescriptions.

Shortly after the Bureau conducted the undercover investigation, it received information about other patients of Respondent. On April 25, 1989, a local police department responded to a call from a convalescent center based upon a report that a person was under the influence of drugs. The policeman who responded saw that this person was conscious, but incoherent. Following an investigation, the officer determined that Respondent was her physician and that he recently had prescribed her various controlled substances.

Another patient of Respondent was found dead in her residence. A metal box was discovered near her body which contained numerous controlled substances prescription vials, of which a majority were issued by Respondent. Particularly, Respondent had issued prescriptions to the deceased for Valium (diazepam) and Tylenol with codeine #3, a Schedule III controlled substance. The coroner's report concluded that this

person had died from a massive gastro-intestinal hemorrhage due to acute intoxication and the combined effects of codeine, morphine, diazepam and other drugs.

Based upon, *inter alia*, the undercover buys conducted in 1988 and the information about the two patients described above, the Bureau obtained and executed a search warrant for Respondent's office. All relevant patient files were seized and submitted to two medical physicians for their expert opinion. Both physicians filed reports which concluded that Respondent had no medical justification of issuing the controlled substance prescriptions to the two undercover agents.

The physicians also concurred in the conclusion that the controlled substance prescriptions issued by Respondent to his patient who was confronted by the police at the convalescent center, were excessive and contraindicated especially in light of the fact that Respondent's records revealed that this patient was a drug addict and had severe psychological illnesses. These experts also concluded that Respondent's prescriptions to the deceased patient were without legitimate medical purpose. One of the physicians noted that Respondent's controlled substance prescriptions could have caused and exacerbated a bleeding ulcer and that the multiple effect of such substances very likely aggravated the intestinal bleeding which resulted in a seizure, the subsequent respiratory arrest and death. This physician concluded that Respondent's prescribing contributed to the patient's death.

While the search warrant was being served, one of the investigators encountered three of Respondent's patients, all of whom exhibited signs of being under the influence of drugs. Two female patients did not have prescriptions but told the investigator they wanted Valium and Darvon. Based upon the investigator's observations, another search warrant was obtained for these patient records. The medical experts also reviewed these patient records and concluded that Respondent had prescribed controlled substances to these three patients without a legitimate medical reason. Both medical history charts for the female patients indicated that they had been past abusers of heroin and cocaine. Despite this information, Respondent continued to prescribe controlled substances to these two patients. Both experts concluded that the third patient obtained unnecessary and excessive amounts of Darvon, Valium and Halcion, a Schedule IV controlled substance, from Respondent and that there was no legitimate medical reason for these prescriptions.

On January 21, 1992, Respondent entered a plea of *nolo contendere* in the Superior Court of California in and for Orange County, to six counts of issuing prescriptions for controlled substances without a legitimate purpose. These convictions are considered misdemeanors under applicable State law.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick D.D.S., Docket No. 88–69, 53 FR 5326 (1988).

The Administrator has carefully reviewed the entire record and concurs with the opinion and recommended decision of the administrative law judge that factors two, three, four and five of the public interest factors apply. Under factor two, the Administrator finds that Respondent's dispensing of controlled substances is not only poor but this conduct has continued since 1984. Moreover, Respondent was warned about his problems with prescribing controlled substances at least two times by the Board but, nevertheless, continued to prescribe controlled substances for no legitimate medical reasons to patients that he knew or should have known were drug addicts or abusers. The undercover operative and agent were able to procure specific controlled substances from Respondent virtually upon demand. Respondent's prescribing practices exacerbated his patients' medical and psychological problems and, in one case, contributed to the death of a patient.

Factor three applies based upon Respondent's *nolo contendere* plea to the State criminal charges. It is well established that a plea of *nolo contendere* is considered a conviction for the purpose of administrative proceedings under the Controlled Substances Act. *Sokoloff* v. *Saxbe*, 501 F.2d 571 (2d Cir. 1974).

As to factor four, Respondent did not comply with applicable Federal law because he prescribed controlled substances to individuals without legitimate medical reasons. Such conduct is contrary to 21 CFR 1306.04(a). The Administrator finds that factor five also applies because Respondent was warned in 1984 and 1985 and yet continued to indiscriminately prescribe controlled substances through 1989. Despite such warnings, Respondent's abusive practices became worse, inasmuch as his prescribing practices contributed to the death of one of his patients.

Respondent argued that he was entrapped by the actions of the undercover agents. Assuming that such a defense is available in proceedings of this nature, the Administrator concurs with the administrative law judge's conclusion that Respondent could not have been entrapped because he was on notice that his conduct was unlawful based upon the warnings issued to him by the State Board in 1984 and 1985.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AK1051907, previously issued to Lowell O. Kirk, M.D., be, and it hereby is, revoked, and any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective April 21, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93–6439 Filed 3–6–93; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 92–19]

Karl Konstantin, M.D.; Revocation of Registration

On November 18, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Karl Konstantin, M.D.,

Respondent, at 2584 MacArthur Boulevard, Oakland, California proposing to revoke his DEA Certificate of Registration, AKA4771994 and to deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's continued registration would be inconsistent with the public interest.

Respondent requested a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held in San Francisco, California on July 21, 1992. On October 26, 1992, Judge Tenney entered his opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that the Administrator revoke Respondent's registration. Judge Tenney further recommended that after one year favorable recognition be given to any new application submitted by the Respondent. Neither party filed exceptions to the administrative law judge's opinion and recommended decision and, on November 25, 1992, the administrative law judge transmitted the record to the Administrator. The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby enters his final order in this matter.

The administrative law judge found that in January 1989, the California Department of Justice initiated an investigation of the Respondent following the receipt of a complaint from the California Board of Medical Quality Assurance. The complaint alleged that Respondent made inappropriate sexual comments and advances toward his patients in exchange for controlled substances. As a result, an undercover investigation was conducted by the California Department of Justice.

The administrative law judge found that the undercover investigation involved a total of six undercover visits and one telephone contact by three undercover operatives. Five of the seven undercover contacts were audiotaped and the administrative law judge found, based on the persuasive evidence in the record, that the Respondent prescribed controlled substances to undercover operatives for no legitimate medical purpose on all of the six undercover visits, and authorized a refill of a controlled substance for no legitimate medical purpose as a result of the telephone contact.

The administrative law judge found that, not only did the Respondent prescribe controlled substances in an irresponsible and illegal manner, but he also failed to take an initial or biennial inventory of controlled substances; failed to properly secure controlled substances, keeping them on an open shelf and having a defective lock on a storage cabinet; and failed to maintain any records of the dispensation of controlled substances. However, after reviewing all the evidence, the administrative law judge noted that the Respondent took prompt remedial measures to comply with the recordkeeping and security regulations, and found that the Respondent was now in compliance with the cited regulations.

The administrative law judge found that, on January 23, 1991, the Respondent entered a plea of *nolo contendere* in the Superior Court of the State of California, County of Alameda, to three counts of prescribing a controlled substance to a person not under treatment for pathology or a condition other than addiction to a controlled substance in violation of Section 11154(a) of the California Health and Safety Code. The Court ordered the three counts to be reduced to misdemeanors and sentenced the Respondent to three years probation, a fine, and 200 hours of volunteer work.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows;

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See Neveille H. Williams, D.D.S., 51 FR 17556 (1986); David E. Trawick, D.D.S., 53 FR 5326 (1988); Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989); and cases cited therein.

The administrative law judge found that the Government made a prima facie showing of the factors found in 21 U.S.C. 823(f) (2), (3), (4) and (5), as referenced by 21 U.S.C. 824(a)(4). In so finding, the administrative law judge noted that the factor found in 21 U.S.C. 824(a)(2) did not serve as an independent basis for revocation of the Respondent's registration as that factor required conviction of a felony relating to controlled substances in order to serve as a separate ground for revocation. However, the Respondent's plea to three misdemeanor counts relating to controlled substances is a consideration under the public interest umbrella cited above.

Although the administrative law judge gave credence to evidence which he described as mitigating, the Administrator is in full agreement with the administrative law judge's opinion that such evidence, if it was indeed mitigating, does not serve to offset the severity of the Respondent's illegal behavior. The Respondent prescribed controlled substances to undercover operatives with no legitimate medical purpose. The Respondent also falsified the medical records of three undercover operators. The Respondent disregarded the responsibility which he owes to his patients and to the public, and the fact that the Respondent is an older physician with a difficult patient community does nothing to diminish the seriousness of the Respondent's behavior. It is evident that the Respondent's DEA Certificate of Registration should be revoked.

The administrative law judge recommended that the Administrator revoke the Respondent's DEA registration and further recommended that after one year, the Administrator give favorable recognition to any new application by the Respondent. The Administrator adopts the opinion and recommended ruling, findings of fact, and decision of the administrative law judge with one modification. The Administrator will give such favorable consideration to any new application filed by the Respondent after a period of five years.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AK4771994, previously issued to Karl Konstantin, M.D., be, and it hereby is, revoked. The Administrator further orders that all pending application for the renewal of

such registration, be, and they hereby are, denied. This order is effective April 21, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-6440 Filed 3-19-93; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 92-25]

Rodrigo I. Ramirez, M.D.; Denial of Application

On December 26, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Rodrigo I. Ramirez, M.D., (Respondent), proposing to deny his application for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause was issued alleging that Respondent's registration would be inconsistent with the public interest.

By letter filed January 24, 1992, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held before Judge Tenney in Tulsa, Oklahoma on June 9, 1992. On August 21, 1992, the administrative law judge issued his findings of fact, conclusions of law and recommended ruling. No exceptions to the recommendation of the administrative law judge were filed. On September 25, 1992, the administrative law judge transmitted the record of these proceedings to the Administrator. The Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67 hereby adopts the findings, conclusions and recommendations of the administrative law judge and issues his final order in this matter.

The administrative law judge found, first, that the Respondent's previous DEA Certificate of Registration, AR1492266, was revoked by final order of the Administrator on February 7, 1990, holding that the Respondent's continued registration was inconsistent with the public interest. The administrative law judge further found that the Respondent, in his capacity as a physician with Eastern State Hospital, continued to use his revoked DEA registration, issuing or authorizing over twenty controlled substance prescriptions after the revocation was effective. The administrative law judge found, most significantly, that the Respondent had failed to notify his employers at Eastern State Hospital of the revocation of his DEA registration and had, in fact, led them to believe that he was properly authorized to handle controlled substances.

In evaluating whether Respondent's registration by the Drug Enforcement Administration would be inconsistent with the public interest, the Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's registration is inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick, D.D.S., Docket No. 88-69, 53 FR 5326 (1988).

The administrative law judge found that the Government made a prima facie showing of the factors found in 21 U.S.C. 823(f)(2), (4) and (5). In so finding, the administrative law judge specified that the Respondent had ignored the revocation of his DEA Certificate of Registration, acting as if he remained authorized to handle controlled substances. The Respondent asserted that he was authorized to handle controlled substances under Eastern State Hospital's DEA Certificate of Registration; however, the testimony at the hearing clearly indicated that the hospital, not knowing of the Respondent's revoked Certificate of Registration, had never given the Respondent its permission to act under the authority of the hospital's DEA Certificate of Registration.

As is indicated in the findings of the administrative law judge, the most significant threat posed to the public health and safety by the Respondent is his blatant disregard for the revocation of his DEA Certificate of Registration and his misleading of his employers at Eastern State Hospital in an attempt to continue to handle controlled substances. Such behavior by the Respondent indicates an unwillingness to accept responsibility for his actions and an unwillingness to be honest with his employers. Both types of behavior place any patients treated by the Respondent in danger to the degree that their care relies on the Respondent's handling of controlled substances. The evidence in the record herein clearly demonstrates that the Respondent's application for registration with DEA must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him under the provisions of 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the Respondent's application for registration with DEA be, and it hereby is, denied. This order is effective March 22, 1993.

Dated: March 11, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-6441 Field 3-19-93; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-28,274]

AT&T Technologies, Westminster, CO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 1, 1993 in response to a worker petition which was filed on January 18, 1993 on behalf of workers at AT&T Technologies, Westminster, Colorado.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 11th day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-6511 Filed 3-19-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,201]

Douglas Aircraft Company, Long Beach, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 19, 1993 in response to a worker petition which was filed on December 23, 1992 on behalf of

workers at Douglas Aircraft Company, Long Beach, California.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–27,872). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 11 day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–6505 Filed 3–19–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,385]

Henson Kickernick a/k/a Bali Company, Greenville, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 27, 1992, applicable to the workers at the subject firm. The certification notice was published in the **Federal Register** on August 18, 1992 (57 FR 37172).

At the request of the Texas State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that Henson Kickernick is part of the Bali Division of Sara Lee Company. The findings also show that the claimants' wages for Henson Kickernick are being reported under the Bali Company.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA–W–27,385 is hereby issued as follows:

"All workers of Henson Kickernick a/k/a Bali Company Greenville, Texas who became totally or partially separated from employment on or after May 11, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974:"

Signed in Washington, DC, this 10th day of March 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–6512 Filed 3–19–93; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 1, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 1, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 8th day of March 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition	Articles produced
Standard Tool & Mfg Co. (Wkrs)	Lyndhurst, NJ	03/08/93	02/22/93	28,416	Tool Making Machines.
Monsanto Chemical Co. (ICW)	Everett, MA	03/08/93	02/25/93	28,417	Chemicals.
ASARCO, Inc. Troy Unit (Wkrs)	Troy, MT	03/08/93	02/18/93	28,418	Silver.
Norton Drilling Co. (Wkrs)	Lubbock, TX	03/08/93	12/02/93	28,419	Oil and Gas Drilling.
Texas Instruments (Wkrs)	Midland, TX	03/08/93	02/26/93	28,420	Integrated Circuits.
Precision Castparts Corp. (Wkrs)	Portland, OR	03/08/93	02/23/93	28,421	Super Alloy & Stainless Steel Castings.
Union Metal Corp. (Wkrs)	Muskogee, OK	03/08/93	02/18/93	28,422	Lighting Metal Poles.
Princeton Packaging, Inc. (Wkrs)	Bloomington, IN	03/08/93	02/24/93	28,423	Plastic Bags for Bakery Products.
P.B.P. Fabrication, Inc. (Wkrs)	Odessa, TX	03/08/93	02/26/93	28,424	Pressure Vessels.
Pennshire Stores, Plant #2 (ACTWU).	Portage, PA	03/08/93	02/09/93	28,425	Men's Coats, Raincoats.
Naccon, Inc. (UIU)	Pennsauken, NJ	03/08/93	02/03/93	28,426	Cardboard Drums.
Kingston-Warren Corp. (Wkrs)	Wytheville, VA	03/08/93	02/10/93	28,427	Window Run Channel for GM Autos.
International Gear Corp. (UAW)	Euclid, OH	03/08/93	02/23/93	28,428	Helicopter Transmissions.
Gateway Safety Systems Co. (IBT)	Michigan City, IN	03/08/93	012/11/92	28,429	Seat Belts.
Exxon Co., USA (Wkrs)	St. Elmo, IL	03/08/93	02/23/93	28,430	Crude Oil.
Baker-Hughes Tubular Services (Wkrs).	Odessa, TX	03/08/93	02/23/93	28,431	Tubular Goods.
Westinghouse Electric Corp. (Wkrs)	Madison, PA	03/08/93	02/25/93	28,432	Nuclear Reactors.
R & S Pants Co. (ILGWU)	Wilkes Barre, PA	03/08/93	02/19/93	28,433	Men's and Ladies' Slacks.
Cliftex Co. (ACTWU)	Falls River, MA	03/08/93	02/19/93	28,434	Men's Suits & Coats.
UNOCAL Molycorp (USWA)	York, PA	03/08/93	02/14/93	28,435	Chemicals.
TA Corporation (ILGWU)	Newark, NJ	03/08/93	02/16/93	28,435	Rainwear.
C & M Sportswear (ILGWU)	Newark, NJ	03/08/93	02/22/93	28,437	Ladies' Sportswear.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition	Articles produced
Portland General Electric Co. (Co) ..	Portland, OR	03/08/93	02/23/93	28,438	Electric Power.
Enron Corp/Enron Liquids Fuels (Wkrs).	Houston, TX	03/08/93	02/25/93	28,439	Oil and Gas.
Energy Gathering, Inc. (Wkrs)	Corpus Christi, TX.	03/08/93	02/15/93	28,440	Gas Transmission.

[FR Doc. 93-6504 Filed 3-19-93; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of February & March 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,884; Teledyne Vasco Colonial Plant, Monaca, PA

TA-W-27,862; Tektronix, Inc., Circuit Board Div., Forest Grove, PA

TA-W-28,078; Beaver Dam Products, Beaver Dam, WI

TA-W-28,105; Fujitsu America, Inc., Hillsboro, OR

TA-W-28,027; Rosaria's Sportswear, Inc., Passaic, NJ

TA-W-28,010; Paxar American Silk Label Group, Troy, PA

TA-W-28,220; M.C.M. Coats, Inc., Hoboken, NJ

TA-W-28,096; Pratt & Whitney, North Berwick, ME

TA-W-28,020; Econo-Cut, Paterson, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-28,115; The Bargman Co., Coldwater, MI

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,175; Sandoz Chemicals Corp., Fair Lawn, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,014; CAS Refining, Inc., Lafayette, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,153; Coltec Industries, Inc., Pittsburgh, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,178; Northwest Airlines, Inc., St. Paul, MN

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,023; Greensleeves, Inc., Passaic, NJ

Sales & production at the subject firm increased during the relevant periods

TA-W-28,077; Kezar Falls Woolen Co., Kezar Falls, ME

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,148; Data Switch Corp., T-Bar Div., Milford, CT

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,329; Optek Technology, Inc., El Paso, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,123; KLA Instrument, Inc., Klasic Div., San Jose, CA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-28,137; Coca-Cola Bottling Co of NY, Paterson, NJ

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA-W-28,113; Air City Models & Tools. Inc., Dayton, OH

The investigtion revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,215; Verona Fashions, Inc., Hoboken, NJ

The investigtion revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,155; Ramco Oil & Gas, Inc.. Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,316; Callaway Safety Equipment Co., Inc., Levelland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,169 General Instrument Corp., Power Semiconductor Div., Hicksville, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,100; Huls America, Inc., Piscataway & Elizabeth, NJ

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the

workers did not become totally or partially separated as required for certification.

TA–W–28,120; Accessories Unlimited of Maine, Cornish, ME

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA–W–28,176; Revlon, Inc., Edison, NJ

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA–W–27,951; USS/Kobe Steel Co., Lorain, OH

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

TA–W–28,041; Grays Harbor Paper Co., Hoquiam, WA

U.S. imports of paper and paperboard mills declined in 1991 compared with 1990 and declined further in January to September 1992 compared with this same period of 1991.

TA–W–28,040; ITT Rayonier, Inc., Grays Harbor Pulp & Lignin Products Div., Hoquiam, WA

U.S. imports of paper and paperboard mills declined in 1991 compared with 1990 and declined further in January to September 1992 compared with the same period of 1991.

TA–W–28,106; Dowty Aerospace Yakima, Yakima, WA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–27,794; Manchester Steel, Inc., Cleveland, OH

U.S. imports of carbon steel sheet (hot & cold rolled) declined absolutely and relative to domestic shipments in 1991 compared to 1990 and in the twelve month period of Apr-Mar 1991–1992 compared to the same period of Apr-Mar 1991–1992 compared to the same period of Apr-Mar 1990–1991.

Affirmative Determinations

TA–W–27,865, TA–W–27–866, TA–W–27–866A; Emerson Quiet Kool Corp., Woodbridge, NJ, Dover, NJ and Edison, NJ

A certification was issued covering all workers separated on or after September 18, 1991.

TA–W–28,087; Atron, Inc., Saranac, MI

A certification was issued covering all workers separated on or after November 20, 1991.

TA–W–28,039; GCA Corp., Andover, MA

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–28,068; Q–T Foundation Co., Inc., Bergenfield, NJ

A certification was issued covering all workers separated on or after November 11, 1991.

TA–W–28,159, TA–W–28,160; Coalinga Corp., Lafayette, LA and Los Angeles, CA

A certification was issued covering all workers separated on or after December 17, 1991.

TA–W–28,223; The William Carter Co., Senatobia, MS

A certification was issued covering all workers separated on or after December 2, 1991.

TA–W–28,103; Catalina, Murray, UT

A certification was issued covering all workers separated on or after November 21, 1991.

TA–W–28,058; Classic Fashions, Paterson, NJ

A certification was issued covering all workers separated on or after November 10, 1991.

TA–W–27,992; Airco Distributor Gases, Acton, MA

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–27,875; Skynasaur, Inc., Louisville, CO

A certification was issued covering all workers separated on or after September 21, 1991.

TA–W–28,126; General Electric Co., Ohio Lamp, Warren, OH

A certification was issued covering all workers separated on or after November 9, 1991.

TA–W–28,162; Joan and Jay, Lynchburg, VA

A certification was issued covering all workers separated on or after December 18, 1991.

TA–W–28,284; GLG Energy L.P., Austin, TX

A certification was issued covering all workers separated on or after January 21, 1991.

TA–W–28,072; Gorham, Inc., Smithfield, RI

A certification was issued covering all workers separated on or after October 20, 1991.

TA–W–28,086; Ortech Co., Kirksville, MO

A certification was issued covering all workers engaged in the production of automotive components separated on or after October 29, 1991.

TA–W–28,029; Super Craft Coats, Inc., Garfield, NJ

A certification was issued covering all workers separated on or after November 23, 1991.

TA–W–28,164; Westfield Manufacturing Corp, Div. of HMC Acquisitions Corp., Westfield, PA

A certification was issued covering all workers engaged in the product of ladies' undergarments separated on or after December 18, 1991.

TA–W–28,127; EG & G Vactec, Inc., St Louis, MO

A certification was issued covering all workers separated on or after December 28, 1991.

TA–W–28,064; Professional Geophysics, Inc., Houston, TX

A certification was issued covering all workers engaged in the production of exploration and drilling separated on or after November 2, 1991 and before December 31, 1992.

TA–W–28,053; Leica, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–27,999; Medford Corp., Medford, OR

A certification was issued covering all workers separated on or after November 5, 1991.

TA–W–28,009; GM Coat Co., Paterson, NJ

A certification was issued covering all workers engaged in the production of ladies' coats separated on or after October 29, 1991.

TA–W–27,936, TA–W–27,936A; Eastman Teleco, Williston, ND and Bakersfield, CA

A certification was issued covering all workers engaged in the production and exploration and drilling separated on or after October 5, 1991.

TA–W–28,108; Homco International, Inc., Bellaire, TX and Operating at Various Locations in the Following States: A; AL, B; AK, C; CA, D; KS, E; LA, F; MI, G; MS, H; NM, I; TX

A certification was issued covering all workers engaged in exploration and drilling separated on or after November 30, 1991.

TA–W–27,922; Atlas, Inc., Fostoria, OH

A certification was issued covering all workers engaged in the production of engine components separated on or after October 19, 1991.

TA–W–27,979; Airpax, Inc., Philips Technology, Cambridge, MD

A certification was issued covering all workers engaged in the production of circuit breakers separated on or after January 22, 1993.

I hereby certify that the aforementioned determinations were issued during the month of February and March 1993. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: March 15, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–6501 Filed 3–19–93; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act; Notice of Establishment of Native American Employment & Training Council

In accordance with the provisions of the Federal Advisory Committee Act and the Job Training Reform Amendments of 1992, the Secretary of Labor has established the Native American Employment & Training Council.

The Council will provide advice to the Department of Labor regarding the overall operation and administration of Native American programs authorized under title IV, section 401 of the Job Training Partnership Act, as amended, as well as the implementation of other programs providing services to Native American youth and adults under this Act. The Council shall prepare and submit directly to the Secretary and to the Congress, not later than January 1 of each even numbered year, a report containing information on the progress of Native American job training programs and recommendations for improving their administration and effectiveness.

As the Amendments direct, the Council will consist of 17 Indians, Alaskan Natives and Hawaiian Natives appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Alaskan Native, or Hawaiian Native organizations. The membership of the Council shall represent all geographic areas of the United States with a substantial Indian, Alaskan Native or Hawaiian Native population and shall include representatives to tribal governments and of nonreservation Native American organizations who are service providers under this Act. The members shall not be compensated and shall not be deemed to be employees of the United States.

The Council will function solely as an advisory body, not a policy formulating or decision making body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter has been filed under the Act concurrently with this publication.

Interested persons are invited to submit comments regarding the establishment of the Native American Employment and Training Council. Such comments should be addressed to: Paul A. Mayrand, Director, Office of Special Targeted Programs, U.S. Department of Labor, Employment and Training Administration, room N–4641, 200 Constitution Avenue, NW., Washington, DC 20210 Telephone: (202) 219–8500 (this is not a toll free number).

Signed at Washington, DC this 16th day of March, 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93–6503 Filed 3–19–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–023]

NASA Advisory Council (NAC), Minority Business Resource Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: April 14, 1993, 9 a.m. to 4 p.m.

ADDRESSES: NASA, Lewis Research Center, Administrative Building 3, 21000 Brookpark Road, Cleveland, OH 44135.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas, III, Office of Small and Disadvantaged Business Utilization, National Aeronautics and Space Administration, room 9J70, 300 E Street SW., Washington, DC 20546, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Overall Vision for the Committee
—Emerging Issues for Small Disadvantaged Business and NASA Priorities for 1993
—Reports from Committee Working Groups
—Invitation for Suggestions by Individuals in Attendance

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: March 16, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–6476 Filed 3–19–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before April 21, 1993.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202–606–8494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3002, Washington, DC 20503 (202–395–6880).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue. NW., room 310, Washington, DC 20506 (202) 606–8494 from whom copies of forms and supporting documents are available

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements Each entry is issued by NEH and contains the following information:

(1) The title of the form;
(2) the agency form number, if applicable;
(3) how often the form must be filled out;
(4) who will be required or asked to report;
(5) what the form will be used for;
(6) an estimate of the number of responses;
(7) the frequency of response;
(8) an estimate of the total number of hours needed to fill out the form;
(9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Reviewer Evaluation Sheet.
Form Number: Not Applicable.
Frequency of Collection: 1–4 instances annually per respondent.
Respondents: Specialists in the fields of the humanities or areas related to applications received by the Division of Research Programs.
Use: To record specialist reviewers' evaluations of applications for funding.
Estimated Number of Respondents: 3,500 per year.
Frequency of Response: Approximately 1.1 response per respondent per year. The majority of respondents receive only one application to review per year; however, a single reviewer could receive up to 4 applications in a year.
Estimated Hours for Respondents to Provide Information: 23,100 hours annually; 6 hours per respondent.
Estimated Total Annual Reporting and Recordkeeping Burden: 23,100 hours.

Thomas S. Kingston,
Assistant Chairman for Operations.
[FR Doc. 92–6443 Filed 3–19–93; 8:45 am]
BILLING CODE 7536–01–M

Meeting; Music Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships/Services to Composers Section) to the National Council on the Arts will be held on April 5–7, 1993 from 9 a.m.–5:30 p.m. and April 8 from 9 a.m.–4 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on April 8 from 3 p.m.–4 p.m. for policy discussion and guidelines review.

The remaining portions of this meeting on April 5–7 from 9 a.m.–5:30 p.m. and April 8 from 9 a.m.–3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 24, 1992, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 16, 1993.

Yvonne M. Sabine,
Director, Panel Operations, National Endowment for the Arts.
[FR Doc. 93–6478 Filed 3–19–93; 8:45 am]
BILLING CODE 7537–01–M

Meeting; Presenting and Commissioning Advisory Panel

Pursuant to section 109a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Commissioning Overview Section) will be held on April 7, 1993 from 9 a.m.–5:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics will include opening remarks, overview of commissioning categories, issues facing the field, and guidelines review.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC. 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 16, 1993.

Yvonne M. Sabine,
Director, Panel Operations, National Endowment for the Arts.
[FR Doc. 93–6479 Filed 3–19–93; 8:45 am]
BILLING CODE 7537–01–M

PRESIDENT'S COMMISSION ON MODEL STATE DRUG LAWS

Public Hearing of the President's Commission on Model State Drug Laws

AGENCY: Executive Office of the President.
ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a public hearing of The President's Commission on Model State Drug Laws. The hearing is open to the public.

DATES: The hearing is scheduled for March 10, 1993 from 10 a.m. until 5 p.m., e.s.t. The hearing will be held in Philadelphia, PA. An additional Commission hearing is scheduled for March 31 in Washington, DC.

ADDRESSES: The March 10 hearing will be held in the Mayor's Conference Room, Philadelphia City Hall, Broad and Market Streets, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Gary Tennis, The President's Commission on Model State Drug Laws, 800 Connecticut Avenue, NW., suite 210, Washington, DC 20006, (202) 467–9640.

SUPPLEMENTARY INFORMATION: As mandated by the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), the President appointed the 24-member President's Commission on Model State Drug Laws in November 1992. The mission of the bipartisan commission is to develop

comprehensive model state laws to significantly reduce, with the goal to eliminate, illicit drug use in America through effective use and coordination of prevention, education, treatment, enforcement, and corrections. The Commission is currently reviewing model legislation developed to address the spectrum of drug issues at the state and local level.

It is holding a series of public hearings around the country, focusing on the following issues: Economic remedies against drug traffickers (January 6); community mobilization and coordinated state drug-planning mechanisms (January 27); crimes code enforcement as a weapon against drug offenders (February 16); drug and alcohol treatment (March 10), and; drug-free workplaces, schools, and families (March 31).

Based on testimony and information gathered during the public hearing process, the Commission will develop a body of recommended state legislation. The Commission will submit a final report, including the recommended legislation, by the end of May 1993. This report will be sent to the governors of all fifty states and disseminated widely through professional conferences and organizations in the prevention, education, treatment, law enforcement, and corrections fields.

The Commission is vice-chaired by Indianapolis Mayor Stephen Goldsmith. Its Commissioners, half Democrats and half Republicans, are: Kent B. Amos, Ramona L. Barnes, Ralph R. Brown, Ronald D. Castille, Kay B. Cobb, Shirley D. Coletti, Sylvester Daughtry, David A. Dean, Stephen Goldsmith, Daniel S. Heit, Judge Rose Hom, Richard P. Ieyoub, Keith M. Kaneshiro, Vincent Lane, Daniel E. Lungren, Robert H. Macy, N. Hector McGeachy, Jr., Edwin L. Miller, Jr., Michael Moore, John D. O'Hair, Jack M. O'Malley, Ruben B. Ortega, and Robert T. Thompson, Jr.

The public hearing in Philadelphia on March 10 will focus on drug and alcohol treatment. It will specifically address the issues of cost-offset, treatment in the criminal justice system, treatment in the juvenile justice system, state insurance and managed care, and treatment for women and children. Those wishing to submit written testimony to the Commission should contact Gary Tennis by March 5, 1993. For his name, address, and telephone number, see the **FOR FURTHER INFORMATION CONTACT** section at the beginning of this notice. All oral testimony slots at the hearing have been filled. The hearing is open to the public but attendance is limited to the space available on a first-come basis.

Garold Tennis,

Executive Director, The President's Commission on Model State Drug Laws.

[FR Doc. 93-6496 Filed 3-19-93; 8:45 am]

BILLING CODE 3180-02-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32001; File No. SR-GSCC-92-17]

Self-Regulatory Organizations; Government Securities Clearing Corp.; Proposed Rule Change Regarding the Current Clearing Fund Formula

March 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("ACT"),[1] notice is hereby given that on December 18, 1992, the Government Securities Clearing Corporation ("GSCC") 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 GSCC.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow GSCC to continue to use its current clearing fund formula.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] This proposal initially was filed on January 25, 1992 as File No. SR-GSCC-92-3. The Commission approved continued use of the clearing fund formula for sixty days to allow the Commission to consider this proposal in the context of related proposals now awaiting Commission approval. Securities Exchange Act Release No. 30661 (April 30, 1992), 57 FR 19654. The Commission subsequently approved continued use of the clearing fund formula for an additional period ending March 31, 1993. Securities Exchange Act Release No. 31385 (October 30, 1992), 57 FR 52811.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 12, 1990, the Commission approved, on a temporary basis until April 30, 1992, a proposed rule change (SR-GSCC-89-13) that revised GSCC's clearing fund formula in various respects, including allowing offsets to required margin amounts. By this filing, GSCC requests that such authority be made permanent or, in the alternative, that the Commission further extend, temporarily, GSCC's authority to maintain its current clearing fund formula.[3]

In its April 12, 1990, approval order ("Approval Order"), the Commission noted that, "in light of its significance to GSCC and its membership, the proposed revisions to GSCC's clearing fund formula should be carefully monitored before they become a permanent feature" of GSCC's Rules and Procedures.[4] The essence of the Commission's concerns expressed in the Approval Order involved the adequacy of the following: (1) GSCC's analysis of price volatility; (2) GSCC's measures of correlation; and (3) the liquidity the clearing fund provides to GSCC during periods of high volatility. Each concern is discussed below.

1. Analysis of Price Volatility

The Commission stated in the Approval Order that GSCC should "continue to consider ways to refine its analysis of price volatility, including procedures to consider the effects of

[3] A participant's required clearing fund deposit is the sum of two components: Funds-only settlement obligations and securities net settlement obligations. The funds-only settlement obligations component is determined by calculating for a particular business day the net total of the following: (1) trade adjustment for settling positions; (2) any marks-to-the-market owed for failed positions; (3) adjustments for coupon and redemption payments; (4) the amount reported to a member during the previous business day's processing cycle as its funds-only settlement amount obligations ("opening balance"); (5) the aggregate settlement amount that a member has either received from or paid to GSCC since the end of the processing cycle during which the funds-only settlement amount is being calculated ("collection/paid amount"); (6) the total required forward mark allocation payment; and (7) the total forward mark allocation payment; and (7) the total forward mark allocation return amount. The securities net settlement obligations component is the greater of either the average offset margin amount for the last twenty business days or 50% of the gross margin amount. The gross margin amount is the product of the appropriate margin factor and the total dollar value of the member's set settlement position that day. Securities Exchange Act Release No. 27901 (April 12, 1990), 55 FR 15055.

[4] Securities Exchange Act Release No. 27901 (April 12, 1990), 55 FR 15055.

dramatic price movements."[5] Since the Commission issued the Approval Order, GSCC has compiled nearly two-years' worth of its own price volatility data. This data base is now sufficient for use in assessing and monitoring the adequacy of its margin factors.

GSCC continues to ensure the sufficiency of its margining process by using conservative margin factor criteria. In this regard, the information currently considered on a quarterly basis by the Membership and Standards Committee in reviewing the sufficiency of GSCC's margin factors includes: (1) Historical daily price volatility data prepared by Carol McEntee & McGinley Inc. which looks at the current leading issue in each category and uses the mean plus two standard deviations and (2) short-term (currently, the past 90 days) and long-term (currently, the past year) GSCC data covering mean plus two standard deviations and, separately, 99 percent of all price movements. GSCC's internal and third-party price volatility data indicates that its margin factors are prudent and conservative, including on the long end of the maturity spectrum, where the greatest exposure exists for GSCC.

Recently, private sector initiatives in the government securities marketplace have arisen, such as the establishment of GOVPX, Inc., that have made significant steps toward disseminating the type of government securities price information that would benefit GSCC. In view of this development, GSCC continues to evaluate the types of third-party price volatility information that are available and the utility of such information. GSCC continues to believe, however, that its own data base would be the most accurate and meaningful source of price volatility data on government securities if GSCC could recieve trade data from its members on a time-stamped basis.

2. Measures of Correlation

GSCC believes its disallowance percentage schedule is a conservative one. Currently, GSCC uses neither internal price data nor third-party data to monitor the accuracy of its disallowance percentage schedule.[6] After evaluating available third-party price volatility information, however, GSCC will be able to determine whether and how to use either its internal price data base or a third-party data source to monitor its disallowance percentage schedule.

3. Ensuring GSCC's Liquidity Needs

In the Approval Order, the Commission indicated the need for GSCC "to ensure that the clearing fund has sufficient liquidity, during periods of high volatility, to protect it from contingencies stemming from participants' daily net settlement obligations."[7]

GSCC's margining process helps ensure that GSCC has sufficient liquidity to meet its settlement guarantees, even during periods of high volatility. Perhaps the area of greatest potential concern in this regard is forward trades, which present the largest exposure to GSCC. GSCC believes the margining process for forward net settlement positions, on which clearing fund deposits are taken and which are subject to a separate margin pool (the forward mark allocation payment process), is conservative and prudent, particularly in light of GSCC's recent rule filing (SR–GSCC–91–04) that makes various changes to GSCC's margin and funds collection processes.[8]

Considering GSCC's positive experience to date with the revised clearing fund formula, the conservative nature of its margining process, the extent to which that process has been strengthened to ensure GSCC's liquidity posture, and its ability now to use internal price volatility data to assess the adequacy of margin factors and correlations, GSCC believes its clearing fund formula is appropriate and should receive permanent approval.

GSCC believes the proposed rule change will help further its ability to ensure orderly settlement in the government securities marketplace. Thus, GSCC believes the proposal is consistent with the requirements of the Act and, in particular, section 17A because it will promote prompt clearance and settlement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on, or impose a burden on, competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants or Others

Comments on the proposed rule change have neither been solicited nor received. Members will be notified of the proposed rule change, and comments will be solicited, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the address above. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to file number SR–GSCC–92–17 and should be submitted by April 12, 1993.

[5] *Id.*

[6] GSCC uses the Treasury Department's liquid capital schedule to monitor the accuracy of its disallowance percentage schedule. Telephone conversation between Jeffrey F. Ingber, Associate General Counsel, GSCC, and Richard C. Strasser, Attorney, Division of Market Regulation, Commission (March 15, 1993).

[7] *Id.*

[8] Securities Exchange Act Release No. 30135 (December 31, 1991), 57 FR 942. The proposed rule change would allow GSCC to treat forward net settlement positions for clearing fund calculation purposes essentially as it does next-day settling and fail net settlement obligations.

In addition to clearing fund deposits of a separate "forward mark allocation" margin amount on forward net settlement positions, the proposed rule change would allow GSCC to raise the cap on this daily margin amount from 75 percent to 100 percent. Under most circumstances, this change would allow GSCC to collect the entire amount of the top five daily member debits in each CUSIP.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 93-6448 Filed 3-19-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32003 ; File No. SR-ICC-92-01]

Self-Regulatory Organizations; The Intermarket Clearing Corp.; Order Approving on a Temporary Basis a Proposed Rule Change Relating to Revisions to Standards for Letters of Credit

March 16, 1993.

On February 4, 1992, The Intermarket Clearing Corporation ("ICC") filed a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] modifying ICC's standards for letters of credit deposited as a form of margin. On March 19, 1992, the Commission published notice of the proposal in the **Federal Register** to solicit comments from interested parties.[2] On March 1, 1993, ICC filed an amendment to the proposal.[3] No comments have been received. This order approves the proposed rule change on a temporary basis through December 31, 1993.

I. Description

ICC proposes to amend in a number of respects its rules governing the standards for letters of credit deposited as margin by Clearing Members. First, ICC intends to require that letters of credit state expressly that payment must be made prior to the close of business on the third banking day following demand.

Second, ICC proposes to amend its rules to eliminate the issuer's right to revoke the letter of credit. Third, unless otherwise permitted by ICC, ICC's proposal requires letters of credit to expire on a quarterly basis rather than annually. Fourth, ICC proposes to add language to its rules to make explicit ICC's authority to draw upon a letter of credit at any time, whether or not the Clearing Member that deposited the letter of credit has been suspended or is in default, if ICC determines that such a draw is advisable to protect ICC, other Clearing Members, or the general public.

Finally, ICC proposes to amend its rules to grant its Chairman limited discretion to accept a letter of credit that varies from the standards set forth in its rules. This discretionary power will be limited by the following factors: (1) Before using this power, the Chairman must consult with the staffs of ICC's regulatory agencies, which include the Commission and the Commodity Futures Trading Commission ("CFTC"), (2) this power can be used only in unusual circumstances and only on a temporary basis, (3) after exercising such power, the Chairman must advise ICC's Board of Directors, and (4) ICC must promptly notify Clearing Members affected by the exercise of this power.[4]

II. Discussion

The Commission believes that ICC's proposed rule change is consistent with section 17A of the Act and specifically with section 17A(b)(3)(F) of the Act.[5] That section requires that a clearing agency's rules be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. As discussed below, the Commission believes ICC's proposed rule change modifying its standards for letters of credit deposited as margin meets that requirement.

ICC's rules currently provide that the issuer of a letter of credit must pay ICC immediately upon demand.[6] However, under the Uniform Commercial Code as enacted in most states, the issuer of a letter of credit, except as otherwise agreed, may defer honor of a letter of credit until the close of the third banking day after demand for payment is made.[7] The Uniform Customs and Practice for Documentary Credits ("Uniform Customs") provides that, unless otherwise expressly agreed, a "bank shall have a reasonable time" in which to determine whether the drawing documents are in order.[8] The Commission believes that ICC's proposed standards would help prevent ambiguity as to the latest time for payment by requiring letters of credit to state expressly that payment must be made prior to the close of business on the third banking day following demand. By this requirement, ICC ensures that the letters of credit comply with applicable law and adds certainty as to the deadline for payment by the issuer.

ICC's rules also currently permit the issuer of a letter of credit to revoke the letter of credit upon two business days written notice.[9] ICC has represented to the Commission that the issuer of a letter of credit is more likely to exercise its revocation rights at a time when the Clearing Member for whom such letter of credit is issued is experiencing financial difficulty or during periods of market volatility. Therefore, ICC's proposal to eliminate the issuer's right to revoke the letter of credit would provide ICC more flexibility in helping financially troubled Clearing Members to resolve their financial difficulties.[10]

ICC's rules currently provide that letters of credit shall expire on an annual basis.[11] However, the financial condition of a Clearing Member may change significantly within a shorter period of time. Thus, ICC believes it would be preferable to structure ICC's letter of credit program in a manner that permits an issuer to make more frequent credit judgments about the Clearing Member for whom it issues a letter of credit. Because letters of credit will have to be reissued every three months unless otherwise permitted by ICC, the financial conditions of Clearing Members electing to deposit letters of credit can be assessed more frequently and adverse developments possibly discovered sooner.

ICC also proposes to amend its rules to allow its Chairman limited discretionary power to accept on a temporary basis a letter of credit that varies from the standards stated in its rules.[12] While this authority imposes adequate limitations on ICC's ability to accept letters of credit deposited as margin, it should also provide ICC with the flexibility it might need in implementing the new standards and in emergency situations in the future.

Finally, ICC proposes to add language to its rules to make explicit ICC's authority to draw upon a letter of credit at any time ICC determines that such draw is advisable to protect ICC, its Clearing Members, or the general public. The new language makes clear ICC's authority to make such a draw whether

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[9] 17 CFR 200.30-3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 30470 (March 12, 1992), 57 FR 9581.

[3] Letter from James C. Yong, Vice President, ICC, to Jerry W. Carpenter, Branch Chief, Division of Market Regulation ("Division"), Commission (March 1, 1993) ("Amending Letter"). A discussion of the amendment is set forth in note 4 and accompanying text.

[4] Factors (1) and (2) are set forth in ICC Rule 502(a) (3). Factors (1), (2), (3), and (4) are set forth in the Amending Letter.

[5] 15 U.S.C. 78q-1(b)(3)(F) (1988).

[6] ICC Rule 502(a) (3).

[7] E.g., 26 Ill. Rev. Stat. § 5-112 (1990).

[8] Uniform Customs and Practice for Documentary Credit, Article 16(c), International Chamber of Commerce Publication 400 (1983 Revision).

[9] ICC Rule 502(a)(3).

[10] Although ICC's proposal would require a letter of credit deposited on behalf of a Clearing Member to be irrevocable, ICC may, of course, consent to the withdrawal of such letter of credit by a Clearing Member if such Clearing Member deposits other forms of margin with ICC or the letter of credit is otherwise no longer needed to satisfy the Clearing Member's margin requirement.

[11] ICC Rule 502(a)(3).

[12] ICC Rule 502(a)(3) and Amending Letter.

or not the Clearing Member that deposited the letter of credit has been suspended or is in default with respect to any obligation to ICC. If such a draw is made without ICC suspending the depositing Clearing Member, any funds so drawn will be treated as cash margin. This authority would permit ICC to increase the liquidity of its margin deposits by substituting cash collateral for a Clearing Member's letter of credit and to eliminate its bank credit risk. ICC has represented to the Commission that it anticipates that this authority will be used very rarely.[13]

Thus, the proposed rule change conforms to section 17A(b)(3)(F) of the Act [14] by promoting the safeguarding of securities and funds which are in the custody or control of ICC. In order to allow the Commission, ICC, and other interested parties the opportunity prior to permanent Commission approval to assess any effects these revised standards have on letter of credit issuance and margin deposits at ICC, the Commission believes that the proposed modifications should be temporarily approved through December 31, 1993.[15]

III. Conclusion

On the basis of the foregoing, the Commission finds that ICC's proposed rule change is consistent with the Act and, in particular, with section 17A of the Act.

It is therefore ordered, Under section 19(b)(2) of the Act, that the proposal (File No. SR–ICC–92–01) be, and hereby is, approved on a temporary basis through December 31, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6521 Filed 3–19–93; 8:45 am]

BILLING CODE 8010–01–M

[13] Proposed Rule File No. SR–ICC–92–01.

[14] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[15] A closely related matter the Commission and ICC are currently studying involves concentration limits on letters of credit deposited as margin. The Division believes that clearing agencies that accept letters of credit as margin deposits or clearing fund contributions should limit their exposure by imposing concentration limits on the use of letters of credit. Generally, clearing agencies impose limitations on the percentage of an individual member's required deposit or contribution that may be satisfied with letters of credit, limitations on the percentage of the total required deposits or contributions that may be satisfied with letters of credit by any one issuer, or some combination of both. ICC has no concentration limits on the use of letters of credit issued by U.S. institutions.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

March 16, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

BioSafety Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–10331)
Blackrock Investment Quality Municipal Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–10332)
Galen Healthcare, Inc.
Common Stock, $.01 Par Value (File No. 7–10333)
Dean Witter Discover & Co.
Common Stock, $0.01 Par Value (File No. 7–10334)
Piccadilly Cafeterias, Inc.
Common Stock, No Par Value (File No. 7–10335)
Chase Manhattan Corporation
$3.40 PC Cum Pfd Stock, No Par Value (File No. 7–10336)
Payless Cashways
Common Stock, $.01 Par Value (File No. 7–10337)
SunAmerica, Inc.
Depositary Shares Mandatory Conversion Premium Dividend Pfd Stock (File No. 7–10338)
Sterling Bancorporation
Common Stock, $1 Par Value (File No. 7–10340)
Telecom Corporation
Common Stock, $1 Par Value (File No. 7–10341)
Thackerary Corporation
Common Stock, $0.10 Par Value (File No. 7–10342)
Advo, Inc.
Common Stock, $.01 Par Value (File No. 7–10343)
KCS Energy, Inc.
Common Stock, $.01 Par Value (File No. 7–10344)
Storage Technology Corporation
$3.50 Cv. Exch. Pfd Stock (File No. 7–10345)
Leviathan Gas Pipeline Partners L.P.
Preference Units (File No. 7–10346)
Elf Overseas Limited
$3.50 Pc Cum Guaranteed Pfd Series A (File No. 7–10347)
Tandycrafts, Inc.
Common Stock, $1 Par Value (File No. 7–10348)
2002 Target Term Trust, Inc.
Common Stock, $.001 Par Value (File No. 7–10349)
Aerosonic Corporation
Common Stock, $.01 Par Value (File No. 7–10350)
Manufactured Home Communities, Inc.
Common Stock, $.01 Par Value (File No. 7–10351)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before April 6, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6522 Filed 3–19–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19333; 812–8302]

The Equitable Funds, et al.; Application for Exemption

March 16, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Equitable Funds (the "Trust"), Equitable Capital Management Corporation ("ECMC"), and Alliance Capital Management L.P. ("Alliance").

RELEVANT ACT SECTIONS: Order requested under section 6(c) that would grant an exemption from section 15(a).

SUMMARY OF APPLICATION: Applicants seek an order that would permit Alliance to serve without compensation as an investment adviser to certain series of the Trust, without shareholder approval, for a period of no longer than 120 days following a corporate reorganization that will result in the termination of the Trust's existing advisory agreement with ECMC.

FILING DATE: The application was filed on March 5, 1993.

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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 12, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons 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. Applicants: The Trust and ECMC, 787 Seventh Avenue, 36th Floor–C, New York, New York 10019; and Alliance, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, 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. The Trust is registered as an open-end management investment company under the Act. It is a "series company" that has ten investment portfolios (the "Funds"). ECMC is a wholly-owned subsidiary of The Equitable Life Assurance Society of the United States ("Equitable Life") and is registered as an investment adviser under the Investment Advisers Act of 1940. ECMC currently serves as the investment adviser for each of the Funds, various other investment companies, and various separate accounts and general accounts of Equitable Life and other affiliated insurance companies.

2. Alliance is a Delaware limited partnership that is registered as an investment adviser. It supervises client accounts with assets under management totaling over $63.8 billion as of December 31, 1992. Alliance's sole general partner is Alliance Capital Management Corporation, an indirect wholly-owned subsidiary of Equitable Life. As Alliance's general partner, Alliance Capital has the exclusive and complete discretion to manage and control the business affairs of Alliance. Alliance's partnership interests are represented by units, which are publicly-traded on the New York Stock Exchange. Currently, a wholly-owned subsidiary of Equitable Life owns approximately 54.7% of Alliance's units, public shareholders own approximately 33.8%, and employees of Alliance own approximately 11.5%.

3. On February 23, 1993, ECMC, Alliance and Equitable Investment Corporation [1] entered into a transfer agreement providing for the transfer of substantially all of the assets and liabilities comprising ECMC's business to Alliance and its subsidiaries in exchange for newly issued units representing limited partnership interests in Alliance (the "Transaction"). Under the transfer agreement, ECMC may receive additional units as incentive fees. Upon completion of the Transaction, Equitable Life will own directly and indirectly up to approximately 63% of the units of Alliance.

4. ECMC and Alliance have indicated that the transaction is designed to bring together the strengths of the two organizations and to result in significant operating efficiencies. Because Equitable Life's interest in Alliance can be valued for accounting and certain regulatory purposes by reference to the market value of the publicly-traded units, and because ECMC was carried on Equitable Life's books at substantially less than market value, the transaction also will improve Equitable Life's financial condition as reported under generally accepted accounting principles and for purposes of certain insurance regulations. The transaction is scheduled to close on May 28, 1993, subject to the satisfaction of certain conditions to closing.

5. As part of the transaction, and subject to shareholder approval, applicants expect that six of the Funds (the "Merging Funds") [2] will be consolidated, through a sale of their assets, with corresponding registered investment companies for which Alliance serves as the investment adviser (the "Alliance Acquiring Funds"). [3] In addition, and also subject to shareholder approval, applicants expect that the remaining four Funds (the "Surviving Funds") [4] will discontinue their investment advisory relationship with ECMC, and Alliance will become their investment adviser.

6. Applications seek and exemption from section 15(a) to permit Alliance to serve as the investment adviser to the Merging Funds pursuant to a temporary advisory agreement, without shareholder approval. [5] The exemption would cover an interim period from the closing of the transaction to the date the Merging Funds are consolidated with the Alliance Acquiring Funds, which period shall be no longer than 120 days (the "Interim Period"). The temporary advisory agreement's terms and conditions will be identical to the current investment advisory agreement except that Alliance would receive no compensation under the temporary advisory agreement.

7. Although the shareholders of the Merging Funds will not approve the temporary advisory agreement, the shareholders will, in effect, vote concerning the management of their assets by Alliance when they vote on the proposed consolidations with the Alliance Acquiring Funds. It is intended that the consolidations be approved or disapproved by the shareholders prior to the end of the Interim Period. In the meantime, they will receive advisory services from Alliance at no cost. If the shareholders of any Merging Fund do not approve the consolidation of their Fund with the corresponding Alliance Acquiring Fund, the Merging Fund's board of trustees will consider what if any action should be taken in light of the best interests of the Fund and its shareholders.

8. On February 16, 1993, the Trust's board of trustees held an in-person meeting to consider, among other things, the advisability of entering into the temporary advisory agreement to provide advisory services to the Merging Funds. The board, including a majority of the independent trustees, voted to approve the agreement. As part of its review process, the board, with the advice of independent counsel and consistent with the requirements of section 15(c), reviewed all materials provided by Alliance and requested and

[1] Equitable Investment Corporation is an indirect wholly-owned subsidiary of Equitable Life.

[2] The Merging Funds are expected to be The Equitable Growth and Income Fund, The Equitable Balanced Fund, The Equitable Aggressive Growth Fund, The Equitable Tax Exempt Fund, The Equitable Short-Term World Income Fund, and The Equitable Government Securities Fund.

[3] The Alliance Acquiring Funds are expected to be the alliance Growth and Income Fund, Inc., Alliance Balanced Shares, Inc., Alliance Quasar Fund, Inc., Alliance Municipal Income Fund, Inc., National Portfolio, Alliance Short-Term Multi-Market Shares, Inc., and Alliance Bond Fund, Inc.—U.S. Government Portfolio.

[4] The Surviving Funds are expected to be The Equitable Growth Fund, The Equitable Short-Term U.S. Government Fund, The Equitable Conservative Investors Fund, and The Equitable Growth Investors Fund.

[5] In the case of the Surviving Funds, a new advisory agreement has been approved by the Trust's board and will be approved or disapproved by the shareholders prior to the closing of the Transaction, as required by section 15(a). Accordingly, applicants do not seek relief for the Surviving Funds.

evaluated all information that the board deemed relevant to evaluate the terms of the agreement. Likewise, Alliance, consistent with its obligations under section 15(c), furnished such information as was reasonably necessary to evaluate the agreement. Subsequently, on February 2, 1993, the board also approved the proposed consolidation of the Merging Funds and the Alliance Acquiring Funds.

Applicants' Legal Conclusions

1. Section 15(a) prohibits an investment adviser from providing investment advisory services to an investment company except pursuant to a written contract which has been approved by a majority of the voting securities of such investment company. The section further requires that such written contract provide for its automatic termination in the event of an "assignment," which is defined in section 2(a)(4) of the Act.

2. The Funds' existing advisory agreement with ECMC provides for its automatic termination upon its assignment, and the Transaction will constitute an assignment of that agreement. Consequently, upon completion of the Transaction, the existing advisory agreement will terminate. Applicants therefore seek an exemption from section 15(a) to permit Alliance to serve as the investment adviser to the Merging Funds pursuant to a temporary advisory agreement, without shareholder approval, during the Interim Period.

3. Rule 15a–4 under the Act provides, among other things, that if an investment adviser's investment advisory contract is terminated by assignment, the adviser may continue to act as such for 120 days at the previous compensation rate provided that, among other things, a new contract is approved by the board of directors of the investment company, and the investment adviser or a controlling person of the investment adviser does not receive any money or other benefit in connection with the assignment. Because Equitable Life will receive monetary compensation in connection with the assignment, applicants may not rely on rule 15a–4.

4. Alliance and ECMC believe that the interests of the Merging Funds and their shareholders would be best served by consolidating the Merging Funds with the Alliance Acquiring Funds. The Trust's board has made the determination as required by rule 17a–8 that each consolidation is in the best interest of each Merging Fund and there will be no dilution of the interests of existing shareholders of the Merging Funds.[6]

5. In view of the present timetable for the Transaction (calling for completion by May 28, 1993), the need to make appropriate rule 17a–8 presentations to the boards of each of the Alliance Acquiring Funds concerning the proposed consolidations, and the time required to prepare and clear through the SEC the Alliance Acquiring Funds' registration statements (and the Merging Funds' proxy statements), it is probable that the consolidations will not take place until one to two months after the closing date of the Transaction. The additional period of time in the Interim Period will allow for reasonable adjournments of the shareholder meeting if necessary to obtain sufficient shareholder response to the proxy solicitations to obtain the required approval.

6. Without the relief requested, applicants assert that it would be necessary to mail two shareholder proxy statements to each of the Merging Funds within a short time frame. The first proxy statement would seek shareholder approval to permit Alliance to serve as investment adviser to the Merging Funds during the Interim Period. The second proxy statement would be necessary to effect the consolidation of the Merging Funds with the Alliance Acquiring Funds. Applicants assert that there is no benefit to the Merging Funds' shareholders in effecting the consolidations in this manner. Indeed, applicants believe that it would be disruptive and could lead to confusion on the part of shareholders of the Merging Funds about matters of importance to them.

7. Section 6(c) of the Act provides in part that the SEC by order upon application may conditionally exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets the section 6(c) standard.

[6] Rule 17a–8 governs the purchase or sale of substantially all of the assets of a registered investment company involving other registered investment companies that may be affiliated persons solely by reason of having a common investment adviser. Because Alliance is proposed to be the adviser of both the Merging Funds and the Alliance Acquiring Funds at the time of the proposed consolidation, applicants believe that the consolidation should be effected pursuant to rule 17a–8.

Applicants' Conditions

Applicants agree as conditions to the requested exemptive relief that:

1. The temporary advisory agreement to be implemented during the Interim Period will have the same terms and conditions as the existing advisory agreement, except that Alliance will receive no compensation under the temporary advisory agreement.

2. Alliance will take all appropriate steps so that the scope and quality of advisory and other services provided to the Merging Funds during the Interim Period will be at least equivalent in the judgment of the board of trustees, including the independent trustees, to the scope and quality of services previously provided under the existing advisory agreement. In the event of any material change in personnel providing services pursuant to the temporary agreement, Alliance will apprise and consult with the board of trustees in order to insure that they, including a majority of independent trustees, are satisfied that the services provided will not be diminished in scope or quality.

3. Equitable Investment Corporation and Alliance will pay the costs of preparing and filing this application and the costs of holding all special meetings of the Merging Funds' shareholders necessitated by the Transaction, including the cost of proxy solicitations to consider the consolidations with the Alliance Acquiring Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6447 Filed 3–19–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel No. IC–19334; 812–7885]

ICOS Corp.; Order Granting Exemption

March 16, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Order granting exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: ICOS Corporation ("ICOS").

RELEVANT ACT SECTIONS: Section 3(b)(2).

SUMMARY OF APPLICATION: ICOS filed an application on March 5, 1992, and amendments thereto on October 26, 1992 and December 22, 1992 requesting an order under section 3(b)(2) declaring that it is engaged primarily in a business other than that of investing, reinvesting, owning, holding, or trading in securities. A notice of filing of the

application was issued on February 18, 1993 (Investment Company Act Release No. 19274). The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the application would be issued unless a hearing should be ordered. No request for a hearing has been filed, and the Commission has not ordered a hearing.

FOR FURTHER INFORMATION CONTACT: John V. O'Hanlon, Staff Attorney, at (202) 272–3922, or Barry Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

I. Introduction

ICOS is a biotechnology company that researches and develops medications to treat diseases for which there is no effective treatment. ICOS' research has focused on chronic inflammatory diseases, including asthma, multiple sclerosis, and rheumatic arthritis. The company began operations in 1990, and has no drug products approved for commercial use. ICOS requires substantial working capital to fund drug research and development and the preclinical and clinical trials required for approval of therapeutic drugs. ICOS has provided for its current and future working capital through private and public stock offerings, and has raised approximately $90 million to date. The company has invested its assets in high-quality, short-term Government and commercial debt instruments pending their use to fund the company's research and development programs. Based upon the NASDAQ price of its stock and the number of shares outstanding, ICOS has a market valuation of approximately $189 million as of January 27, 1993.

II. Discussion

Section 3(a)(1) defines investment company to include any issuer that is engaged primarily, or that proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Because virtually all of ICOS' capital is invested in securities, a question arises as to whether ICOS is an investment company under section 3(a)(1).

Section 3(a)(3) contains a different test, intended to cover companies that may not intend to be investment companies but that hold large quantities of "investment securities" (all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries).[1] Section 3(a)(3) defines investment company to include any issuer engaged (whether or not primarily) in the business of investing, reinvesting, owning, holding, or trading in securities and that owns or proposes to acquire "investment securities" with a value that exceeds forty percent of the issuer's total assets on an unconsolidated basis. For purposes of the forty percent test, Government securities and cash items are excluded from total assets.

To avoid falling within section 3(a)(3), issuers who have a high proportion of liquid assets tend to invest those assets mostly in Government securities. ICOS states that it does not want to limit a substantial portion of its assets to investments in Government securities because the yield on Government securities is significantly less than that on other high-quality debt instruments. Consequently, ICOS currently exceeds the forty percent limitation and meets the *prima facie* definition of investment company in section 3(a)(3).[2]

An issuer such as ICOS that meets the *prima facie* definition of investment company in section 3(a)(3) nonetheless may be excluded by section 3(b). Section 3(b)(1) excludes issuers engaged primarily in a business or businesses other than investing, reinvesting, owning, holding, or trading in securities, either directly or through wholly-owned subsidiaries. Section 3(b)(2) permits the Commission to issue orders excluding issuers engaged primarily in a business or businesses other than investing, reinvesting, owning, holding, or trading in securities directly, through majority-owned subsidiaries, and through certain controlled companies.[3]

ICOS seeks an order under section 3(b)(2) excluding it from the definition of investment company by finding that it is engaged primarily in a non-investment business. The Commission believes that ICOS may rely on the automatic exclusion provided by section 3(b)(1) because it engages in its primary business, developing medications for the treatment of chronic inflammatory diseases, directly. The Commission ordinarily would be unwilling to issue an order under section 3(b)(2) when section 3(b)(1) provides an automatic exclusion. The Commission, however, believes an order is appropriate here to modify the analysis for determining the primary business of *bona fide* research and development companies.

In Tonopah Mining Co. of Nevada, the Commission adopted a five factor analysis for determining an issuer's primary business.[4] Although the Commission decided Tonopah under section 3(b)(2), the same factors also are used to determine an issuer's primary business under sections 3(a)(1) and 3(b)(1).[5] These factors are: (1) The company's historical development; (2) its public representations of policy; (3) the activities of its officers and directors; (4) the nature of its present assets; and (5) the source of its present income. The Commission accorded the fourth and fifth factors the most weight. Under a strict application of the Tonopah analysis, an issuer generally is deemed to be engaged primarily in the business of investing in securities if most of its assets are securities and most of its income is derived from such securities.

Under the Tonopah analysis, ICOS could be viewed as engaged primarily in investing in securities. The bulk of its assets are securities and its revenue from non-securities activities is less than thirty-three percent of its total revenue.[6] The Commission believes that Tonopah's focus on the composition of present income and assets is ill-suited to ICOS and similar companies. The biotechnology industry did not exist at the time the Commission decided Tonopah. In contrast to the companies contemplated in Tonopah, research and development companies require large amounts of capital to fund the development of products that may not produce income for many years. Given such requirements, research and development companies seek to raise capital whenever market conditions are favorable. Such capital must be invested

[1] Section 3(a)(2) provides an additional definition of "investment company" that includes face-amount certificate companies. Only two face-amount certificate companies remain in existence.

[2] As of June 30, 1992, virtually all of the company's assets, exclusive of Government securities and cash items, consisted of investment securities.

[3] Section 3(b) does not exclude issuers meeting the "primarily engaged" definition of investment company in section 3(a)(1). However, if an issuer is found to be "primarily engaged" in a business other than investing, reinvesting, owning, holding, or trading in securities for purposes of section 3(a)(3), then it necessarily will be engaged primarily in a business other than investing, reinvesting, or trading in securities for purposes of section 3(a)(1). Therefore, a determination that an issuer meets the standards for exclusion under section 3(b) is, by definition, a determination that it is not an investment company under section 3(a)(1). See M.A. Hanna Co., 10 S.E.C. 581 (1941).

[4] 26 S.E.C. 426, 427 (1947).

[5] See Certain Prima Facie Investment Companies: Proposed Rule, Investment Company Act Release No. 10937 (Nov. 13, 1979) (proposing rule 3a–1), n.24.

[6] In Tonopah, the Commission's analysis focused on "net income." ICOS has no net income, however, as it is operating at a loss.

in relatively liquid assets to ensure access to funds needed for operations.

Tonopah's asset test is problematic for research and development companies for another reason. Unlike operating companies that generally invest in tangible assets, biotechnology companies use their capital to retain scientists and other professionals to produce "intellectual capital" and technology. Intellectual capital and technology, however, are not capitalized as assets on the companies' balance sheets, making it difficult for research and development companies to satisfy the asset test.[7]

Given the unique nature of research and development companies, the Commission believes that it is appropriate to expand the traditional Tonopah analysis. If a company demonstrates that it is engaged actively in *bona fide* research and development activities, the Commission would consider the use, rather than simply the composition, of the company's assets and income. The Commission believes that the following factors may be used in the place of the traditional assets and income elements of the Tonopah analysis.

A. Reduction of Principal

Under this factor, the Commission would consider whether the company uses its securities and cash to finance its research and development. A *bona fide* research and development company would be expected to spend more on research and development than gross investment income (gross income from dividends, interest from all sources, and profits on securities (net of losses)). The Commission recognizes that such a research and development company occasionally may spend less than its investment income on research and development, particularly in periods of high interest rates. If gross investment income consistently exceeds research and development expenses, however, the company could be engaged in a perpetual investment program, and thus might be an investment company required to be registered under the Act.

B. Nature of Expenses

Under this factor, the Commission would consider the manner in which the company spends its funds. A company would have to establish that a substantial portion of its gross expenses consists of research and development expenses, as defined in SFAS No. 2. The Commission also would expect the company's gross investment expenses (gross expenses incurred for investment advisory, management and service fees, and in connection with research, selection, supervision, and custody of investments) to be *de minimis* when compared to gross expenses from all sources. Because research and development companies invest in securities that require little management, gross investment expenses typically are *de minimis*. In contrast, the majority of the expenses of most investment companies typically are investment related.

C. Preservation of Capital

Under this factor, the Commission would consider whether the company invests in securities in a manner that is consistent with the preservation of its assets until needed to finance operations. For example, a company generally would meet this requirement only if substantially all of its securities (other than securities of subsidiaries or controlled companies through which it conducts its business) present limited credit risk. Significant investments in equity or speculative debt would indicate that the company is acting as an investment company rather than preserving its capital for research and development.

If a company met these requirements, the Commission also would examine the remaining factors of the historical primary business test (the company's historical development, its public representations of policy, and the activities of its officers and directors) to determine whether the company is engaged primarily in a non-investment business. While the Commission would consider other means of establishing that a *bona fide* research and development company is engaged primarily in a non-investment business, the Commission believes that this analysis will clarify the status of virtually all such companies under the Act.[8]

III. Conclusion

Under the revised analysis, ICOS qualifies for a section 3(b)(2) order. ICOS' research and development expenses greatly exceed its gross investment income. A majority of ICOS' gross expenses consists of research and development expenses and less than one percent are related to its investment activities.[9] ICOS invests its liquid assets entirely in debt instruments that present limited credit risk. In addition, ICOS' historical development, public representations of policy, and the activities of its officers and directors indicate that ICOS is engaged primarily in the biotechnology business. ICOS' business activities since its formation have been researching and developing medications to treat diseases, and its stated intention, as reflected in a resolution adopted by the company's board of directors, is to continue to engage in that business. The company consistently has represented in its prospectuses, reports to stockholders, and filings with the Commission that it is a biopharmaceutical company developing medications for the treatment of diseases. ICOS also represents that it has never held itself out as being in the business of investing in securities. Moreover, ICOS states that only two of its 129 employees devote time to its investment activities, and together these employees spend an average of eight hours per month on such activities. Accordingly,

It is ordered, Under section 3(b)(2), that applicant is engaged primarily in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6523 Filed 3–19–93; 8:45 am]

BILLING CODE 8010–01–M

[7] ACCOUNTING FOR RESEARCH AND DEVELOPMENT COSTS, Statement of Financial Accounting Standards No. 2 (Fin. Accounting Standards Bd. 1992) (hereinafter "SFAS No. 2").

[8] As noted above, ICOS engages in its non-investment business directly. Other companies may engage in research and development activities indirectly, however, through subsidiaries or controlled companies. The financial statements of controlled and controlling companies typically are not consolidated when the controlling company does not hold a majority interest in the controlled company. Thus, application of the reduction of principal and nature of expenses elements of the revised analysis to such companies may present special difficulties, which are neither presented nor addressed in this order.

[9] ICOS was incorporated in September of 1989. In that calendar year, ICOS' expenses consisted entirely of general and administrative expenses. In calendar years 1990, 1991, and the first six months of 1992, however, ICOS' research and development expenses were approximately sixty-five percent, seventy-six percent, and seventy-seven percent, respectively, of total operating expenses. It is understandable that in its start-up phase, ICOS' general and administrative expenses were large and it did not have any research and development expenses.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Ann Arbor Municipal Airport; Ann Arbor, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Ann Arbor for Ann Arbor Municipal Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest Gubry, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–650.5, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7280.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Ann Arbor Municipal Airport are in compliance with applicable requirements of part 150, effective March 4, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the City of Ann Arbor. The specific maps under consideration are the noise exposure maps: Noise Exposure Map—1990 and Noise Exposure Map—1995 found after page I–12, respectively, of the submission. The FAA has determined that these maps for Ann Arbor Municipal Airport are in compliance with applicable requirements. This determination is effective on March 4, 1993. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through the FAA's review of noise exposure maps.

Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018.

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, , 8820 Beck Road, Belleville, Michigan 48111.

Ann Arbor Municipal Airport, 801 Airport Drive, Ann Arbor, Michigan 48108.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, on March 4, 1993.

Dean C. Nitz,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 93–6493 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–M

Aviation Proceedings; Agreements Filed During the Week Ended March 12, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48683
Date filed: March 8, 1993
Parties: Members of the International Air Transport Association
Subject: Comp Mail Vote 618, (Slovakia/Czeck Republic resos), r-1-054k r-2-070r r-3-074pp r-4-080oo r-5-015v
Proposed Effective Date: April 1, 1993

Docket Number: 48684
Date filed: March 8, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Mail Vote 620, (Japan-Russian Federation fares), r-1-043i r-2-053i r-3-063i r-4-085t
Proposed Effective Date: April 1, 1993

Docket Number: 48685
Date filed: March 8, 1993
Parties: Members of the International Air Transport Association
Subject: Resolution 015h—USA–UK add-on amounts, Tables—TC12 Fares 0402 dated March 5, 1993
Proposed Effective Date: April 1, 1993

Docket Number: 48689
Date filed: March 10, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Mail Vote 621 (China-Japan fares), r-1-043i r-2-053i r-3-063i r-4-085hh
Proposed Effective Date: April 1, 1993

Docket Number: 48690
Date filed: March 10, 1993
Parties: Members of the International Air Transport Association
Subject: Comp Mail Vote 617 (Fares to/from Cypress), Comp Telex—Correction
Proposed Effective Date: April 1, 1993

Docket Number: 48695
Date filed: March 12, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Reso/P 0517 dated December 11, 1992, Japan/Korea-Southwest Pacific (except Australia/New Zealand) r-1 to r-12, TC3 Reso/P 0518 dated December 11, 1992,

Japan/Korea-Australia r-13 to r-32, TC3 Reso/P 0519 dated December 11, 1992, Japan/Korea-New Zealand r-33 to r-51, TC3 Meet/P 0052 dated February 19, 1993
Proposed Effective Date: April 1, 1993
Docket Number: 48696
Date filed: March 12, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Mail Vote 623 (Japan-Russian Federation Cargo Rates)
Proposed Effective Date: April 1, 1993
Docket Number: 48697
Date filed: March 12, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Mail Vote 624 (Seoul-Toyama Cargo rates)
Proposed Effective Date: April 26, 1993

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–6484 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 12, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48687
Date filed: March 8, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 5, 1993
Description: Application of Sigair AS, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Act, applies for a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation of persons, property and mail between any point in any state of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and any other point in any state of the United States or the District of Columbia or any territory or possession of the United States, on the other hand.
Docket Number: 48693
Date filed: March 12, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 9, 1993
Description: Application of United Parcel Service Co., pursuant to section 401 of the Act and subpart Q of the Regulations, requests an amendment to its certificate of public convenience and necessity for Route 557 so as to add a segment between a point, or points, in the United States of America and a point, or points, in Guatemala.
Docket Number: 48698
Date filed: March 12, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 9, 1993
Description: Application of Ladeco Cargo, S.A., pursuant to section 402 of the Act and subpart Q of the Regulations applies for a foreign air carrier permit to engage in the foreign scheduled all-cargo air transportation between a point or points in Chile and the U.S. coterminal points Miami, Florida and New York, New York via intermediate points and beyond the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–6485 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 93–015]

Chemical Transportation Advisory Committee (CTAC) Subcommittee on the Revision of the Regulations for Barges Carrying Bulk Liquid Hazardous Materials Cargoes; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Committee on the Revision of the regulations for Barges Carrying Bulk Liquid Hazardous Materials Cargoes, title 46, Code of Federal Regulations (CFR), part 151, of the Chemical Transportation Advisory Committee will meet as working groups on Monday, April 19, 1993 and as a Subcommittee on Tuesday April 20, 1993. These meetings will continue the Subcommittee's review of 46 CFR part 151 to determine areas in need of updating and revision, and make recommended changes.

SUPPLEMENTARY INFORMATION: The working group meetings will be in rooms 4119 and 4315 and the Subcommittee meeting will be in room 4315 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. All meetings will begin at 9 a.m. and end at 4 p.m. Attendance is open to the public. Members of the public may present oral statements at the meetings. Persons wishing to present oral statements should notify Lieutenant Commander R.F. Corbin, U.S. Coast Guard Headquarters (G-MTH-1) no later than the day before the meeting. Any member of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Commander K.J. Eldridge or Lieutenant Commander R.F. Corbin, U.S. Coast Guard Headquarters (G-MTH-1), 2100 2nd Street, SW., Washington, DC 20593, (202) 267–1217.

Dated: March 11, 1993.

Joseph J. Angelo,

Acting Deputy Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–6498 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–14–M

[CGD 93–014]

Navigation Safety Advisory Council; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice is issued to advise the public of a change in meeting location and the agenda. On Sunday, March 28, 1993, the Navigation Safety Advisory Council will meet at the Le Pavillon Hotel, 833 Poydras Street, New Orleans, LA. On Monday and Tuesday, March 29 and 30, 1993, the Council will meet at the Hale Boggs Federal Building, 501 Magazine Street, room 1120, New Orleans, LA.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Executive Director, Navigation Safety Advisory Council, U.S. Coast Guard (G-NSR-3), Washington, DC 20593–0001, Telephone (202) 267–0415.

SUPPLEMENTARY INFORMATION: This supplements the notice published in the **Federal Register** on February 24, 1993 (58 FR 11286). In particular it provides that: (1) Sunday, March 28, 1993, meetings will be held at the Le Pavillon Hotel instead of the Coast Guard District offices (Hale Boggs Federal Building); and, (2) A revised agenda.

Committee Meetings, Sunday, March 28, Le Pavillon Hotel

9 a.m.–10:30 a.m.

Navigation Rules Consistency Review Committee (Gravier Room)

1. Consistency between International and Inland Rule 9 (Narrow Channels) regarding duties of vessels being overtaken in a narrow channel.
2. Review of COLREGS amendments likely to be effective in 1995 and consistency with Inland Navigation Rules.

Rules of the Road Committee (Orleans Room)

1. Relationship between International Rule 5 and the lookout provisions of the STCW Convention.

9 a.m.–12 p.m

Ad Hoc OPA–90 Committee (Bienville Room)

1. Review of notice of proposed rulemaking requiring Tug Escorts for Tankers.

Rules of the Road Committee (Gravier Room)

1. Review TSAC and BSAC recommendations on responsibilities of vessels (including barges) made fast to mooring buoys or other similar devices.
2. Lookout requirement for Vessels at anchor—Does Rule 5 apply?

Human Factors/Rules of the Road Committee (Orleans Room)

1. Conduct of trials in which the officer of the navigational watch acts as the sole look-out in periods of darkness.

2–5 p.m.

Navigation Equipment Committee (Bienville Room)

1. Review of H.R. 805, Maritime Navigation Technology and Research Act of 1993, which directs the Secretary of Transportation to issue rules which require vessels operating in harbors in the United States to use state-of-the-art maritime vessel traffic control equipment.
2. Discuss strategy for carriage requirements of dGPS/GPS, ECDIS, and ADS.

Human Factors Committee (Orleans Room)

1. Work hour limitations and fatigue
2. Bridge Team Management

Routing Measures and Vessel Traffic Services Committee (Gravier Room)

1. Discuss VTS participation.
2. Should Automated Dependent Surveillance (ADS) be incorporated into all VTSs? Should the Automated Dependent Surveillance Shipborne Equipment (ADSSE) carriage requirement be expanded?
3. Discuss the role of the marine industry in the VTS training program.

5–6 p.m.

Informal Plenary Session (Bienville Room)

1. Analysis of Rule 19 Questionnaire (Captain Stephen Ford)
2. Announcement

Monday, March 29

Hale Boggs Federal Building, 501 Magazine Street, room 1120, New Orleans, LA

8 a.m.—Plenary Session: Welcoming remarks by RADM J.C. Card (Commander, Eighth Coast Guard District); remarks by sponsor RADM W.J. Ecker (Chief, Office of Navigation Safety and Waterway Services, Coast Guard Headquarters); and speakers on the following subjects:

—Overview of Eighth Coast Guard District.
—Waterway Management Analysis Study.
—U.S. Army Corps of Engineers, ECDIS and Navigation Safety and Efficiency.
—U.S. ECDIS Test and Evaluation Program.
—Exposed Pipelines.
—Opportunities to Modernize Maritime Services (NOAA).
—Coast Guard Study on the Effectiveness of Local Notice to Mariners.

1:30–6 p.m.—Committee Reports

Tuesday, March 30

8:00—Reconvene in Plenary, room 1120, Hale Boggs Federal Building.

Continue committee reports, new business, announcements. Adjourn at 12 noon.

The meeting is open to the public. Persons wishing to make oral statements should notify the Executive Director no later than Thursday, March 25, 1993. Any person may present a written statement to the Council at any time without advance notice.

Date: March 16, 1993.

A. Cattalini,

Captain, U.S. Coast Guard, Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 93–6499 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Noise Exposure Map Notice Kent County International Airport Grand Rapids, Michigan

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Kent County International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is March 4, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest Gubry, Federal Aviation Administration, Great Lakes Region, Detroit Airports District Office, DET ADO–650.5, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7280.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Kent County International Airport are in compliance with applicable requirements of part 150, effective March 4, 1993.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by Kent County. The specific maps under consideration are the noise exposure maps: Figure 4–6, "1990 Existing Noise Contours," and Figure 4–7, "1995 Future Noise Contours," pages 67 and 68, respectively, of the submission. The FAA has determined that these maps for Kent County International Airport are in compliance with applicable requirements. This determination is effective on March 4, 1993. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from

the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through the FAA's review of noise exposure maps.

Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018.

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

Kent County International Airport, 5500 44th Street, SE., Grand Rapids, Michigan 49512.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, on March 4, 1993.

Dean C. Nitz,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 93–6494 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–M

Approval of Record of Decision for a Mitigated Finding Of No Significant Impact (FONSI); Kent County International Airport, Grand Rapids, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that on January 20, 1993, it approved a mitigated FONSI for the proposed short-term development depicted on the Airport Layout Plan (ALP) for Kent County International Airport.

EFFECTIVE DATE: The effective date of the FAA's approval of the FONSI is January 20, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest P. Gubry, Federal Aviation Administration, Detroit Airports District Office, DET ADO–650.5. Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7280.

SUPPLEMENTARY INFORMATION: The FAA approved a mitigated FONSI for the proposed short-term development depicted on the Airport Layout Plan (ALP) for Kent County International Airport on January 20, 1993.

The short-term development included:

a. Extension and realignment of the existing crosswind Runway 18/36 (17/35) to 8,500 feet;

b. Extension of the existing Runway 8L/26R to 5,000 feet;

c. Construction of a new cargo facility;

d. Construction of new taxiways;

e. Construction of a perimeter road system;

f. Storm water drainage improvements;

g. Acquisition of property for airfield development including relocation under the Uniform Relocation Assistance and Real Property Acquisition Act;

h. Terminal building expansion;

i. Short-term parking improvements;

j. Installation of navigation aids;

k. Wetland mitigation.

Three additional projects depicted on the ALP were evaluated but not approved in this document. These projects were included in the environmental document to show the relationship and environmental impacts between the short- and long-term development program:

a. Construction of a new 7,000-foot Runway 8L/26R with conversion of the existing runway into a parallel taxiway;

b. Long-term parking improvements;

c. Relocation of the Air Traffic Control Tower.

The FAA published a **Federal Register** Notice on October 3, 1991, announcing its intent to prepare an Environmental Document (possible Environmental Impact Statement) and to hold a November 6, 1991, scoping meeting. At the scoping meeting, no significant impacts were identified other than wetlands. The airport sponsor indicated that the wetland impacts would be mitigated below the level of significance as an integral part of the development. Notice was given for a January 16, 1992, public hearing with written comments being received until January 31, 1992. Based on the analysis found in the Environmental Assessment and the results of the public hearing, the FAA published a May 28, 1992, **Federal Register** Notice that it intended to issue a FONSI for the short-term development depicted on the ALP. The FAA received a letter from the US Fish and Wildlife Service (USFW) stating their concerns with the proposed FONSI. After several meetings and additional wetland field work, including the preparation of a site selection report for the wetland replacement site, the USFW agreed at a December 21, 1992, meeting that a FONSI was an acceptable environmental finding. On January 20, 1993, the FAA approved the Record of Decision (ROD).

A copy of the ROD is available for review at the Detroit Airports District Office.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, March 4, 1993.

Dean C. Nitz,

Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 93–6491 Filed 3–19–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Rutland County, VT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project (FEGC 419–3 (44)) in Rutland County, Vermont.

FOR FURTHER INFORMATION CONTACT: Donald J. West, FHWA Division Administrator, Vermont, or Patrick Arno, Environmental Coordinator, P.O. Box 568, Montpelier, Vermont 05601, tel.: (802) 828–4423, or Frank Evans, Project Manager, Vermont Agency of Transportation, tel.: (802) 879–5600.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Vermont Agency of Transportation will prepare an EIS to evaluate alternatives to provide a bypass or upgrading of US 4 and US 7 roadways for through traffic in Rutland, Vermont, a distance of 3–6 miles.

Improvements are necessary to alleviate traffic congestion and provide functional efficiency for current and projected traffic volumes. Alternatives under consideration include: (1) No Action, (2) Westerly alignments with controlled access, (3) Easterly alignments with controlled access, and, (4) Upgrade Existing Roadways including a State Street Extension and

Transportation Systems Management/ Transportation Demand Management measures (TSM/TDM). Other alternatives developed during the scoping process will also be evaluated.

The EIS will evaluate, but not be limited to assessing the environmental impacts, including secondary and cumulative impacts, on the affected environment for the following impact categories: Socio-economic including residential, business, and employment; historic and archaeologic; cultural resources; parklands; recreation; aesthetics; traffic; noise; surface water hydrology and quality; air quality; wetlands; wildlife habitat; upland vegetation; geology; soils; and groundwater. The EIS will also evaluate impacts on the affected environment resulting from construction period traffic and induced economic growth associated with the project.

Notices describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this project. A scoping meeting will be held on Tuesday, April 20, 1993 at 7 p.m. at the Centre Vermont Holiday Inn, US Route 7, Rutland, Vermont. In addition, a public hearing will be held after the draft EIS is published. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues relating to the proposed project are addressed and all potentially significant issues are identified, comments and suggestions are being solicited from all interested parties. Comments and questions concerning this proposed action should be directed to the FHWA at the address above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on March 16, 1993.

William K. Fung,

FHWA Engineering Coordinator, Montpelier, Vermont.

[FR Doc. 93-6455 Filed 3-19-93; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 53
Monday, March 22, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 a.m., Thursday, April 1, 1993; 9:00 a.m., Friday, April 2, 1993.

PLACE: Chicago O'Hare Hilton, Chicago, Illinois.

STATUS: This entire meeting will be closed to the public.

MATTERS TO BE CONSIDERED

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. GSE Studies
2. System 2000
3. Board Mangement Issues

The above matters are exempt under one or more of sections 552b(c)(2), (9)(A) and (B) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–6617 Filed 3–19–93; 8:45 am]

BILLING CODE 6725–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [58 FR 13524 March 11, 1993]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, March 8, 1993.

CHANGE IN THE MEETING: Cancellation.

A closed meeting scheduled for Tuesday, March 16, 1993, at 2:30 p.m. was cancelled.

Commissioner Beese, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams at (202) 272–2400.

Dated: March 17, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–6585 Filed 3–19–93; 8:45 am]

BILLING CODE 8010–01–M

federal register

Monday
March 22, 1993

Part II

Department of Labor

Office of Labor-Management Standards

29 CFR Part 470

Obligation of Federal Contractors and Subcontractors; Employee Rights Concerning Payment of Union Dues or Fees; Final Rule

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 470

Obligation of Federal Contractors and Subcontractors; Employee Rights Concerning Payment of Union Dues or Fees

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Labor.

ACTION: Final rule; removal of regulations.

SUMMARY: This final rule removes the regulations found at 29 CFR Part 470. These regulations implemented Executive Order 12800 which was revoked by Executive Order 12836 signed by President Clinton on February 1, 1993, and published in the Federal Register on February 3, 1993.

Part 470, now removed, required government contractors and subcontractors to post notices informing their employees that under federal law: they cannot be required to join a union or maintain membership in a union to retain their jobs; and, employees who choose not to be union members may object to the use of their compulsory union dues and fees collected pursuant to a lawful union-security agreement for activities other than collective bargaining, contract administration, or grievance adjustment, and may be entitled to a refund and an appropriate reduction in future payments. Part 470 also required federal contracting agencies and covered government contractors and subcontractors to include certain provisions of the Order in their contracts, subcontracts, and purchase orders. These contract provisions will no longer be enforced by the Secretary, and shall have no further force and effect.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., room N-5605, Washington, DC 20210, (202) 219-7373. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On February 1, 1993, President Clinton signed Executive Order 12836 (58 FR 7043, February 3, 1993) revoking Executive Order 12800 and instructing executive agencies to revoke any orders, rules, or regulations implementing Executive Order 12800.

Regulations implementing Executive Order 12800 found at 29 CFR part 470 required government contractors and subcontractors to post notices informing their employees that under federal law: They cannot be required to join a union or maintain membership in a union to retain their jobs; and, employees who choose not to be union members may object to the use of their compulsory union dues and fees collected pursuant to a lawful union-security agreement for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in future payments. Part 470 also required federal contracting agencies and covered government contractors and subcontractors to include certain provisions of the Order in their contracts, subcontracts, and purchase orders. Based on the revocation of Executive Order 12800 and of the Secretary of Labor's implementing regulations at 29 CFR part 470, those contract provisions formerly required to be contained in covered contracts, subcontracts, and purchase orders will no longer be enforced by the Secretary of Labor, and shall have no further force and effect.

Publication in Final

The Department has determined that the repeal of these regulations need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA, 5 U.S.C. 553). The agency finds that good cause exists for dispensing with notice and public comment as unnecessary since Executive Order 12800 which gave rise to Part 470 has been revoked, and, therefore, no legal basis exists for the regulation. Furthermore, Executive Order 12836 provides that regulations implementing Executive Order 12800 shall be promptly revoked. This repeal is thus exempt from notice and comment by virtue of section 553(b)(B) of the APA (5 U.S.C. 553(b)(B)).

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned have determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that Executive Order 12800 which gave rise to part 470 has been revoked, and, therefore, no legal basis exists for the regulation. Furthermore, Executive Order 12836 provides that regulations implementing Executive Order 12800 shall be promptly revoked.

Regulatory Impact

This document reflects the removal of regulations for which there is no current authority. Therefore, this document is not a rule or regulation as defined in Executive Order 12291. In addition, this document was not preceded by a general notice of proposed rulemaking, and is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601(2) and 604(a)).

Paperwork Reduction Act

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirement.

List of Subjects in 29 CFR Part 470

Administrative practice and procedure; Government contracts; Union dues; Labor unions.

Promulgation of Final Rule

Accordingly, pursuant to Executive Order 12836, contract provisions included in federal contracts, subcontracts, and purchase orders pursuant to Executive Order 12800 and 29 CFR part 470 will no longer be enforced by the Secretary, and shall have no further force and effect, and title 29, Code of Federal Regulations, is hereby amended by removing subchapter C, consisting of part 470.

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

Robert B. Reich,

Secretary of Labor.

John R. Fraser,

Acting Assistant Secretary for Employment Standards.

[FR Doc. 93-6502 Filed 3-19-93; 8:45 am]

BILLING CODE 4510-86-M

federal register

Monday
March 22, 1993

Part III

Department of the Interior

Bureau of Indian Affairs
Office of Surface Mining Reclamation and Enforcement

25 CFR Part 216
30 CFR Parts 710, et al.
Surface Coal Mining and Reclamation Operations; Federal Program for Indian Lands; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of Surface Mining Reclamation and Enforcement

25 CFR Part 216

30 CFR Parts 710, 715, 716, 717 and 750

RIN 1029–AB65

Surface Coal Mining and Reclamation Operations; Federal Program for Indian Lands

AGENCIES: Bureau of Indian Affairs, Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) and the Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) are proposing to amend their respective regulations to: Remove the initial program performance standards for Indian lands codified at 25 CFR part 216, subpart B; and amend the initial program performance standards codified at 30 CFR chapter VII, subchapter B to make them applicable to Indian lands. These proposed rule changes would avail operators on Indian lands of the opportunity to meet counterpart permanent program performance standards in lieu of meeting the initial program performance standards. This proposal would also enable operators on Indian lands initial program sites to reclaim to the latest technical and environmental standards of the permanent program, an option currently available only to operators on non-Indian lands initial program sites. These changes would eliminate inconsistencies between the current Indian and non-Indian lands initial programs, ensure equal treatment of surface coal mine operators on Indian and non-Indian lands, and clarify regulatory and compliance ambiguities.

DATES:

Written Comments: OSM will accept written comments on the proposed rule until 5 p.m. Eastern time on May 22, 1993.

Public Hearings: Upon request, OSM will hold a public hearing on the proposed rule in Washington, DC on May 11, 1993, beginning at 9:30 a.m. Eastern time. Upon request, OSM will also hold hearings in other locations at times and on dates to be announced prior to the hearings.

OSM will accept requests for a public hearing until 4 p.m. Eastern time on April 21, 1993. Individuals wishing to attend, but not testify at the hearing should contact the person identified under **FOR FURTHER INFORMATION CONTACT** beforehand to verify that the hearing will be held.

ADDRESSES:

Written Comments: Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660NC 800 North Capitol Street, Washington, DC, or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660NC, Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240.

Public Hearing: If held, the public hearing will be at the Department of the Interior Auditorium, 18th and C Streets NW., Washington, DC. The addresses for any hearings requested to be scheduled at other locations will be announced prior to the hearings.

Request for Public Hearing: Submit requests orally or in writing to the person and address specified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Billie E. Clark, Jr., Federal and Indian Permitting Branch, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Brooks Towers, 1020 15th Street, Denver, CO 80202; Telephone: 303–844–2829.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change.

Where practicable, commenters should submit three copies of their comments (see **ADDRESSES**). Comments received after the close of the comment period (see **DATES**) or delivered to addresses other than those listed above, may not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings

OSM will hold public hearings on the proposed rule on request only. The time, date and address for the hearing to be held in Washington, DC has been specified previously in this notice (see **DATES** and **ADDRESSES**). The times, dates and addresses for other hearings that may be requested at other locations have not yet been scheduled, but will be announced in the **Federal Register** at least seven days prior to any such hearings.

Any person interested in participating at a hearing should inform Billie E. Clark (see **FOR FURTHER INFORMATION CONTACT**) either orally or in writing by 4 p.m. Eastern time April 21, 1993. If no one has contacted Mr. Clark to express an interest in participating in a hearing, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. The hearing will be transcribed. To assist the transcriber and to ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a copy of their testimony. To assist OSM in preparing appropriate questions, OSM also requests that persons who plan to testify submit to OSM at the address previously specified for the submission of written comments (see **ADDRESSES**), an advance copy of their testimony.

Persons interested in attending the hearing, but not testifying, should contact the individual listed under **FOR FURTHER INFORMATION CONTACT** prior to the scheduled hearing date to verify that the hearing will be held.

II. Discussion of Proposed Rule

A. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act) Public Law 95–87, as amended, 30 U.S.C. 1201–1328, provides a two-phase program for the regulation by the Secretary of the Interior of surface coal mining and reclamation operations on Indian lands. The first phase, codified at 25 CFR part 216, subpart B (43 FR 63395, December 16, 1977 and 47 FR 13327, March 30, 1982), includes regulations setting forth initial program performance standards applicable to Indian lands. The second phase, codified at 30 CFR part 750 (49 FR 38462, September 28, 1984), includes regulations setting forth permanent program performance standards applicable to Indian lands.

As first promulgated, the Indian lands initial program performance standards at 25 CFR part 216, subpart B, were nearly identical to those for non-Indian lands promulgated on December 13, 1977 at 30 CFR parts 715 and 716 (42 FR 62639). However, there were differences, the most important being

the provisions of 25 CFR 216.112 through 216.114 authorizing tribal involvement in the inspection, enforcement and civil penalty procedures. Also, the Indian lands regulations at 25 CFR part 216, subpart B contained no corresponding provisions to 30 CFR 715.19 concerning the use of explosives and, except for the provisions governing steep-slope mining at 25 CFR 216.111, did not include the special performance standards for non-Indian lands set forth at 30 CFR part 716.

On September 28, 1984 (49 FR 38462), OSM promulgated a final rule that, among other things, amended the Indian lands initial program to remove the tribal involvement provisions at 25 CFR 216.112 through 216.114. In the preamble to that rule, OSM stated that those provisions were superseded by the permanent program regulations at 30 CFR parts 842, 843, and 845 which set forth procedures and requirements governing Federal inspections and monitoring, Federal enforcement, and civil penalties respectively. OSM determined that having one set of uniform rules for both Indian and non-Indian lands made administration of the Act simpler and more efficient and that this change would cause no undue hardship on non-complying operators. Hence, a major reason for having separate Indian and non-Indian lands initial programs was eliminated.

On February 14, 1991, OSM amended the non-Indian lands initial program by adding a new provision at 30 CFR 710.11(e) to allow operators on non-Indian lands to meet permanent program performance standards in lieu of initial program performance standards (56 FR 6224). A similar change to the Indian lands initial program was deemed to be outside the scope of the rulemaking. Thus, while operators on non-Indian lands may now choose to meet permanent program standards in lieu of initial program standards, operators on Indian lands do not have the same option.

The basis and purpose for the promulgation of 30 CFR 710.11(e) are also applicable to Indian lands. In explaining this new provision, OSM stated:

> The Permanent Program rules require the latest technical and environmental standards for interpretation of the Act and are the result of more than ten years of experience in implementing the Act. They include many program revisions mandated by courts. However, in cases where the Initial Program performance standards continue to apply, Regulatory Authorities must require operators to comply with all of the earlier standards, even when compliance with Permanent Program standards would ensure implementation of [the Act] or would result in reclamation superior to that which would be achieved under the Initial Program standards.

OSM then described five examples of initial program performance standards that were outdated or for which compliance was impractical (56 FR 6224–25, February 14, 1991). Most of these examples are equally germane to Indian lands.

The Indian lands initial program applies to any person who conducts surface coal mining and reclamation operations on Indian lands on or after December 16, 1977, in accordance with 25 CFR 216.100(a) and 30 CFR 750.11(c), until OSM issues or denies a permit in accordance with the Indian lands permanent program at 30 CFR part 750. Although the Indian lands permanent program was promulgated on September 28, 1984, operators on initial program sites must continue to comply with the Indian lands initial program performance standards at 25 CFR part 216, subpart B, even though compliance with the Indian lands permanent program performance standards would ensure implementation of the Act and in many cases would result in reclamation superior to that achieved under the Indian lands initial program standards.

The rule changes proposed today would allow operators on Indian lands initial program sites to reclaim to the latest technical and environmental standards of the permanent program. Also, this proposal would eliminate inconsistencies between the Indian and non-Indian lands initial programs, ensure equal treatment of surface coal mine operators on Indian and non-Indian lands, and clarify regulatory and compliance ambiguities.

B. Section-by-Section Analysis

The proposed rule would remove the Indian lands initial program performance standards from BIA's regulations at 25 CFR part 216, subpart B, in their entirety and would amend OSM's initial program regulations at 30 CFR chapter VII, subchapter B, to include Indian lands. This latter change would involve amendments to 30 CFR parts 710, 715, and 750. These amendments would, among other things, allow operators on Indian lands initial program sites to avail themselves of the provisions of 30 CFR 710.11(e), under which operators could choose to meet counterpart Indian lands permanent program performance standards in lieu of meeting the initial program requirements.

Removal of 25 CFR Part 216, Subpart B

Subpart B of 25 CFR part 216 sets out the Indian lands initial program performance standards. Although the initial program for Indian lands appears in BIA's regulations at 25 CFR chapter I, OSM is responsible for administering the program.

OSM and BIA are proposing herein to remove 25 CFR part 216, subpart B, and amend OSM's initial program performance standards at 30 CFR chapter VII, subchapter B, to include Indian lands.

The performance standards of 30 CFR chapter VII, subchapter B would not impose any unreasonable additional burdens on operators on initial program Indian lands sites above and beyond those found in 25 CFR part 216, subpart B, and would allow OSM and operators more flexibility while ensuring compliance with the Act.

Amendments to 30 CFR

The initial program regulations codified at subchapter B of 30 CFR chapter VII currently apply only to non-Indian lands. Amendments to §§ 710.11(b) and 715.11 of 30 CFR subchapter B, and to § 750.16 of 30 CFR, subchapter E, are necessary to make those provisions applicable to Indian lands. Also, the information collection statements at 30 CFR 716.10, 717.10 and 750.10 are proposed for revision.

Section 710.11—Applicability

OSM proposes to amend the "Applicability" provisions at 30 CFR 710.11(b) to make the initial program regulations at 30 CFR chapter VII, subchapter B, applicable to Indian lands. Specifically, the proposed amendment would require any person who conducts surface coal mining and reclamation operations on Indian lands on or after December 16, 1977, in accordance with 30 CFR 750.11(c), to meet the performance standards of 30 CFR chapter VII, subchapter B. This change would, by implication, amend any provision of 30 CFR Chapter VII, subchapter B, containing a reference to the State as the regulatory authority to the extent that such reference would also be construed as referring to OSM as the regulatory authority on Indian lands.

This change would also affect operators on Indian lands initial program sites in three principal ways:

a. *Permanent program performance standards in lieu of initial program performance standards.* The proposed change to 30 CFR 710.11(b) would allow operators on Indian lands initial program sites to avail themselves of the provisions of 30 CFR 710.11(e), under

which they could choose to meet counterpart Indian lands permanent program performance standards in lieu of meeting the initial program requirements of 30 CFR, subchapter B. Operators on non-Indian lands are currently able to avail themselves of § 710.11(e), but operators on Indian lands may not do so because 25 CFR part 216, subpart B, has no such counterpart provision. This inequity is not supported by the Act and places operators on Indian lands at a competitive and economic disadvantage when compared with operators on non-Indian lands without any increase in envirnomental protection. Thus, the proposed change to § 710.11(b) would eliminate inconsistencies between the current Indian and non-Indian lands initial programs and ensure equal treatment of surface coal mine operators on Indian and non-Indian lands.

b. *Frequency of inspecting non-Mine Safety and Health Administration size ponds.* The Indian lands initial program regulation at 25 CFR 216.108(e) requires that ponds not meeting the size or other criteria of the Mine Safety and Health Administration (MSHA) regulation at 30 CFR 77.216(a) be examined in accordance with MSHA's inspection requirements contained in 30 CFR 77.216–3, which mandate weekly inspections. In comparison, the non-Indian lands initial program regulation at 30 CFR 715.17(e)(20) allows the regulatory authority to reduce inspection frequency for these ponds to four times per year. The rule changes proposed herein would make 30 CFR 715.17(e)(20) applicable to Indian lands, thus allowing OSM, the regulatory authority on Indian lands, to approve a reduction in the inspection frequency for such ponds located in Indian lands initial program sites to four times per year. This change would eliminate another competitive and economic disadvantage placed on Indian land operators.

c. *Use of explosives.* Section 502(c) of the Act requires surface coal mine operators on non-Indian lands initial program sites to comply with subsection 515(b)(15) of the Act concerning the use of explosives. Consequently, the performance standards for non-Indian lands at 30 CFR 715.19 include provisions governing the use of explosives.

In comparison, section 710(c) of the Act does not specifically require surface coal mine operators on Indian lands to comply with subsection 515(b)(15) of the Act. Therefore, the Indian lands initial program regulations promulgated on December 16, 1977 (42 FR 63395) did not include provisions governing the use of explosives.

Section 710(d) of the Act, however, requires surface coal mine operators on Indian lands, on which such operations are conducted on and after thirty-five months from August 3, 1977, to comply with all of subsection 515 of the Act, including subsection 515(b)(15). Furthermore, section 710(d) of the Act requires that after the applicable thirty-five month period, all of the requirements of subsection 515 of the Act must be incorporated in existing and new leases issued for coal on Indian lands.

The proposed change to 30 CFR 710.11(b) would become effective after the applicable thirty-five month period when operators on Indian lands must comply with all of the requirements of subsection 515 of the Act, including those concerning explosives. Consequently, the proposed change to 30 CFR 710.11(b) would make the performance standards at 30 CFR 715.19 governing the use of explosives applicable to Indian lands initial program sites.

Section 715.11—General Obligations

Part 715 of 30 CFR contains general initial program performance standards and includes regulations governing restoration of disturbed areas to suitable postmining land use, backfilling and grading, off-site disposal of spoil and waste materials, topsoil handling, protection of the hydrologic system, construction inspection, and maintenance of dams, use of explosives, and revegetation. The focus of 30 CFR part 715 is on lands regulated by the States. OSM proposes to amend section 30 CFR 715.11 by adding a new paragraph to clarify that the general performance standards of this part are also applicable to Indian lands. Specifically, OSM proposes to add a new paragraph 30 CFR 715.11(d) to read as follows:

Indian lands. (1) OSM is the regulatory authority for any surface coal mining and reclamation operation conducted under this part on Indian lands.

(2) Mine maps. Any person conducting surface coal mining and reclamation operations on Indian lands under this part shall submit copies (number of copies to be specified by OSM) of an accurate map of the mine and authorized mining areas at a scale of 1:6000 or larger. The maps shall show as of December 16, 1977, the lands where coal has not yet been removed, and the lands and structures that have been used or disturbed to facilitate surface coal mining operations.

(3) Any requirement in this part that provides for consultation with, or notification to, State and local governments shall be interpreted as requiring, in like manner, consultation with, or notification to, tribal governments.

Proposed 30 CFR 715.11(d)(2) would essentially duplicate 25 CFR 216.102(b)—Mine maps. This proposed change is necessary since the effective date of the initial program for Indian land is December 16, 1977, as opposed to May 3, 1978, for non-Indian lands, and operators still must supply these mine maps to OSM.

Subpart B of 25 CFR part 216 generally requires coordination and consultation with tribes, much the same as 30 CFR part 715 requires coordination and consultation with States and local governments. Since subpart B of 25 CFR part 216 would be removed under this rulemaking, OSM proposes to add a provision at 30 CFR 715.11(d)(3) that requires notification of and consultation with tribal governments to the same extent as State and local governments. This provision would recognize the important role of tribal governments in the initial program for Indian lands.

Sections 716.1 Through 716.10—Special Performance Standards

The non-Indian lands initial program at 30 CFR chapter VII, subchapter B, includes provisions governing general obligations (§ 716.1), steep-slope mining (§ 716.2), mountain-top removal (§ 716.3), special bituminous coal mines (§ 716.4), anthracite coal mines (§ 716.5), coal mines in Alaska (§ 716.6), prime farmland (§ 716.7), and information collection (§ 716.10). The only counterpart to these regulations in the Indian lands initial program at 25 CFR part 216, subpart B, is the regulations governing steep-slope mining (§ 216.111), which duplicates only a portion of the regulations covering steep-slope mining at 30 CFR 716.2. Under the changes proposed today, the additional requirements of 30 CFR chapter VII, subchapter B, would also, as applicable, govern operations on Indian lands initial program sites.

Section 750.16—Performance Standards

OSM proposes to modify 30 CFR § 750.16 to reflect that the performance standards that apply to operators who conduct surface coal mining and reclamation operations on Indian lands under the initial program must comply with the provisions of 30 CFR chapter VII, subchapter B. This is necessary since the existing initial program standards for Indian lands codified at 25

CFR part 216, subpart B, would be removed under this proposed rulemaking.

III. Procedural Matters

Federal Paperwork Reduction Act

The Office of Management and Budget has determined that the information collections contained in this rule do not require approval under the Paperwork Reduction Act.

Executive Order 12291 and Regulatory Flexibility Act

The U.S. Department of the Interior (DOI) has determined that this proposed rule is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and certifies that this document would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This determination is based on the fact the proposed rule would permit an operation to comply with either initial program rules or permanent program rules. All seven existing permits on Indian lands in the States of Arizona, New Mexico, and Montana would be affected.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA), and has made an interim finding that the proposed rule would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). It is anticipated that a finding of no significant impact (FONSI) will be approved for the final rule in accordance with OSM procedures under NEPA. The EA is on file in the OSM Administrative Record at the address specified previously (see **ADDRESSES**). An EA will be completed on the final rule and a finding will be made on the significance of any resulting impacts prior to promulgation of the final rule.

Executive order 12778 on Civil Justice Reform

This rule has been reviewed under the applicable standards of Section 2(b)(2) of Executive Order 12778, Civil Justice Reform (56 FR 55195). In general, the requirements, of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

The rule will have no preemptive effect, since it merely substitutes one set of Federal standards for another set, and no State performance standards or other requirements apply.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the implementation of SMCRA as described herein, and is not intended to modify the implementation of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of SMCRA. As noted above, the rule will simplify the regulatory process by establishing one set of initial program regulatory provisions for all surface coal mining operations. The rule would also allow surface coal mining operations to choose to comply with permanent program standards which are in some cases less stringent than initial program standards, where OSM has determined that less stringent permanent program standards fully ensure compliance with SMCRA.

D. What is the retroactive effective, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this rule under section 526(a) of SMCRA, 30 U.S.C. 1276(a).

Prior to any judicial challenge to the application of the rule, however, administrative procedures must be exhausted. Applicable administrative procedures may be found at 43 CFR part 4.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms which are important to the understanding of this rule are set forth in 30 CFR 700.5, 701.5 and 750.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

As of March 22, 1993 the Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

Authors

The principal authors of this proposed rule are Billie E. Clark, Jr., Federal and Indian Permitting Branch, Office of Surface Mining Reclamation and Enforcement, Denver Colorado, and John Retrum, Office of the Solicitor, Department of the Interior, Denver, Colorado. Telephone: 303–844–2829 and 303–236–3546.

List of Subjects

30 CFR Part 710

Law Enforcement, Public Health, Reporting and recordkeeping requirements, Safety, Surface mining, Underground mining.

30 CFR Part 715

Environmental protection, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 716

Environmental protection, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 717

Environmental protection, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 750

Indian lands, Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

25 CFR Part 216

Environmental protection, Indian lands, Mineral resources, Mines.

Accordingly, it is proposed to remove 25 CFR part 216, subpart B, and to amend 30 CFR parts 710, 715, 716, 717, and 750 as set forth below.

Dated: December 24, 1992.

Larry Roberts,

Acting Assistant Secretary, Land and Minerals Management.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

30 CFR PART 710—INITIAL REGULATORY PROGRAM

1. The authority citation for part 710 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended, and Pub. L. 100–34.

2. In § 710.11, paragraph (b) is revised to read as follows:

§ 710.11 Applicability.

(a) * * *

(b) Any person who conducts surface coal mining and reclamation operations on Indian lands on or after December 16, 1977, in accordance with § 750.11(c) of this chapter shall comply with the performance standards of this subchapter.

* * * * *

30 CFR PART 715—GENERAL PERFORMANCE STANDARDS

3. The authority citation for part 715 continues to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*).

4. In § 715.11, paragraph (d) is added to read as follows:

§ 715.11 General obligations.

* * * * *

(d) *Indian lands.* (1) OSM is the regulatory authority for any surface coal mining and reclamation operation conducted under this part on Indian lands.

(2) *Mine maps.* Any person conducting surface coal mining and reclamation operations on Indian lands under this part shall submit copies (number of copies to be specified by OSM) of an accurate map of the mine and authorized mining areas at a scale of 1:6000 or larger. The maps shall show as of December 16, 1977, the lands where coal has not yet been removed, and the lands and structures that have been used or disturbed to facilitate surface coal mining operations.

(3) Any requirement in this part that provides for consultation with, or notification to, State and local governments shall be interpreted as requiring, in like manner, consultation with, or notification to, tribal governments.

30 CFR PART 716—SPECIAL PERFORMANCE STANDARDS

5. The authority citation for part 716 continues to read as follows:

Authority: Secs. 201, 501, 527, and 529, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201).

6. § 716.10 is revised to read as follows:

§ 716.10 Information collection.

The Office of Management and Budget has determined that the information collections contained in 30 CFR Part 716 do not require approval under the Paperwork Reduction Act.

30 CFR PART 717—UNDERGROUND MINING GENERAL PERFORMANCE STANDARDS

7. The authority citation for part 717 continues to read as follows:

Authority: Secs. 201 and 501, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201)

8. § 717.10 is revised to read as follows:

§ 717.19 Information collection.

The Office of Management and Budget has determined that the information collections contained in 30 CFR part 717 do not require approval under the Paperwork Reduction Act.

30 CFR PART 750—REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON INDIAN LANDS

9. The authority citation for Part 750 continues to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*, as amended); and Pub. L. 100–34.

10. § 750.10 is revised to read as follows:

§ 750.10 Information collection.

The Office of Management and Budget has determined that the information collections contained in 30 CFR part 750 do not require approval under the Paperwork Reduction Act.

11. In § 750.16, the second sentence is revised to read as follows:

§ 750.16 Performance Standards.

* * * Prior to that time, the person conducting surface coal mining and reclamation operations shall adhere to the performance standards of 30 CFR chapter VII, subchapter B.

25 CFR PART 216—SURFACE EXPLORATION, MINING, AND RECLAMATION OF LANDS

12. The authority citation for part 216, subpart B, continues to read as follows:

Authority: Section 201, 501, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201) (25 U.S.C. 396d).

Subpart B—[Removed]

5. Subpart B—Coal Operations is removed in its entirety.

[FR Doc. 93–6495 Filed 3–19–93; 8:45 am]
BILLING CODE 4310–05–M

federal register

Monday
March 22, 1993

Part IV

The President

Federal Register
Vol. 58, No. 53
Monday, March 22, 1993

Presidential Documents

Title 3—

The President

Proclamation 6535 of March 17, 1993

American Red Cross Month, 1993

By the President of the United States of America

A Proclamation

In time of need, millions of Americans, and others around the world, trust in the compassionate and swift assistance of the American Red Cross. Since 1881, the American Red Cross has served this Nation with tireless dedication and consummate skill in the face of natural disasters, war, and other emergencies.

Nineteen ninety-two was an extraordinary year for America and the American Red Cross. In the hurricane-ravaged neighborhoods of south Florida and the desolate villages of Somalia, in the flooded bayou country of Louisiana and alongside the raging wildfires in California, caring Red Cross workers served meals, provided shelter, furnished financial help, and offered emotional support to victims.

Hurricane Andrew, the most costly disaster in our history, cut an almost unimaginable swath of destruction through south Florida. More than 12,000 Red Cross volunteers and staff overcame enormous challenges to provide food and shelter for 170,000 people. Just four days after those relief efforts began, Typhoon Omar battered Guam with 150-mile-an-hour winds. Two weeks later, Hurricane Iniki roared across Hawaii, the worst hurricane to hit the islands in a century. The American Red Cross, stretched to new limits, coordinated disaster relief operations that spanned half the globe. In all, 16,000 trained Red Cross disaster workers brought knowledgeable, humanitarian assistance to the victims of Andrew, Omar, and Iniki.

While the Nation focused on the aftermath of this singular wave of destruction, the American Red Cross continued its mission of helping people prevent, prepare for, and cope with emergencies. Every day, Red Cross workers in 2,600 volunteer-based chapters help the victims of single family fires, floods, tornadoes, and industrial accidents, an average of 150 incidents daily. More than 7.5 million people take Red Cross classes in water safety, first aid, and cardiopulmonary resuscitation (CPR) each year. Millions also depend on Red Cross classes and educational materials for information on HIV/AIDS. The Red Cross helps to save and sustain countless lives by collecting, processing, and distributing more than half the Nation's donated blood, the safest supply in the world. Red Cross workers serve alongside our Armed Forces wherever they are on duty, providing support and a touch of home to members and veterans of the forces and their families.

Internationally, Red Cross workers risk their lives daily to bring emergency relief to Somalia and to provide food, shelter, and medical care in the midst of brutal combat in the former Yugoslavia. The same international humanitarian spirit enables the American Red Cross to help family members send messages to prisoners of war and search for relatives separated by war or refugee movements.

Since its founding 112 years ago by Clara Barton, the American Red Cross has embodied much of what is best about Americans: their willingness to help their neighbors, to take responsibility for their communities, and to respond to the call to service. For this, the American Red Cross and its 1.4 million volunteers have earned the respect of a thankful Nation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the month of March 1993 as American Red Cross Month. I urge all Americans to continue their generous support of the Red Cross and its chapters nationwide.

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

William J. Clinton

[FR Doc. 93-6664
Filed 3-18-93; 4:56 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6536 of March 17, 1993

National Poison Prevention Week, 1993

By the President of the United States of America

A Proclamation

Since its inception more than three decades ago, the annual observance of National Poison Prevention Week has saved lives. Along with year-round educational programs in the public and private sectors, this annual campaign for awareness has helped to reduce dramatically the number of fatal accidental poisonings among children. In the effort to protect every child from poisoning, which is nearly always preventable, we renew our commitment to informing parents, grandparents, and other adults about the importance of protecting children in their homes. The urgency of our efforts is underscored by the fact that, according to the American Association of Poison Control Centers, nearly 1,000,000 children each year are exposed to potentially harmful medicines and household chemicals.

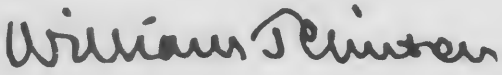
During National Poison Prevention Week, activities are coordinated by the Poison Prevention Week Council, a coalition of 37 national organizations whose members are determined to stop accidental poisonings. The Council distributes valuable information that is used by the staffs of poison control centers, pharmacists, public health officials, and others as they conduct poison prevention programs in their communities. The United States Consumer Product Safety Commission provides a Commission member to serve as Secretary of the Poison Prevention Week Council each year. Since 1972, the Commission has required child-resistant packaging for certain medicines and household chemicals, preventing countless tragedies.

Every American can help to protect children with simple safety measures, such as using child-resistant packaging and securing potentially dangerous substances out of the reach of children. This week I encourage all Americans to become more aware of potential hazards in their homes and to eliminate them.

The Congress, by a joint resolution approved September 26, 1961 (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March of each year as National Poison Prevention Week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the week beginning March 21, 1993, as National Poison Prevention Week. I urge all Americans to observe this week by participating in appropriate programs and activities and by learning how to prevent accidental poisonings among children.

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



[FR Doc. 93–6665
Filed 3–18–93; 5:08 pm]
Billing code 3195–01–M

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Vol. 58, No. 53

Monday, March 22, 1993

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Free Electronic Bulletin Board Service for Public Law Numbers is available on 202–275–1538 or 275–0920.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $775.00 domestic, $193.75 additional for foreign mailing.

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3 (1991 Compilation and Parts 100 and 101)	(869-017-00002-7)	17.00	[1] Jan. 1, 1992
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600-End	(869-017-00101-5)	6.50	Apr. 1, 1992

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27 Parts:			
1-199	(869-017-00102-3)	34.00	Apr. 1, 1992
200-End	(869-017-00103-1)	11.00	Apr. 1, 1991
28	(869-017-00104-0)	37.00	July 1, 1992
29 Parts:			
0-99	(869-017-00105-8)	19.00	July 1, 1992
100-499	(869-013-00106-6)	9.00	July 1, 1992
500-899	(869-017-00107-4)	32.00	July 1, 1992
900-1899	(869-017-00108-2)	16.00	July 1, 1992
1900-1910 (§§ 1901.1 to 1910.999)	(869-017-00109-1)	29.00	July 1, 1992
1910 (§§ 1910.1000 to end)	(869-017-00110-4)	16.00	July 1, 1992
1911-1925	(869-017-00111-2)	9.00	[7] July 1, 1989
1926	(869-017-00112-1)	14.00	July 1, 1992
1927-End	(869-017-00113-9)	30.00	July 1, 1992
30 Parts:			
1-199	(869-017-00114-7)	25.00	July 1, 1992
200-699	(869-017-00115-5)	19.00	July 1, 1992
700-End	(869-017-00116-3)	25.00	July 1, 1992
31 Parts:			
0-199	(869-017-00117-1)	17.00	July 1, 1992
200-End	(869-017-00118-0)	25.00	July 1, 1992
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-189	(869-017-00119-8)	30.00	July 1, 1992
190-399	(869-017-00120-1)	33.00	July 1, 1992
400-629	(869-017-00121-0)	29.00	July 1, 1992
630-699	(869-017-00122-8)	14.00	[8] July 1, 1991
700-799	(869-017-00123-6)	20.00	July 1, 1992
800-End	(869-017-00124-4)	20.00	July 1, 1992
33 Parts:			
1-124	(869-017-00125-2)	18.00	July 1, 1992
125-199	(869-017-00126-1)	21.00	July 1, 1992
200-End	(869-017-00127-9)	23.00	July 1, 1992
34 Parts:			
1-299	(869-017-00128-7)	27.00	July 1, 1992
300-399	(869-017-00129-5)	19.00	July 1, 1992
400-End	(869-017-00130-9)	32.00	July 1, 1992
35	(869-017-00131-7)	12.00	July 1, 1992
36 Parts:			
1-199	(869-017-00132-5)	15.00	July 1, 1992
200-End	(869-017-00133-3)	32.00	July 1, 1992
37	(869-017-00134-1)	17.00	July 1, 1992
38 Parts:			
0-17	(869-017-00135-0)	28.00	Sept 1, 1992
18-End	(869-017-00136-8)	28.00	Sept. 1, 1992
39	(869-017-00137-6)	16.00	July 1, 1992
40 Parts:			
1-51	(869-017-00138-4)	31.00	July 1, 1992
52	(869-017-00139-2)	33.00	July 1, 1992
53-60	(869-017-00140-6)	36.00	July 1, 1992
61-80	(869-017-00141-4)	16.00	July 1, 1992
81-85	(869-017-00142-2)	17.00	July 1, 1992
86-99	(869-017-00143-1)	33.00	July 1, 1992
100-149	(869-017-00144-9)	34.00	July 1, 1992
150-189	(869-017-00145-7)	21.00	July 1, 1992
190-259	(869-017-00146-5)	16.00	July 1, 1992
260-299	(869-017-00147-3)	36.00	July 1, 1992
300-399	(869-017-00148-1)	15.00	July 1, 1992
400-424	(869-017-00149-0)	26.00	July 1, 1992
425-699	(869-017-00150-3)	26.00	July 1, 1992
700-789	(869-017-00151-1)	23.00	July 1, 1992
790-End	(869-017-00152-0)	25.00	July 1, 1992
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
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101	(869-017-00154-6)	28.00	July 1, 1992
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201-End	(869-017-00156-2)	11.00	July 1, 1992
42 Parts:			
1-399	(869-017-00157-1)	23.00	Oct. 1, 1992
400-429	(869-017-00158-9)	23.00	Oct. 1, 1992
430-End	(869-017-00159-7)	31.00	Oct. 1, 1992
43 Parts:			
1-999	(869-017-00160-1)	22.00	Oct. 1, 1992
1000-3999	(869-017-00161-9)	30.00	Oct. 1, 1992
4000-End	(869-017-00162-7)	13.00	Oct. 1, 1992
44	(869-017-00163-5)	26.00	Oct. 1, 1992
45 Parts:			
1-199	(869-017-00164-3)	20.00	Oct. 1, 1992
200-499	(869-017-00165-1)	14.00	Oct. 1, 1992
500-1199	(869-017-00166-0)	30.00	Oct. 1, 1992
1200-End	(869-017-00167-8)	20.00	Oct. 1, 1992
46 Parts:			
1-40	(869-017-00168-6)	17.00	Oct. 1, 1992
41-69	(869-017-00169-4)	16.00	Oct. 1, 1992
70-89	(869-017-00170-8)	8.00	Oct. 1, 1992
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200-499	(869-017-00175-9)	22.00	Oct. 1, 1992
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47 Parts:			
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49 Parts:			
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400-999	(869-017-00194-5)	31.00	Oct. 1, 1992
1000-1199	(869-017-00195-3)	19.00	Oct. 1, 1992
1200-End	(869-017-00196-1)	21.00	Oct. 1, 1992
50 Parts:			
1-199	(869-017-00197-0)	23.00	Oct. 1, 1992
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 30, 1992. The CFR volume issued April 1, 1991, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1992. The CFR volume issued July 1, 1991, should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 1991 to September 30, 1992. The CFR volume issued October 1, 1991, should be retained.

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