7-24-91
Vol. 56 No. 142

federal register

Wednesday
July 24, 1991

United States
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SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

7-24-91
Vol. 56 No. 142
Pages 33839-34002

federal register

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July 24, 1991

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 91–46 of July 13, 1991

Assistance to Jordan Under Chapter 4 of Part II of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 502(c) of the Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991 (Public Law 102–27), I hereby determine and certify that furnishing assistance under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, to Jordan would be beneficial to the peace process in the Middle East.

In addition, by virtue of the authority vested in me by section 586D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513), I hereby determine and certify that assistance for Jordan under chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, is in the national interest of the United States.

You are authorized and directed to notify the Congress of this determination and to publish it the **Federal Register**.

George Bush

[FR Doc. 91–17675
Filed 7–22–91; 11:58 am]
Billing code 3195–01–M

Rules and Regulations

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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 305

Recommendations of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

SUMMARY: The Administrative Conference of the United States adopted six recommendations at its Forty-Third Plenary Session addressing: (1) Federal agency cooperation with foreign government regulators; (2) administrative procedure and judicial review in export control proceedings; (3) the Social Security representative payee program; (4) the National Vaccine Injury Compensation Program; (5) the use of rulemaking by the National Labor Relations Board; and (6) the supervision of government-sponsored enterprises.

The Administrative Conference of the United States is a federal agency established to study the efficiency, adequacy, and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and to make recommendations for improvements.

Recommendations of the Administrative Conference are published in full text in the **Federal Register** upon adoption. Complete lists of recommendations, together with the texts of those deemed to be of continuing interest, are published in the *Code of Federal Regulations* (1 CFR Part 305).

DATES: These recommendations were adopted June 13–14, 1991 and issued July 16, 1991.

FOR FURTHER INFORMATION CONTACT: Cari Votava, Information Officer, or Jeffrey S. Lubbers, Research Director (202–254–7020).

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by federal agencies in carrying out administrative programs, and makes recommendations for improvements to the agencies, collectively or individually, and to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

At the Forty-Third Plenary Session, held June 13–14, 1991, the Assembly of the Administrative Conference of the United States adopted six recommendations.

Recommendation 91–1, Federal Agency Cooperation with Foreign Government Regulators, endorses greater agency efforts to cooperate with regulators in foreign countries. This cooperation may be through the exchange of information about regulation, the sharing of research and development and other resources, or by the adoption of compatible approaches to common problems of regulation and enforcement. While encouraging greater cooperation, the Recommendation recognizes that many factors will determine whether, to what extent, and in what form an agency should engage in such cooperation.

Recommendation 91–2, Fair Administrative Procedure and Judicial Review in Commerce Department Export Control Proceedings, urges Congress to repeal the provision in the Export Administration Act that exempts export controls proceedings conducted by the Commerce Department from the administrative process and judicial review provisions of the Administrative Procedure Act. Removing the APA exemption would open export controls proceedings to increased public participation and greater judicial scrutiny, while existing military and foreign affairs exemptions would continue to apply as necessary to protect the executive branch's ability to conduct foreign policy and protect national security. The recommendation also proposes several additional changes to relevant procedures, including the consolidation of judicial review of all Commerce Department export control actions in the Court of Appeals for the Federal Circuit, the elimination of *de novo* judicial review of Commerce Department civil penalty determinations under the Export Administration Act, and provision by the Commerce Department of adequate written explanations for adverse licensing and classification decisions.

Recommendation 91–3, The Social Security Representative Payee Program, addresses a number of issues raised by the program the Social Security Administration administers to pay to "representative payees" the benefits of beneficiaries not capable of managing their own benefits. The Conference recommends, among other things, that SSA issue rules after notice and comment concerning a number of substantive standards, that it make changes in the procedures it uses to determine whether to appoint a representative payee, and that it allow appeals of decisions concerning whether beneficiary funds have been misused by a representative payee. The Conference recommends that Congress authorize SSA to use administrative adjudication to require repayment by representative payees of misused beneficiary funds and to impose civil monetary penalties.

Recommendation 91–4, The National Vaccine Injury Compensation Program, recommends steps to alleviate problems in the administration of the National Vaccine Injury Compensation Program. The program was established to reduce the burden and uncertainty of court litigation for dealing with claims of vaccine-related injury and to stabilize the supply and price of vaccines. Claims are decided by the United States Claims Court following initial determinations made by special masters to the Court. The Conference suggests ways to improve administration of the program, including greater articulation of standards for eligibility and awards and solutions to the temporary backlog of filings from people claiming pre-Act injuries.

Recommendation 91–5, Facilitating the Use of Rulemaking by the National Labor Relations Board, urges the Board to continue to use rulemaking in appropriate situations to establish national policy. In addition to recommending general adherence to the APA's notice-and-comment procedures, the Conference requests Congress to amend the National Labor Relations Act

to provide for preenforcement review of final Board rules in a single court of appeals, and to preclude review at the enforcement stage of the procedures employed in the rulemaking and the adequacy of support for the rule in the administrative record. The recommendation also identifies certain factors that should commend rulemaking to the Board.

Recommendation 91–6, Improving the Supervision of the Safety and Soundness of Government-Sponsored Enterprises, addresses the appropriate level of regulatory oversight of government-sponsored enterprises (federally-chartered, private financial institutions with specialized, nationwide lending powers). The Recommendation states that each GSE should have a federal agency responsible for overseeing the safety and soundness of its activities, and that the oversight agency should be given adequate funding and powers to do the job. The Conference does not recommend a particular oversight structure, a topic which is addressed in recent report by the Department of the Treasury, the General Accounting Office, and the Congressional Budget Office. However, the Conference recommends that federal oversight agencies should only become involved in management issues when a GSE's risk profile is significant and, then, only as necessary to protect the financial integrity of the institution.

The full texts of the recommendations are set out below. The recommendations will be transmitted to the affected agencies and, if so directed, to the Congress of the United States. The Administrative Conference has advisory powers only, and the decision on whether to implement the recommendations must be made by each body to which the various recommendations are directed.

The transcript of the Plenary Session will be available for public inspection at the Conference's offices at suite 500, 2120 L Street NW., Washington, DC.

List of Subjects in 1 CFR Parts 305

Administrative practice and procedure.

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1. The authority citation for Part 305 continues to read as follows:

Authority: 5 U.S.C. 571–576.

2. The table of contents to part 305 of title 1 CFR is amended to add the following new sections:

Sec.

3. New §§ 305.91–1 through 305.91–6 are added to part 305, to read as follows:

§ 305.91–1 Federal Agency Cooperation with Foreign Government Regulators (Recommendation No. 91–1).

If American administrative agencies could ever afford to engage in regulatory activities without regard to the policies and practices of administrative agencies abroad, the character and pace of world developments suggest that that era has come to a close. The substantive problems facing agencies have parallels, to a greater or lesser extent, in the problems facing those agencies' counterparts in foreign countries. The policies and procedures developed by governments abroad are likely to be of interest and benefit to American regulators, and those developed here may be of utility abroad.

The case for international regulatory cooperation does not, however, rest entirely on the exchange of information about the current regulatory landscape. As the experience of certain agencies engaged in international regulatory dialogue demonstrates, there still remain regulatory problems to be identified and solutions, both to new and existing problems, to be found. Particularly in areas of fast-changing technology or fast-evolving standards and expectations, regulatory bodies may find that they actually need, or can profitably share, the resources of other governments in addressing common problems of regulation and enforcement. In their continuous efforts at improving their performance, agencies have become increasingly aware that contemporary regulation often entails a powerful research and development burden whose sharing may be in all regulators' best interests.

Regulatory cooperation with foreign counterparts will also produce advantages for regulated interests and for those affected by those interests. Regulated entities generally prefer an orderly regulatory environment, and more particularly one marked by a high degree of commonality among the standards imposed by public authorities in the various markets they serve. Costs of compliance are most obvious when different countries impose mutually inconsistent standards on business products or practices, particularly where the latter by their nature are international in scope. However, even where national standards are not mutually inconsistent, or business products or practices are not inherently international in scope, the cumulative effect of differences in regulatory standards may impose substantial and, in some cases, unjustified burdens. In addition, consumers and other affected persons have an interest in the maintenance of reasonably common protective standards. The internationalization of business has put the need for this kind of environment on an international scale. It accordingly points in the direction of greater and more deliberate intergovernmentalism in regulatory matters than one generally associates with American administrative processes.

American agencies generally have not developed consistent practices in their efforts at international regulatory cooperation. Such cooperation may, in fact, take a wide variety of forms, from the casual and unsystematic sharing of information at one extreme, to a firm commitment to concerted regulatory action at the other. In between fall a number of different patterns, such as regular consultations, reciprocal participation in foreign agency rulemaking, and various forms of joint study, research and rule development. Since harmonization does not necessarily entail uniformity, but simply a net reduction in regulatory inconsistencies and differences, even harmonization is a matter of degree.

As the following recommendation seeks to make clear, agencies are not all similarly situated with respect to the opportunities for, and advantages of, regulatory cooperation. The functions and regulatory objectives of a particular agency, its past experience in such cooperation, and the feasibility of reliance on a foreign counterpart's technical administrative, or regulatory resources are among the factors determining whether, to what extent, and in what form that agency should engage in such cooperation and pursue regulatory harmonization. Moreover, an agency is likely to be more comfortable in initially experimenting with international cooperation on a limited basis by selected means rather than in developing at once a comprehensive, systematic program of cooperation. Nevertheless, agencies may usefully consider this recommendation, which is based in part on the practice and experience of one agency, the Federal Aviation Administration, that has consciously engaged in forms of concerted activity with counterpart agencies abroad. This case study is of particular interest because the FAA's practice of intergovernmentalism includes, but also goes beyond, cooperation in rulemaking as such to include a certain amount of cooperation in more routine aspects of administration. While this recommendation does not address international assistance in enforcement as such, it recognizes that an increased commonality of substantive standards does tend to increase opportunities for mutual assistance in the enforcement realm.

Of course, care should be taken that the spirit of compromise and mutual consideration that ought to characterize intergovernmental activities not adversely

affect the integrity of the regulatory process. It is important that agencies observe the procedural statutes under which they ordinarily operate, and that their processes remain open to public scrutiny and participation. Nor will it do, either in reality or in appearance, for the regulatory standards an agency ultimately adopts to be the product, pure and simple, of intergovernmental negotiations. American agencies and their foreign counterparts work under statutory mandates, which must remain the touchstone so far as the substance of regulatory action is concerned. The zone of compromise within which an agency may then operate in the interest of collegiality with decisionmakers of other nations is necessarily uncertain but necessarily limited. Within that zone, however, international regulatory cooperation has a significant, possibly even a leading, role to play.

Recommendation

1. Each agency should inform itself of the existence of foreign (including regional and international) regulatory bodies [1] whose activities may relate to the mission of that agency.

2. Each agency should determine whether and to what extent regulatory cooperation with one or more foreign regulatory bodies is appropriate. Desirable forms of cooperation may include the simple exchange of information, coordination of regulatory objectives, consultation in advance of rulemaking, and reciprocal participation in rulemaking processes. Apart from general considerations of cost and staffing, factors to be considered in deciding the importance and intensity of the cooperative effort to be made, the forms of cooperation to adopt, and the geographic range of foreign regulatory bodies with which to cooperate, include:

a. The extent to which the participating regulatory agencies share common regulatory objectives;

b. The importance of commonality, and therefore international harmonization,[2] in the development of regulatory policy in the particular field;

c. The extent to which the capabilities of foreign regulatory bodies justify the agency's reliance on their technical, regulatory and administrative resources;

d. The opportunities that international regulatory cooperation presents for improvement in the enforcement and administration of the agency's program (as, for example, through mutual recognition of tests, inspections and certifications or through mutual assistance in information gathering and other forms of assistance);

e. The presence of existing bilateral or multilateral international frameworks for addressing common regulatory concerns;

f. The receptivity of a given foreign regulatory body to meaningful participation by American regulatory and private interests in its policymaking processes; and

g. In appropriate consultation with the Department of State, the foreign policy of the United States.

3. Even when an agency concludes that the factors set out in paragraph 2 do not counsel substantial regulatory cooperation with foreign governments, it should nevertheless explore the possibilities of international cooperation in enforcement, including mutual assistance in information gathering and, where appropriate, reliance upon foreign tests, inspections, and certifications.

4. When an agency concludes that it has a pronounced interest in cooperation with foreign regulatory bodies, it should consider adopting various modes of cooperation with those agencies, including:

a. The establishment of common regulatory agendas;

b. The systematic exchange of information about present and proposed foreign regulation;

c. Concerted efforts to reduce differences between the agency's rules and those adopted by foreign government regulators where those differences are not justified;

d. The creation of joint technical or working groups to conduct joint research and development and to identify common solutions to regulatory problems (for example, through parallel notices of proposed rulemaking);

e. The establishment of joint administrative teams to draft common procedures and enforcement policies;

f. The mutual recognition of foreign agency tests, inspections and certifications, to the extent that the American agency is satisfied that foreign regulatory bodies have sufficient expertise and employ comparable standards; and

g. The holding of periodic bilateral or multilateral meetings to assess the effectiveness of past cooperative efforts and to chart future ones.

5. a. When engaging in international regulatory cooperation, an agency should ensure that it does so in a manner consistent with national statutes and international engagements.

b. An agency engaging in international regulatory cooperation should also be alert to the possibility that foreign regulatory bodies may have different regulatory objectives, particularly where a government-owned or controlled enterprise is involved.

6. To promote acceptance of and compliance with the measures that result from its cooperation with foreign regulatory bodies, an agency should enlist the support and participation of other affected agencies, regulated interests, public interest groups, and other affected domestic interests, as follows:

a. Where appropriate, agencies should, so far as considerations of time and international relations permit, afford affected private and public interests timely notice of any formal system of collaboration with foreign regulatory bodies that exists and an opportunity where reasonable to participate and comment on decisionmaking under such system.

b. The agency should, where appropriate, also encourage the establishment of working relations between domestic interests and their foreign counterparts, including manufacturers, other trade and industry interests, and consumer and other public interest groups.

c. The agency should assemble an interagency advisory group, consisting of the Department of State and other affected agencies such as the Departments of Commerce and Defense and the U.S. Trade Representative's Office, if one does not exist. Each member agency of an advisory group should, without prejudice to its independent decisionmaking, both inform that group about the nature and extent of its concerted activities with foreign regulatory bodies relevant to the purposes of the group and seek that group's advice. In addition, the Chairman of the Administrative Conference should convene a meeting of the heads of interested agencies to discuss the need for establishing a permanent, government-wide mechanism for organizing, promoting, and monitoring international regulatory cooperation on the part of American agencies.

7. Agencies should, consistent with their statutory mandate and the public interest, give sympathetic consideration to petitions by private and public interest groups for proposed rulemaking that contemplate the reduction of differences between agency rules and the rules adopted by foreign government regulators, where those differences are not justified.

8. a. Once an agency has a program of international regulatory cooperation with a foreign regulatory body, it should

[1] Throughout this recommendation, the term "foreign regulatory bodies" includes, where appropriate, also regional and international regulatory bodies.

[2] Harmonization does not necessarily imply regulatory uniformity. It implies a reduction in the differences (including but not limited to inconsistencies) among the regulatory standards of different jurisdictions.

routinely advise that body before initiating proposed rulemaking, and should seek to engage that body's participation in the rulemaking process.

b. Conversely, the agency should see to it that it is informed of initiatives by those foreign regulatory bodies and ensure that its views are considered by those bodies early in the conduct of their rulemaking procedures.

c. Where, following joint rule development efforts, an agency ultimately proposes a rule that differs from the rule proposed by the foreign counterpart, it should specify the difference in its notice of proposed rulemaking and request that it be specified in any corresponding foreign notice.

9. An agency should adopt reasonable measures to facilitate communication of views by foreign regulatory bodies on proposed rules.

10. While international consultations of the sort described in this recommendation do not appear to necessitate any radical departure from an agency's ordinary practices in compliance with applicable procedural satutes,[3] an agency engaged in such consultations should make reasonable efforts to ensure that affected interests are aware of them. For example, when an agency substantially relies on those consultations in its rulemaking (or where foreign government rules, practices or views have otherwise substantially influenced the agency's proposals), it should describe both the fact and the substance of those consultations in its notices of proposed rulemaking, rulemaking records and statements of basis and purpose under the Administrative Procedure Act. Where the objective of harmonizing American and foreign agency rules has had a significant influence on the shape of the rule, that fact also should be acknowledged.

11. An agency that engages in systematic exchanges of information and consultation with foreign regulatory bodies should seek to ensure that domestic interests do not suffer competitive disadvantage from the release of valuable information by those bodies to foreign private interests. This may require that the agency seek to reach agreement with its foreign counterparts concerning the conditions under which information will be disclosed.

12. While harmonization of standards with foreign regulatory bodies may be a legitimate objective of any agency whose activities affect transnational interests or transactions (and therefore may appropriately influence the rulemaking outcome), it should be pursued within the overall framework of the agency's statutory mandate and with due regard for the interests that Congress intended the agency to promote. Accordingly, agencies should ensure that any accord informally reached through international regulatory cooperation is genuinely subject to reexamination and reconsideration in the course of the rulemaking process.

§ 305.91-2 Fair Administrative Procedure and Judicial Review in Commerce Department Export Control Proceedings (Recommendation No. 91-2).

The Export Administration Act (EAA), 50 U.S.C. App 2401–2420, authorizes the Commerce Department to restrict exports of goods and technology from the United States in the interests of national security, foreign policy objectives, and preservation of this country's access to commodities in short supply. It is the principal element in a scheme of export controls that emerged after World War II to serve three ends: reduction of the domestic impact of worldwide postwar shortages of critical goods, priority allocation of resources to rebuild Europe under the Marshall Plan, and restriction of the access of Eastern Bloc nations to technology useful for military purposes. Over the years, restricting access to useful technology has become the primary goal of the EAA, although the countries against which those restrictions are directed have changed from time to time in the light of shifting political considerations.

The EAA has an international aspect. The United States works with its allies through a coordinating committee on multilateral export controls (CoCom) to identify commodities that should be controlled as well as countries that should be the targets of various export controls. Using the lists thus generated, the Commerce Department is responsible, under the EAA, for a licensing scheme involving three different categories of licenses: (1) General licenses, which are applicable to most export transactions and permit them to occur without specific license applications; (2) individual validated licenses, which the agency grants or denies based on factors including concerns about the ostensible and the possible uses of the commodity, opposition from the Department of Defense or State to the proposed export, available information about the end-user, and policy determinations about the destination country; and (3) special licenses, such as distribution licenses and project licenses, that allow particular exporters to make multiple exports of certain types without applying for an individual license for each export. The Export Administration Act also contains provisions prohibiting participation in unsanctioned foreign boycotts and authorizes the Commerce Department both to make rules to carry out its provisions and to enforce its provisions, including the antiboycott provisions.

The EAA includes a provision explicitly exempting the Department's activities from the administrative process and judicial review provisions of the Administrative Procedure Act. As a result, administrative licensing decisions are final and unreviewable; agency rules implementing the EAA are subject neither to judicial review nor to the notice-and-comment requirements of 5 U.S.C. 553, although, in the latter respect, Congress has said that "to the extent practicable, all regulations imposing controls on exports * * * (should) be issued in proposed form with meaningful opportunity for public comment before taking effect." 50 U.S.C. App. 2412(b). Enforcement decisions are less affected by the exemption, as statutory amendments in recent years have imposed the formal hearing requirements of 5 U.S.C. 556–57 on administrative enforcement proceedings and have authorized judicial review of enforcement decisions according to APA standards.

Because of the broad APA exemption, the Commerce Department has implemented the EAA with relatively little judicial scrutiny. It has had little incentive to provide generally accessible explanations for its actions. The EAA requires that license denials be accompanied by a written statement including, *inter alia*, a statement of the statutory basis for the denial; in practice, however, this statutory requirement has often been met in a minimal and uninformative way. Exporters have often been frustrated in their attempts to learn the reasons for negative licensing decisions or to predict the outcome of future license applications; they have also been without recourse to challenge Commerce Department actions as arbitrary or contrary to statute. Because legislation to reenact and amend the EAA is now pending,[1] reexamination of the APA exemption is timely.

The APA exemption dates back to passage of the first comprehensive export control legislation in 1949. At that time, Congress cited two reasons for the broad exemption: first, the legislation was seen as temporary, essentially an extension of emergency war measures, and second, it was closely related to foreign policy and national security concerns.

After more than 40 years, the export program gives no indication of being "temporary," albeit sunset dates in the various export control statutes have necessitated several extensions and reenactments. Changes in the statute incident to reenactment and evolving policy at the Commerce Department have gradually

[3] See, e.g., *Federal Communications Commission* v. *ITT World Communications, Inc.*, 466 U.S. 463 (1984) (international consultative processes leading to informal policy understandings are not covered by Government in the Sunshine Act); *Public Citizen* v. *United States Department of Justice*, 109 S. Ct. 2558 (1989); *Food Chemical News* v. *Young*, 900 F. 2d 328 (D.C. Cir. 1990); *Center for Auto Safety* v. *Federal Highway Administration*, No. C.A. 89-1045 (D.D.C. Oct. 12, 1990) (groups not formed by the Executive Branch are not "utilized" committees within the meaning of FACA).

[1] The Act expired on September 30, 1990; the export controls program continues in effect, however, by Executive Order issued under authority of the International Emergency Economic Powers Act, 50 U.S.C. 1702. Executive Order 12730, September 30, 1990. Legislation to extend the export controls program was passed by Congress in 1990 but pocket vetoed by the President.

increased access to information about the Department's actions and public participation in policymaking. Legislation to reenact the export controls program, passed in 1990 but subjected to a pocket veto by the President, would also have provided for limited judicial review of licensing decisions. But these measures still leave the relevant procedures well short of APA standards. And the need for such a broad exemption from APA provisions based on foreign policy and national security considerations is not at all clear. Much of the business conducted by the Commerce Department under the EAA is similar to that conducted by other regulatory agencies, and the interests at stake for potential exporters are similar to those of regulated entities under other licensing schemes. The agency can expect to benefit from public input in the rulemaking process just as other agencies do. Moreover, the APA includes specific exemptions from its rulemaking and formal adjudication provisions for agencies' military and foreign affairs functions, which would be available to reduce the required level of agency process when necessary,[2] as well as an exception to its judicial review provisions for action "committed to agency discretion by law." Other international trade and export control statutes, which presumably have foreign affairs implications, have operated successfully within this framework.

Increased availability of judicial review would help to ensure that the Department complies with applicable statutory standards and maintains a reasonable level of quality control in its decisionmaking under the EAA. While the presence of military and foreign affairs considerations will impel a reviewing court to give the Commerce Department great latitude to exercise its discretion, a court could usefully review many legal and factual issues under traditional APA standards without interfering with the executive branch's ability to conduct foreign policy or protect national security.

The Administrative Conference concludes, therefore, that the APA exemption is unnecessary and should be repealed. This conclusion is in accord with that of a recent National Academy of Sciences study on export controls, which also urges repeal of the APA exemption.[3] While the exemption repeal is the heart of this recommendation, the Conference also believes that various additional actions by Congress or the Commerce Department would be useful to enhance the benefits of making the APA applicable. These are explained briefly below.

Judicial review: Although the Conference believes that, as a general matter, judicial review of Commerce Department actions under the standards of the Administrative Procedure Act is entirely appropriate, control of exports nevertheless remains a sensitive area. Thus, it is important to structure judicial review in a manner that will minimize the burdens on the conduct of foreign policy and national security affairs. Direct review in the court of appeals is appropriate here because of the policy considerations involved, because there are not likely to be large numbers of appeals, and because, in the case of rulemaking, the public interest will require prompt, authoritative determinations of a rule's validity. See ACUS Recommendation 75–3, The Choice of Forum for Judicial Review of Administrative Action.[4] Consolidation of review of all export control matters in a single court of appeals would preserve uniformity in statutory interpretation and enable the court to develop expertise in the subject matter. Because it already enjoys some expertise in international trade and technological issues and is likely, based on its experience with many types of litigation involving the federal government, to be sensitive to the government's legitimate need for discretion in implementing export controls as well as to the interests of private parties, the Court of Appeals for the Federal Circuit is the most appropriate court for assignment of this responsibility.

Informal adjudications: Under the APA, Commerce Department action on individual license applications should be treated as informal adjudication. While formal hearing proceedings are used to make decisions in some licensing programs administered by other agencies, there is no indication that such procedures are required here, and the high volume and time sensitivity of export license applications favor retention of the existing informal approach.

Another category of Commerce Department action handled informally is requests for advice as to the proper classification of a commodity. These requests permit an exporter to seek guidance concerning the appropriate category for an item on the list of controlled commodities (because different categories entail different export restrictions) and may be made at an exporter's option; such requests are appropriately treated as informal agency adjudication under the APA.

The Commerce Department should increase exporters' access to information about the decisions it makes in these informal adjudications. Clear statements of the agency's reasons for classifying exports in particular categories or denying licenses will both help exporters to determine how to proceed and provide a record for judicial review of the Department's action. Publication of those licensing and classification decisions that may have precedential value (along with a statement of the reasons for them) will benefit both agency and exporters by bringing a greater measure of predictability to the licensing process.

A special problem arises when license denials turn on classified information. The government has a strong interest in protecting the substance and sources of such information from disclosure, but, without access to the information that forms the basis for a license denial, it can be almost impossible for the exporter to evaluate whether the agency action is correct and to challenge the denial on administrative or judicial review. Steps should be taken to ensure that exporters (or their counsel) have the maximum feasible access to the information supporting the license denial and that agency staff claims that undisclosed classified information supports a denial are carefully scrutinized on administrative review.

Formal adjudications: Current statutory provisions already make enforcement proceedings under the EAA (including both export control and antiboycott enforcement proceedings) formal adjudications by specifically applying sections 556 and 557 of the APA to those proceedings. Deletion of the general exemption from the APA would leave these procedures unchanged. To facilitate the consolidation of judicial review in one court and to conform to generally sound practice respecting administrative sanctions,[5] the Administrative Conference recommends one change in these enforcement procedures: that *de novo* district court penalty collection proceedings be eliminated in favor of on-the-record review in the Court of Appeals for the Federal Circuit, and that the Commerce Department have authority to collect its own civil penalties once the opportunity for judicial review has passed. Under this approach, failure to pay a penalty after it has become final and unappealable, or after the reviewing court has entered final judgment in favor of the agency, would result in a collection action in federal district court in which the validity and appropriateness of the order imposing the penalty would not be reviewable. This change would also have the effect of mooting a current controversy about whether the conduct of administrative enforcement proceedings tolls the 5-year statute of limitations for commencement of a district court action to collect a civil penalty.

The Commerce Department imposes sanctions without the benefit of formal adjudicatory procedures through the issuance of temporary denial orders and the suspension or revocation of licenses without notice or hearing under 15 CFR 770.3(b). Under the EAA, the Department may issue temporary denial orders denying exporting authority without notice where necessary to prevent an imminent violation of the EAA. Licenses may be suspended or revoked under Commerce Department regulations whenever the Office of Export Licensing believes that the terms and conditions of the licenses are not being followed, or when required to implement a change in regulatory policy.

Because these actions are taken to prevent imminent or continuing violations of the EAA, the Conference recognizes that the Commerce Department may need to take

[2] The Administrative Conference has previously recommended that the military and foreign affairs exemption from APA rulemaking requirements be restricted to apply only where there is a need for secrecy in the interest of national defense or foreign policy. ACUS Recommendation 73–5, *Elimination of the "Military or Foreign Affairs Function" Exemption from APA Rulemaking Requirements*, 1 CFR 305.73–5 (1991).

[3] Panel on the Future Design and Implementation of U.S. National Security Export Controls, Finding Common Ground: U.S. Export Controls in a Changed Global Environment (National Academy Press 1991).

[4] 1 CFR 305.75–3 (1990).

[5] See ACUS Recommendation 72–6, *Civil Money Penalties as a Sanction*, 1 CFR 305.72–6 (1991); ACUS Recommendation 79–3, *Agency Assessment and Mitigation of Civil Money Penalties*, 1 CFR 305.79–3 (1991).

unilateral action. Nevertheless, when the circumstances requiring the action are individual to an exporter or a commodity and not, for example, related to an abrupt change in a destination country's status, exporters should be afforded a full opportunity to defend themselves in post-denial formal hearings. Existing procedures for temporary denial orders provide for prompt post-denial review, although with a full formal hearing; these existing procedures may offer a valuable avenue for seeking emergency relief from a denial order, but a full-scale administrative hearing should be available at the request of the party subject to the denial order. Concomitantly, judicial review of temporary denial orders, now governed solely by an arbitrary and capricious standard, should include substantial evidence review. At present, unilateral license suspensions are reviewable only through an informal agency process like that afforded license denials, and not at all in court. Because of their impact on existing economic relationships, the Administrative Conference believes suspensions grounded in the unique circumstances of a particular exporter or validated license should be followed by full formal procedures at the licensee's request.

Rulemaking: Once brought under the APA, Commerce Department rulemaking under the Export Administration Act would still be subject to the military and foreign affairs exception to notice-and-comment procedures; not every rulemaking under EAA necessarily falls within the terms of that exception, but some do. In recommending that the APA apply to export control proceedings, the recent National Academy of Sciences study proposed that section 13(b) of the EAA be retained, to reflect Congress' belief that military and foreign affairs considerations do not require that all EAA rulemakings fit the APA exemption and to encourage the Department to exercise some restraint in applying the exemption. The Conference endorses this recommendation.

The Conference also recommends that "foreign availability determinations," not specifically designated as rulemaking under the EAA, be so treated by the Commerce Department whenever possible. Under the Act, exports that would otherwise be restricted are permitted when the product involved is already available to the end-user from a foreign source. These determinations may often affect many potential exporters, rather than just one, and provision of an opportunity for public comment before making such a determination will enable Commerce to get a clearer picture of the relevant considerations. The Conference's recommendation, however, acknowledges that foreign availability determinations may sometimes initially arise in the context of license determinations where time is of the essence; in such cases, public comment might be solicited after the determination rather than before.

Recommendation

1. *Repeal of APA exemption.* Congress should repeal section 13(a) of the Export Administration Act, which exempts functions exercised under that Act from the administrative process and judicial review provisions of the Administrative Procedure Act (5 U.S.C. 551, 553–559, 701–706).

2. *Judicial review.* Congress should amend the Export Administration Act to provide for judicial review in a single forum, the United States Court of Appeals for the Federal Circuit, of all Commerce Department actions (including the imposition of civil penalties) under the Act that are reviewable by the standards of APA section 706.

3. *Informal adjudications.* Requests for proper classification of proposed exports and applications for validated licenses or reexport authorizations are appropriately treated as informal adjudications under the APA. The Department of Commerce should make the following improvements in the applicable procedures:

a. Whenever the Commerce Department initially denies a license application or responds to a classification request by placing the item in a category different from that proposed by the requester, it should provide sufficient written explanation for its decisions to enable applicants to understand the basis on which decisions have been reached and to pursue internal appeals.

b. Review by the Secretary or the Secretary's delegate of staff decisions on classification requests or license applications should be available on request of the applicant. To the extent possible, the decision on review at the secretarial level should be in detail sufficient to permit others to evaluate its precedential value. The Commerce Department should publish and index these decisions in an appropriate manner, together with other decisions on requests for classification and individual license applications that have possible precedential value and any general written guidance on classification issues.

c. To eliminate a duplicative review procedure, Congress should repeal section 13(e) of the Export Administration Act, which provides for limited appeals of license denials through an administrative law judge hearing process.

d. When a license application has been denied, or has been the subject of negative consideration or recommendations under section 10(f)(2) of the Export Administration Act, based on classified information, the Commerce Department should adopt procedures to permit the maximum disclosure of such information consistent with national security and foreign policy (including, where appropriate, disclosure to the applicant or applicant's counsel under protective order). On administrative appeal of any license denial based on undisclosed classified information, the Secretary (or the Secretary's delegate) should personally review the classified information and certify that it is properly classified and supports the action taken.

4. *Formal adjudications.* a. Congress should amend the Export Administration Act to provide the right to a prompt post-denial (or post-suspension) hearing on the record, subject to the formal adjudication provisions of the Administrative Procedure Act, for parties subject (1) To unilateral Commerce Department decisions to suspend or revoke validated licenses when the suspension or revocation turns on the specific circumstances of a particular exporter or commodity, or (2) to temporary denial orders under section 13(d) of the Export Administration Act. Congress should establish appropriate deadlines for the conduct of such hearings.

b. The Commerce Department should, to the extent possible, limit the scope of unilateral license suspensions and temporary denial orders to the circumstances posing a threat of violation of the Export Administration Act.

c. Congress should amend the civil penalty provisions of 50 U.S.C. App. 2410 and 2412 to eliminate the requirement of *de novo* proceedings in federal district court and provide instead that any assessment of civil penalties is final, subject to judicial review under 5 U.S.C. 706 in the Court of Appeals for the Federal Circuit; a civil penalty assessment that survives judicial review or becomes final without judicial review should be enforceable by the agency in a summary collection action in federal district court.[6]

5. *Rulemaking.* a. Although the military and foreign affairs exemption of section 553 of the APA will be available to the Department of Commerce for some of its rulemaking under the Export Administration Act, the Conference supports the recent recommendation of the National Academy of Sciences that Congress should retain section 13(b) of the Export Administration Act. That section, which exhorts the Department to provide "meaningful opportunity for public comment" in departmental rulemaking "to the extent practicable," plainly expresses a congressional understanding that not all departmental rulemaking falls within the appropriate bounds of the military and foreign affairs exemption,[7] and thus

[6] See ACUS Recommendation 72–6, supra n. 4.

[7] Cf. ACUS Recommendation 73–5, supra n. 2

appropriately encourages the Department to exercise restraint in its application.

b. To the extent feasible, the Department of Commerce should treat foreign availability determinations under sections 5(f)(1) and 5(f)(2) of the Export Administration Act as rulemaking within the terms of section 553 of the APA. Where, for reasons of time or other considerations, such determinations must be made in the context of decisions on individual license applications, the Department should publish the determination made with an invitation for public comment respecting related future determinations.

§ 305.91–3 The Social Security Representative Payee Program (Recommendation No. 91–3).

As part of the Social Security program, Congress has authorized the Social Security Administration (SSA) to pay certain beneficiaries' benefits to other persons or organizations where the Secretary determines that payment to such a "representative payee" would be in the interest of the beneficiary.[1] SSA currently pays about $20 billion annually in social security benefits to representative payees of more than 4 million (or about 10%) beneficiaries. Because the program has been the subject of some concern and litigation, SSA asked the Administrative Conference of the United States to study certain procedural aspects of the representative payee program. While the study was underway, Congress addressed some of the procedural issues as part of the Omnibus Budget Reconciliation Act of 1990 (OBRA), Public Law 101–508, § 5015.

A. *Rulemaking.* The representative payee program operates under a statute that for the most part paints program requirements with a broad brush. SSA has some regulations, but many of the operating instructions are found in the Program Operating Manual System (POMS), the agency's internal operating manual. There are a number of issues the Conference believes should be the subject of regulations, either because they are not adequately addressed anywhere, or because they should be addressed in regulations rather than only in the POMS. These issues are discussed below. This recommendation contains specific suggestions for modifying the procedures for appointing representative payees (see section B, below). For a number of other issues, involving the establishment of program criteria, the Conference takes no position on the content of the rules, but recommends that the issues be addressed in the context of notice-and-comment rulemaking.

First, there currently exists no clear standard for when a representative payee should be appointed in a particular case. The Social Security Act provides that "(i)f the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made * * * (to a representative payee)."[2] The Act does not contain any standard for determining when appointment of a representative payee is in the beneficiary's interest. Current SSA regulations provide only that a representative payee will be appointed when "due to a mental or physical condition or due to * * * youth," a beneficiary is "not able to manage or direct the management of" his or her own benefits.[3] The regulations neither indicate what constitutes an inability to manage benefits, nor what mental or physical condition must be found. This lack of a standard requires SSA personnel to make largely discretionary decisions that are difficult to challenge individually or to evaluate programmatically.

While the Administrative Conference takes no position on what the substance of a standard for representative payee appointment should be, it believes that the promulgation of a more detailed standard through rulemaking is important to promote the appearance and reality of fairness and consistency in operation of the representative payee program.[4]

Second, concerns have been raised that persons interested in gaining access to beneficiary funds may provoke SSA action to appoint a representative payee without sufficient factual basis. Thus, a standard should be developed for a minimum amount of evidence necessary to trigger the initiation of procedures that could result in the appointment of a representative payee.

Third, the Conference recommends that SSA promulgate clarifying rules relating to eligibility to serve as a representative payee, including a method for determining priorities where there are competing applicants for such payee status. Although SSA has some internal guidelines for selecting appropriate representative payees, the Conference believes that such issues should be addressed in regulations, to provide public participation in their development and to provide easier access to their contents.

Finally, the question of SSA's responsibility to monitor representative payee performance has been a subject of concern. Alhough a court has ruled that the Constitution's due process clause requires annual accounting by all representative payees,[5] the decision's continued applicability is not clear.[6] The Social Security Act currently requires annual accounting by representative payees, except certain institutions.[7] Congress in the OBRA amendments expressly required SSA to study more stringent monitoring of "high risk" payees (e.g., representative payees who are not related to the beneficiary or who are creditors). SSA should undertake rulemaking to promulgate procedures for monitoring representative payee performance in a manner that will be both effective and efficient.[8]

B. *Procedures*—1. *Current procedures.* When SSA receives information that a particular beneficary may need a representative payee, it seeks to gather evidence with which to determine whether the beneficiary is incapable of managing his or her own benefits.[9] If SSA decides that the beneficiary is incapable, its first step is to select a representative payee. SSA then sends what is called an "advance notice" to the beneficiary, informing the beneficiary that he or she has been found incapable of managing benefits and that SSA intends to appoint the named representative payee. The beneficiary is allowed 10 days to respond to SSA and provide additional facts. This is often the first notice that the beneficiary receives that appointment of a representative payee is being contemplated. If, after receiving any further information, SSA confirms its decision, it sends the beneficiary notice of its "initial decision," which is implemented immediately. The beneficiary may seek "reconsideration" from SSA, following which the beneficiary is entitled to a hearing before an administrative law judge and appeal to the Appeals Council.

Under these current procedures, the beneficiary generally is provided no notice that SSA is considering appointing a representative payee until the agency has already preliminary decided that one is necessary and has selected a candidate. The "advance notice" does not explain the basis for the decision to appoint a representative payee. Nor is the beneficiary given an

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[1] The term "beneficiary" as used in this recommendation refers to those receiving benefits under both title II (old age survivors and disability benefits) and title XVI (supplemental security income payments). Those receiving benefits under this latter program are technically referred to as "recipients."

[2] 42 U.S.C. 405(j)(1) (Title II). For title XVI, the provisions are comparable. See 42 U.S.C. 1383(a)(2)(A).

[3] 20 CFR 404.2001, 416.601 (1990).

[4] Among the issues that might be addressed are how the specific standard should balance interests in beneficiary autonomy versus government beneficence, what factors should be considered in determining whether a beneficiary's interest would be served by appointing a payee, what should constitute inability to manage benefits, and who should be the decisionmaker (e.g., the states in guardianship proceedings, the state disability determination services, or trained agency lay or medical staff). Any rule setting a standard for appointing a representative payee should also address the question of what types of evidence are either appropriate or necessary in making the determination.

SSA should also itself carefully consider the education levels and other qualifications of agency officials making determinations on representative payee status, to ensure that such decisionmakers have the necessary skills to apply whatever standard is developed.

[5] *Jordan* v. *Schweiker*, 744 F.2d 1397 (10th Cir. 1984); Jordan v. Bowen, 808 F.2d 733 (10th Cir. 1987).

[6] The *Jordan* case was a class action, certified in 1980. The court held that the Constitution required annual accounting for all payees. The impact of time on the class, as well as the impact of subsequent legislation, raises some questions concerning the case's current applicability.

[7] 42 U.S.C. 405(j)(3).

[8] Such a rulemaking could address such issues as what type of information is needed to make decisions, how often it should be reported or collected, whether different requirements should apply to different types of payees, and what SSA will do with the information it obtains in terms of its internal use and public availability.

[9] Such evidence may include state adjudications of incompetence, a physician's opinion that a beneficiary is unable to manage benefits, or lay evidence to that effect.

opportunity to meet with SSA face-to-face before a representative payee decision is implemented. While the present procedures appear to satisfy constitutional minima, considerations of efficiency, fairness and appearance of fairness suggest certain modifications to these procedures.

2. *Conference recommendations.* The Conference recommends several changes in the process, that, consistent with its other recommendations involving the Social Security program, encourage increased procedural safeguards at the beginning of the process in order to maximize correct decisions in the early stages and lessen the need for additional proceedings.[10] The Conference recommends that SSA notify a beneficiary as soon as the threshold for initiating action, discussed above, is met, offering the beneficiary an opportunity to have an informal face-to-face interview with an SSA claims representative. To the extent practicable, the notice (and all other notices) should be designed to be understandable to the beneficiary, taking into consideration information already in the file (e.g., what language the beneficiary understands).[11] The notice should also inform the beneficiary that appointment of a representative payee is being considered, describe the standard for and basic reason(s) why it is being considered, ask for all relevant information concerning the need for and selection of a representative payee, and ask the beneficiary to suggest a possible candidate. SSA should also notify the beneficiary of any person(s) it knows to be under consideration as a representative payee.

If, after completing its investigation, SSA decides to appoint a representative payee, it should notify the beneficiary of this determination, informing him or her of the right to review the evidence and appeal.[12] The determination then would be implemented, after which appeal to an ALJ and the Appeals Council would be available, as it is now. These procedures would eliminate the current opportunity for "reconsideration" that is provided after implementation but before the ALJ hearing.

The rationale for these recommended procedures is that a beneficiary should have notice and the opportunity to respond concerning his or her alleged inability to manage benefits before the SSA has made a de facto determination that a representative payee is required and who that payee should be. The ability to manage benefits is not always strictly a medical determination; it may well involve consideration of observed behavior. Thus, it is likely that a decisionmaker who has had an opportunity to see and talk with the beneficiary will often make a more accurate determination of the need for a representative payee.[13] The Conference believes that, as in the disability adjudication itself, procedures that encourage as complete a record as early in the process as possible offer significant advantages that far outweigh any short-term costs occasioned by adding an earlier notice and opportunity for a face-to-face meeting. Not only will early notice to beneficiaries and an opportunity for personal contact with SSA allow beneficiaries to provide any relevant information that they have at a predecisional level, it may also give them more confidence in the process, thus resulting in fewer appeals at later stages. Moreover, as noted above, the opportunity for "reconsideration" that is currently provided after implementation but before the ALJ hearing would no longer be required.

Under current procedures, beneficiaries are permitted to have assistance, by attorneys or non-attorneys, in disputes over representative payee status. However, because of the lack of formal procedures until late in the process and, more important, the lack of an "award" out of which to pay attorneys, there has been little attorney or lay assistance involvement in this program. It would thus be especially useful for SSA to develop and provide beneficiaries with information about legal assistance and other relevant organizations that may be available in their areas.[14]

In situations where someone applies to replace a representative payee, both the payee and the beneficiary should be given notice of the possible replacement. Both should be given an opportunity to file comments and to meet informally with SSA officials. If the representative payee is replaced, the beneficiary (but not the payee) should have the right to appeal the determination.

Although a beneficiary in representative payee status may apply to have such status terminated, no procedure currently exists for reexamining the need for a representative payee on any periodic basis. Because there are certain types of beneficiaries for whom a representative payee is less likely to be needed permanently (e.g., stroke victims, persons with reactive depression), it is in the interests of both the agency and beneficiaries to reassess periodically the need for representative payees for such individuals. Thus, the Conference recommends that SSA attempt to determine which, if any, types of beneficiaries in representative payee status ought to have their status periodically reevaluated and provide a method for doing so.

C. *Misuse of funds and restitution*—1. *Current practice.* Currently, determinations by SSA that beneficiary funds have been misused are not appealable. This means that neither the beneficiary nor the representative payee may challenge such determinations. Moreover, SSA does not currently have an effective mechanism for requiring payees who misuse beneficiary funds to return such funds to beneficiaries.[15] SSA currently has only the options of referring cases to the Department of Justice for criminal prosecution or requesting the representative payee to return funds. Most cases are too small to warrant Justice Department action, and SSA has no authority to force a representative payee to pay restitution.

2. *Conference recommendations.* Beneficiaries should be permitted to appeal an administrative determination that their benefits have not been used properly.[16] Representative payees should also be permitted to appeal misuse determinations. Although they have no right to payee status, a determination that they have misused funds will be entered into a data bank, will prevent them from being appointed as a representative payee in the future, and may have other negative ramifications. These consequences suggest that more process may be due. ACUS recommends that a determination of whether representative payee misuse of beneficiary funds has occurred be considered an "initial determination," which triggers the right to reconsideration and, if necessary, a subsequent ALJ hearing.

The Administrative Conference also recommends that Congress authorize an administrative remedy that would allow SSA to (1) require representative payees who have misused beneficiary funds to pay restitution, and (2) impose civil monetary penalties on such payees. Such authority would enable SSA to address the problem without burdening the courts.[17]

The OBRA amendments made clear that, where SSA's negligent failure to investigate or monitor a representative payee results in misuse of benfits, SSA must make restitution to the beneficiary for any such benefits, and then may seek repayment from the payee.[18] The negative impact on a beneficiary caused by misuse of his or her benefits, however, is independent of whether any SSA negligence was involved. Congress should authorize research on the scope, causes and effects of representative payee misuse of benefits, and methods to ease the resulting burden on beneficiaries, including the use of loss underwriting arrangements.

D. *Other issues.* When this study was undertaken, the issue of SSA's need to

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[10] See, e.g., Recommendation No. 90–4, "The Social Security Disability Program Appeals Process: Supplementary Recommendation," 1 CFR 305.90–4.

[11] The expectation is that there would be several form notices with the clearest practicable wording in different languages, normal and large type sizes, and perhaps braile.

[12] OBRA amendments require such notice. See 42 U.S.C. 405(j)(2)(E); 1631(a)(2)(B)(x)–(xii).

[13] The Administrative Conference has recommended that face-to-face meetings be available in the context of medical disability determinations. Recommendation 89–10, "Improved Use of Medical Personnel in Social Security Disability Determinations," 1 CFR 305.89–10.

[14] The Conference has encouraged the use of nonlawyers in agency proceedings. See Recommendation 86–1, "Nonlawyer Assistance and Representation," 1 CFR 305.86–1.

[15] In cases where SSA has been negligent in investigating or monitoring representative payees, SSA must make restitution to the beneficiary. OBRA 5105(c).

[16] Beneficiaries do have the right to use state court remedies.

[17] See Recommendation 72–6, "Civil Money Penalties as a Sanction," 1 CFR 305.72–6; Recommendation 79–3, "Agency Assessment and Mitigation of Civil Money Penalties," 1 CFR 305.79–3. The Program Fraud Civil Remedies Act, 31 U.S.C. 3801, authorizes the imposition of administrative civil penalties for false claims against the government and for certain types of false statements. However, it is not clear whether this Act would apply to representative payee actions, and in any even, it does not provide a remedy of restitution.

[18] OBRA 5105(c)(1), to be codifie l at 42 U.S.C. 405(j)(5).

investigate representative payees before their appointment was of major concern. The recent OBRA amendments, however, require SSA to undertake certain investigations of potential representative payees. For the present, those steps would appear to be adequate, but, after sufficient time has passed, their effectiveness should be reevaluated.

In the past, where SSA has determined that a representative payee is required, but has not found a suitable candidate, SSA has suspended benefit payments until a payee could be found, at which time the withheld payments would be released to that payee. In the OBRA amendments, Congress authorized SSA to suspend payments for no more than 30 days, where direct payment would substantially harm the beneficiary. However, where the beneficiary is legally incompetent, under the age of 15, or a drug addict or alcoholic, there is no time limit on the suspension of benefits. The Conference believes that SSA should study the impacts of the indefinite suspension of benefits on beneficiaries in these groups, with the objective of making legislative recommendations to Congress if the study suggests that time limits should exist for all classes of beneficiaries or that suspension should not permitted at all.

In many cases, finding an appropriate representative payee is a significant problem. SSA should take steps to ease its burden by widening the pool of potential representative payees, and by periodically seeking input from beneficiaries. It would be useful for SSA to ask beneficiaries, at the time that they apply for benefits and periodically thereafter, to designate a person whom, at that time, they would prefer to serve as a representative payee, should one become necessary. While such a designation would not bind the agency, in many cases, the designation of someone whom the beneficiary thought was appropriate could make the selection process easier for SSA and make the beneficiary more comfortable with the representative payee. SSA also should develop lists of national, regional and local organizations that could serve as representative payees on a volunteer basis, and evaluate carefully the performance of these and compensated or reimbursed representative payees.[19]

Recommendation

1. The Social Security Administration (SSA) should devleop and promulgate by regulations criteria for deciding the following issues:

(a) Whether apppointment of a representative payee should be made;

(b) What evidence constitutes a threshold for initiating procedures that could result in appointment of a representative payee;

(c) Who is eligible for appointment as a representative payee and whether the existing priorities among categories of payees should be modified, including which payee should be selected when there are competing payee applicants from the same category of payee; and

(d) How payee performance should be monitored and evaluated.

2. SSA should amend its procedures for appointing representative payees for beneficiaries [20] aged 15 and above as follows:

(a) At such time as the threshold described in ¶1(a)(ii) is met, SSA should send a notice to the beneficiary that, to the extent practicable, is in language designed to be understandable to the beneficiary. This notice should contain the following information:

(i) That representative payee status is being considered;

(ii) A description of the standard for appointment of representative payee;

(iii) A request that the beneficiary provide all information relevant to the need for and selection of a payee;

(iv) An offer for the beneficiary to meet in an informal face-to-face interview with an SSA representative;

(v) The names of any person(s) known by the agency to be under consideration as a representative payee, and a request for suggestions for possible representative payees, should one be determined necessary; and

(vi) A statement that the beneficiary may be assisted by an attorney or other person, and a list of legal aid and other relevant resources available in the area.

(b) If, after completion of the above procedures, a determination is made to appoint a representative payee, the beneficiary should be notified of the basis for that determination, the name of the payee, and the beneficiary's appeal rights. These should include the right to an administrative law judge hearing and review by the Appeals Council, but the currently provided "reconsideration" stage that precedes the ALJ hearing could be eliminated upon implementation of this recommendation.

(c) Direct payment should continue to the beneficiary until a representative payee appointment is effective.

3. Where a person applies to replace an existing representative payee, SSA should give notice to the beneficiary and to the existing payee. The notice to the beneficiary and to the payee should offer them the opportunity to meet in an informal face-to-face interview with an SSA official and to provide any relevant information, in writing or orally. If the existing payee is replaced, the beneficiary should be notified of the replacement and of his or her right to an ALJ hearing on the decision and review by the Appeals Council.

4. SSA should attempt to determine which, if any, type of beneficiaries in representative payee status are most likely to regain their ability to manage or direct the management of their own benefits, and provide a method for periodic reevaluations of their need for a representative payee.

5. SSA should amend its regulations to provide that a decision on whether beneficiary funds have been misused by representative payees should be considered an "initial determination" appealable by either the beneficiary or the representative payee.

6. SSA should take the following steps to facilitate the search for approprate representative payees:

(a) At the time of application for benefits and periodically thereafter, request beneficiaries to identify their current choice of a representative payee who could be considered for the position, after appropriate investigation, in the event that one may be required in the future.

(b) Identify and use national, regional and local organizations that offer representative payee services on a volunteer basis and evaluate their performance in light of other representative payees.

(c) Evaluate the need for further use of organizations that serve as representative payees on a reimbursed or compensated basis.

(d) To the extent possible, make referrals to social welfare agencies or take other appropriate action to ensure that beneficiaries for whom representative payees are not available are not harmed by the absence of the social security benefits.

7. Congress should authorize SSA to use administrative adjudications to require representative payees who have misused beneficiary funds to pay restitution and to impose civil monetary penalties on such payees.

8. Congress should authorize research on the scope, causes and effects of representative payee misuse of benefits, and methods to ease the resulting burden on beneficiaries, including the use of loss underwriting arrangements.

9. SSA should develop data and study the effect on beneficiaries of suspending benefits when a representative payee is not available, with the objective of making recommendations on whether there should be time limits on suspension of payments for all categories of beneficiaries or whether

[19] Congress has authorized the use of reimbursed representative payees on a very limited basis OBRA of 1990, Pub.L. 101-508, sec. 5105(a)(3).

[20] The term "beneficiary" as used in this recommendation refers to those receiving benefits under both Title II (old age survivors and disability benefits) and Title XVI (supplemental security income payments) of the Social Security Act. Those receiving benefits under this latter program are technically referred to as "recipients"

suspensions should not be permitted at all.

§ 305.91-4 The National Vaccine Injury Compensation Program (Recommendation No. 91-4).

The National Vaccine Injury Compensation Program (the Program), sections 2110 *et seq.* of the Public Health Service Act, codified at 42 U.S.C. 300aa-10 *et seq.*, is a federal compensation system for permanent injuries and deaths resulting from vaccines to prevent seven infectious diseases of childhood (diphtheria, tetanus, whooping cough, measles, mumps, rubella, and polio). State laws generally require that children be immunized against such diseases for school entry.

The Program, which became effective October 1, 1988, is unique among federal benefit programs in its organizational structure and decisionmaking processes. It was intended to provide an alternative to the tort system for dealing with claims of vaccine-related injury, awarding compensation quickly, fairly, and efficiently. It was also intended to contribute to improving immunization rates, stabilizing the supply and price of vaccines, encouraging new and improved vaccines, and reducing the burden and uncertainty of litigation.

Decisionmaking authority is vested in the United States Claims Court. Claimants submit petitions for compensation to the Claims Court, and bear the burden of proving both entitlement and the losses and expenses to be compensated. The Secretary of Health and Human Services (HHS) is designated as respondent. The National Vaccine Injury Compensation Program Office in HHS (the Program Office) acts on behalf of the Secretary and may oppose compensation in individual cases. The vaccine manufacturer and whoever administered the vaccine are not involved as a party to the proceedings.

Two procedural innovations in the Program are especially noteworthy. First, determinations of eligibility and the amounts of compensation are made by special masters employed by the Claims Court. Under current procedures, the special master issues a judgment that is final unless review by a Claims Court judge is requested by either claimant or respondent. Further review is available in the United States Court of Appeals for the Federal Circuit.

Second, the Act contains a Vaccine Injury Table, which defines the injuries compensable under the Program. This was a policy decision by Congress, intended to avoid controversy over what disabilities were in fact caused by vaccines and to expedite decisions on claims by eliminating difficult, time-consuming disputes over causation in individual cases.[1] Nevertheless, disputes over whether particular injuries qualify for compensation have sometimes proved time-consuming, even though the Table is accompanied by "Qualifications and Aids to Interpretation." Moreover, in cases of injury, determining the amount of compensation can be difficult and time-consuming because of the need to take into account the net present value of actual unreimbursable expenses for medical, rehabilitative, and custodial care, actual and anticipated lost earnings, and actual and projected pain and suffering. Paragraphs 2, 3, and 4 address these issues by suggesting that Congress consider whether further clarification would be appropriate, and by recommending development of guidelines that may be used by the Claims Court and the parties. Paragraph 5 suggests study of ways to minimize transaction costs in administering awards under the Program.

The Department of Justice has recently taken steps to speed the processing of vaccine cases by increasing the Assistant Attorney General's settlement authority and modifying its settlement review and approval procedures.[2] Paragraph 6 encourages continued review of the appropriate level of such authority.

No one administrative agency is charged with the duty of interpreting the enabling legislation or issuing general regulations. The Advisory Commission on Childhood Vaccines is empowered to advise the Secretary of HHS on Program implementation. The Secretary may revise the Vaccine Injury Table, but has no authority to impose decisionmaking rules on the United States Claims Court. The Secretary was also required to develop and disseminate vaccine information materials, including a summary of the availability of the Program, not later than December 22, 1988.[3]

Claimants may seek compensation under the Program regardles of when the injury occurred. However, the starting date of the Program, October 1, 1988, serves as a line of demarcation between two somewhat different sets of rules and remedies. Claims based on immunizations prior to that date—"retrospective cases"—may not have received an award based on a judgment or settlement in a civil action. Awards in retrospective cases are paid out of a limited fund specially authorized by Congress.

For injuries arising from immunizations on or after October 1, 1988—"prospective cases"—no civil action may be filed unless the claimant has filed a claim under the Program and received and rejected a determination under it. For such cases, the Program is a "first resort," but not an exclusive source of compensation. Awards for prospective cases are paid from the Vaccine Injury Compensation Trust Fund supported by a tax on covered vaccine sales. The Act tolls the statute of limitations governing the civil action until a final judgment is issued on the petition. This tolling provision was intended to preserve a petitioner's right to commence a civil action after the petitioner has exhausted the remedies under the Act. However, because the petitioner has 90 days to accept or reject a final judgment by the Claims Court or the Court of Appeals, the immediate end to the tolling upon final judgment might operate to extinguish an unwary petitioner's right to commence a civil action. Paragraph 7 would remedy this anomaly.

Under the Act, as amended, a final deadline of January 31, 1991, was set for filing claims in retrospective cases. More than 3000 cases were filed in the 5 months preceding this deadline, the vast majority of them retrospective. The large number of filings during this period has created an unusual burden on the Program that can be expected to dissipate in the next few years, as a more regular pattern of filing claims develops. However, a special response, as suggested in paragraph 8, is warranted to ease the temporary burden of deciding these petitions. Measures suggested include a temporary increase in staffing, with funding to support the additional positions.[4] Paragraph 9 is intended to address the possibility that there will be sufficient funding due to the substantial number of retrospective cases that have been filed; under the statute the Program would cease to be in effect if there are insufficient funds to pay all of the claims payable for 180 days.

The Claims Court has used teleconferencing successfully in connection with the Program. Congress may find it useful to study this experience and to consider the possible use of the technique in other proceedings.

Finally, we note that section 2117 of the Act grants the Trust Fund the right of subrogation for compensation paid under the Program. The Departments of Health and Human Services and Justice should continue to be alert to appropriate opportunities to pursue this course.

Recommendation

1. The National Vaccine Injury Compensation Program Office in the Department of Health and Human Services, in consultation with the Advisory Commission on Childhood Vaccines, should continue to explore additional effective ways and take appropriate steps to disseminate information nationally about the Program, including eligibility and documentation requirements and filing deadlines for petitions, to ensure that affected persons are aware of the available legal remedies and to help them identify necessary supporting information.

2. To simplify the process of determining eligibility, Congress should

[1] The Act also allows for compensation if a petitioner can prove that an injury was actually caused by a covered vaccine, even if the specific injury is not listed in the Table.

[2] See 56 FR 8923 (March 4, 1991).

[3] A proposal was published at 54 FR 9180 (March 3, 1989), but the final version has not been published as of the date of this recommendation.

[4] Congress should consider the effects on the Program if money in the Vaccine Injury Compensation Trust Fund is used for this purpose. Currently, section 6601(r) of the Omnibus Budget Reconcilation Act of 1989, Pub. Law No. 101-239, 103 Stat. 2293, authorizes separate appropriations of funds to HHS, Justice and the Claims Court (for FY 1990 and 1991) from the Trust Fund.

examine whether further clarification is needed of the "Qualifications and Aids to Interpretation" applicable to the Vaccine Injury Table, which are set forth in section 2114(b) of the Act to explain the symptoms and conditions to be considered evidence of an injury described in the Table.[5]

3. The Advisory Commission on Childhood Vaccines should develop uniform guidelines, such as discount rates for the value of medical and other services to be purchased in future years, for calculating the net present value of specific elements of compensation to be awarded to petitioners. Such guidelines may be used to compute the amount of awards promptly and consistently in similar cases. The guidelines should be reviewed at least annually to ensure that they remain consistent with reasonable estimates of future economic performance.

4. The Advisory Commission on Childhood Vaccines should also consider developing guidelines for the total amount of compensation payable and, where appropriate, for individual elements of compensation, in light of evolving case law and experience with the alternative dispute resolution process used by the Claims Court. The guidelines should provide for appropriate variations on the basis of age, severity of injury, intensity of services, and other relevant factors. The guidelines should present a range of values in each category, with flexible ceilings and floors, to accommodate special circumstances.

5. The Department of Health and Human Services and the Advisory Commission on Childhood Vaccines should study the current use of brokers to provide structured settlements, and should explore alternatives that will decrease transaction costs that result in reducing the funds available for awards to plaintiffs.

6. The Department of Justice should continue to examine the appropriate level of approval authority and dollar limit for settling vaccine injury cases, taking into account the magnitude of awards actually made under the Program, to reduce delay in obtaining final approvals.

7. Congress should amend section 2116(c) of the Act to stay the statute of limitations governing civil actions for personal injuries arising out of a vaccination covered by the Act until the date that the petitioner files an election, or is deemed to file an election, pursuant to section 2121 of the Act, accepting or refusing to accept the judgment.

8. Congress should take the following steps to reduce the burdens placed upon the Program by large fluctuations in the numbers of petitions filed:

(a) Congress should delete section 2121(b)(2) of the Act, as added by the Vaccine and Immunization Amendments of 1990, which withdraws jurisdiction over any petition that is not decided within the time required by the Act.

(b) Congress should amend section 2112(d)(3) of the Act, as amended by the Vaccine and Immunization Amendments of 1990, to permit the chief special master to extend the time for deciding petitions filed in retrospective cases for up to 2 years, in addition to the 240-day time limit plus all other extensions and suspensions currently permitted, when the chief special master determines that the number of filings and resulting work load require such action in the interest of justice.

(c) Congress should amend section 2112(c)(1) of the Act to increase substantially the authorized maximum number of special masters to handle the temporary burden of decisionmaking in retrospective cases. Congress should also authorize additional funds for a limited time period to support these positions, as well as increased staffing needed within the Program Office and the Department of Justice.

9. Congress should address the potential consequences if there were to be insufficient funding for the Program, in view of section 323(b) of Public Law 99–660, 100 Stat. 3784, which provides that the Program shall cease to be in effect if there are insufficient funds to pay all of the claims payable for 180 days.

10. Congress should extend the January 1, 1992 deadline for the Secretary of Health and Human Services to report the results of the evaluation of the Program required by section 6601(t) of the Omnibus Budget Reconciliation Act of 1989, Public Law No. 101–239, 103 Stat. 2293, until the temporary burden of retrospective cases in substantially reduced, because inclusion of information with respect to these cases is essential to a useful evaluation of the Program.

§ 305.91–5 Facilitating the Use of Rulemaking by the National Labor Relations Board (Recommendation No. 91–5).

The National Labor Relations Board (the Board) has formulated policy almost exclusively through the process of administrative adjudication despite having been granted both rulemaking and adjudicatory power in its statutory charter more than half a century ago. Even as rulemaking eclipsed adjudication as the preferred method of policymaking among major federal agencies, the Board steadfastly relief upon the quasi-judicial approach.

The appropriateness of agency discretion to choose between rulemaking and adjudication to determine policy has been widely acknowledged. In the last several decades, however, the use of rulemaking in major federal agencies has grown and a body of commentary and judicial opinion has encouraged and approved this trend. Agency power to use rulemaking authority to resolve by general principle issues that recur in adjudicatory hearings has been broadly asserted and approved. Gains in administrative efficiency through the use of rules have been frequently seen as outweighing the benefits of incremental policymaking through case-by-case consideration. Controversy, then, has centered on the Board's insistence on adjudication as virtually the only means for the development of policy and on the practical implications this has had for the Board's accomplishment of its regulatory mission.

The type of decisionmaking engaged in by the Board has implications for the type of data gathered by the Board and the openness of policymaking. Policy formulated in the context of case-by-case adjudication is based solely upon the argument and evidence that the parties to the proceeding offer. Rulemaking, however, offers broader opportunity for public participation and more meaningful notice to affected parties of potential changes in regulatory standards.

In addition, the choice between rulemaking and adjudication may affect the clarity and stability of the particular policy involved. In general, rulemaking provides greater clarity in the identification of a decision as a policy choice and requires that agency policy not be changed without a process focused on the policy choice. Where bright line rules are helpful and feasible, this may be an important consideration. Rulemaking also can resolve more efficiently important policy choices that would require a series of adjudications over a long period of time; thus, it can promote efficient enforcement of agency policy. Moreover, rulemaking enables the Board to set its policymaking agenda internally and directly with a view toward enforcement needs, rather than depending on the issues presented in cases that parties choose to press.

Despite its historical reluctance to formulate policy through rulemaking, the Board announced in 1987 its intention to initiate a rulemaking proceeding to determine bargaining units in health care facilities.[1] The Board's choice of this subject for its first major substantive rulemaking is inextricably intertwined with the agency's struggle with it for almost 15 years. The Board gave two rationales for its decision to use rulemaking. First, the Board believed that there would be value in obtaining from affected parties empirical data on the effect on labor relations of unit configuration in the health care

[5] Congress may also wish to consider any relevant information from the studies performed by the Institute of Medicine of the National Academy of Sciences pursuant to Pub. L. 99–660, 100 Stat. 3779, 312.313.

[1] 52 FR 25.142 (1987).

industry. Second, the Board acknowledged the longstanding criticism of its reluctance to use rulemaking as a policymaking vehicle and concluded that rulemaking, though perhaps time consuming at the outset, might prove valuable over the long-term in terms of the predictability and efficiency of determinations of viable bargaining units in the health care industry.

While the notice-and-comment procedures of § 553 of the APA require only an opportunity for written comments on the proposed rule, the Board decided to hold four public hearings around the country to receive oral and writtem comments, and to permit limited cross-examination. The Board provided for greater public participation than was strictly required because it desired to assure affected persons that there would be the fullest opportunity to participate as the Board undertook a new method of policy formulation. In addition, the Board was concerned that without oral testimony and cross-examination, it would receive (through written comments) only the kind of legal arguments that it traditionally heard in adjudications. A final rule was adopted on April 21, 1989. Judicial review was sought by the American Hospital Association (on the grounds that the rule exceeded the Board's statutory authority, the Board was required by statute to make unit determinations on a case-by-case basis, and that the rule was arbitrary and capricious).[2] The Supreme Court ultimately upheld the rule.

The Conference has examined the Board's "experiment" with rulemaking. Putting aside the particular legal issues yet unresolved in the "test" case before the courts, it seems clear that the proceeding accomplished the major putative purposes of rulemaking. First, the Board accumulated and utilized an enormous volume of empirical data that had not been available to it in previous adjudications. Second, the process provided a degree of openness and broad-scale participation unmatched by traditional Board proceedings (even in those few adjudications where amici are invited to an oral argument). Third, the product of the rulemaking is a model of clarity as expression of policy in an area historically marked by excessive subtlety and complexity. Finally, the rule, if upheld, promises a degree of stability for a policy area that had been overwhelmed by change.

It cannot be said, however, that the Board's choice to use rulemaking represents a broad new commitment to formulating national labor policy by this means. This rulemaking was an exercise in pragmatism—a thorough, careful, and productive administrative response to a particular set of circumstances. Nevertheless, the rulemaking gives the Board experience upon which it can build. This recommendation, while recognizing that the Board will justifiably continue to make policy through adjudication, suggests steps to facilitate further rulemaking by the Board. These steps include publishing standard rulemaking procedures, identifying subjects that are appropriate for rulemaking, and amending the National Labor Relations Act to include a provision that (following previous Conference recommendations) specifies an appropriate procedure for judicial review of Board rules.

Recommendation

1. The National Labor Relations Board should supplement its practice of policymaking through case-by-case adjudication by continuing to use its general rulemaking authority in appropriate situations.

2. To facilitate the rulemaking process, the Board should take the following steps:

(a) Rulemaking Procedures

The Board should publish rulemaking procedures that conform to the informal rulemaking procedures of the Administrative Procedure Act. These procedures should not require oral hearings or other procedures in addition to notice and the opportunity for comment, as a general matter, although such additional procedures may be useful for particular rulemakings.[3]

(b) Idenfication of Subjects for Rulemaking

To assist the Board in identifying manageable and timely subjects for which rulemaking might be appropriate, it should consider, among others, the following factors:

(i) The need for submissions and information, including empirical data, beyond that normally available through adjudication.

(ii) The value of participation by affected persons beyond the parties likely to participate in adjudication, with particular attention to possible reliance on prior policy and the breadth of impact of a new policy.

(iii) The need to establish policy promptly in new areas of responsibility or for new enforcement initiatives.

(iv) The opportunity for stabilizing policy in the particular subject area.

(v) The likelihood that future litigation and enforcement costs may be lessened if a readily applicable rule is developed.

(vi) The need to achieve control over the subject and timing of policy review and development.

(c) Existing law

The Board should develop a policy to govern situations in which the subject of a proposed rule has already been the focus of consideration in prior adjudicatory proceedings. The Board should seek to anticipate enforcement issues that may arise during the pendency of the rulemaking and possible judicial review. During the pendency of a rulemaking, the Board and its independent General Counsel ordinarily should continue to act under its body of precedent, but they should be prepared to depart from precedent in individual cases where the application of such precedent would be unfair or inefficient.

3. Congress should amend the National Labor Relations Act to confine preenforcement review of final Board rules to a single proceeding. Review should be authorized in the appropriate court of appeals.[4] This authorization should include a reasonable time limit on the seeking of preenforcement review and preclude judicial review of rules at the enforcement state concerning issues relating to whether (a) the procedures employed in the rulemaking were adequate, or (b) there was adequate support for the rule in the administrative record.[5]

§ 305.91-6 Improving the Supervision of the Safety and Soundness of Government-Sponsored Enterprises (Recommendation No. 91-6).

The federal government has established and chartered numerous "government-sponsored enterprises" [1] (GSEs) to facilitate the flow of credit to certain categories of borrowers, such as homebuyers, farmers and students. GSEs do this by raising funds in the capital markets to make or purchase loans or by guaranteeing securities based on pools of loans. GSEs share many attributes of private companies: they are privately owned, sell stock, are generally profit-making institutions, and are exempt from federal civil service, procurement and appropriations restrictions. However, they also share many characteristics of public institutions. They

[2] The U.S. District Court for the Northern District of Illinois found the rule unlawful and granted a permanent injunction against its enforcement. The U.S. Court of Appeals for the Seventh Circuit reversed the district court decision. The Supreme Court granted certiorari and issued an unanimous decision upholding the Board rule and recognizing the Board's broad rulemaking powers under 6 of the National Labor Relations Act. See 111 S. Ct. 539 (1991).

[3] See ACUS Recommendation 76-3, "Procedures in Addition to Notice and the Opportunity for Comment in Informal Rulemaking," 1 CFR 305.76-3 (1990).

[4] See ACUS Recommendation 75-3, "The Choice of Forum for Judicial Review of Adminstrative Action," 1 CFR 305.75-3 (1990).

[5] This is not meant to limit parties' ability, at the enforcement stage, to challenge a rule as arbitrary and capricious as applied. See ACUS Recommendation 82-7, "Judicial Review of Rules in Enforcement Proceedings," 1 CFR 305.82-7 (1990).

[1] A Government-sponsored enterprise is a privately owned, federally-chartered financial institution with nationwide scope and specialized lending powers that benefits from an implicit federal guarantee to enhance its ability to borrow money. See Stanton, *Administrative and Legal Aspects of Federal Supervision of Safety and Soundness of Government Sponsored Enterprises*, Report to the Administrative Conference (May 1991) at 3 [hereinafter, Stanton Report].

usually have some government-appointed directors on their boards; they have charters that preempt some state laws and exempt them from many taxes; and, for many of them, the federal Treasury is statutorily authorized to invest in stated amounts of their securities. Moreover, their obligations and mortgage-backed securities are implicitly (but not explicitly) guaranteed by the federal government, thus raising the value of these securities while creating at least some risk for the taxpayers by virtue of the implicit guarantees of almost one trillion dollars in the aggregate.

In July 1989, the Administrative Conference began a study of the structures and procedures employed by the government to oversee the safety and soundness of these institutions.[2] During the pendency of the study, numerous other legislative and executive branch studies of the operations of the GSEs have been completed.[3] The Conference has been informed by all of these studies in its consideration of this recommendation and it recognizes the desirability of the current examination of these institutions. In so saying, the Conference wishes to make clear that it implies no special concern about the financial condition of any of these entities—indeed, the studies concluded that they pose no imminent financial threat. But in the past some GSEs have encountered financial difficulties, and concerns have been raised about the capital adequacy of some GSEs and their possible vulnerability to economic downturns. Accordingly, it is prudent to ensure that adequate federal supervisory mechanisms are in place before, rather than after, they might be needed.

Issues of Supervisory Agency Organization and Procedure

At present, three federal agencies are responsible for overseeing the major GSEs: The Farm Credit Administration (which supervises the Farm Credit System and the Federal Agricultural Mortgage Corporation (Farmer Mac)), the newly-created Federal Housing Finance Board (which oversees the Federal Home Loan Bank System), and the Department of Housing and Urban Development (which oversees the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)). One major GSE, the Student Loan Marketing Association (Sallie Mae), has no overseer.

The general consensus among the various studies of GSEs is that additional oversight of GSE risk-taking and capital levels is needed. With respect to regulatory organization or procedure, the studies recognize the need for a better system of monitoring to ensure that the federal government obtains timely information on the risks undertaken by GSEs. They also urge that each GSE be subject to effective federal supervision, including appropriate enforcement authority, and generally recommend the primacy of safety and soundness regulation over program regulation. Indeed, the General Accounting Office has suggested the centralization of the financial supervision of all enterprises in a single (existing or new) agency.[4]

Although the Conference does not have an opinion on what would constitute the optimum structure,[5] it does feel strongly that however the regulatory authority is organized, the agency or agencies should be given adequate supervisory authority and enforcement tools to do the job. Several of the studies reference the bank regulatory model as a suitable starting point for designing an effective system of government oversight.[6] If the banking regulatory model were applied, some modifications would be appropriate. Most importantly, for those GSEs with low risk profiles, a less intrusive, more streamlined oversight process would be appropriate—including assessment of management quality and operations risk and use of computerized financial models to examine credit and interest rate risk. Because capital would be adequate and risks low, the supervisory agency would not become involved in management decisions of the GSE.

At least several of the GSEs would seem to be likely candidates for such streamlined oversight. As an institution's risk profile worsened, however, or if factors develop that prevent effective use of this process, then more intensive financial examination might be invoked. If an institution's risk profile worsened even further, then appropriate enforcement powers, including the authority to issue capital directives and cease-and-desist orders, would be available. Similarly, the supervisory agency would have authority to reorganize the affairs of a failing institution and thereby reduce the chance that losses might be compounded.

It would be helpful for the GSEs as well as the public to have a better sense of the applicable supervisory objectives and standards as they develop. Thus, the supervisory agencies should promulgate such guidelines through notice-and-comment rulemaking.

The Conference recognizes that GSEs are undergoing the study and scrutiny their importance warrants. This recommendation is an attempt to add a procedural, comparative framework to executive and legislative proposals for strengthening their oversight.

Recommendation

The Conference recommends that the following principles should apply to federal supervision of safety and soundness of government-sponsored enterprises (GSEs):

1. *Institutional capacity.* Each GSE should be supervised for safety and soundness by a federal agency. Any federal agency responsible for supervising safety and soundness of one or more GSEs should be funded so that it is capable of overseeing the activities of often large institutions involving great numbers of often complex transactions.

2. *Administrative authority and enforcement powers.* A federal agency responsible for supervising GSE safety and soundness should have the express authority to (a) Examine financial condition (including collecting such financial information as may be desirable) and risk-taking by the institution, (b) set and enforce effective risk-related and minimum capital requirements, (c) enforce necessary safety and soundness measures with cease-and-desist orders and other enforcement powers available to financial regulators, and (d) reorganize the affairs of a failing institution.

3. *Supervision.* A federal agency responsible for supervising GSE safety and soundness should obtain prompt and timely information and develop and maintain risk ratings of each GSE it supervises. Only if an institution's risk profile is significant should the agency extend its involvement to management issues, as necessary to protect the financial integrity of the GSE.

4. *Promulgation of guidelines.* A federal agency responsible for supervising GSE safety and soundness should, to the extent feasible, develop guidelines for invoking its supervisory and enforcement powers. These guidelines should be promulgated through notice-and-comment rulemaking.

Dated: July 16, 1991.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 91-17316 Filed 7-23-91; 8:45 am]

BILLING CODE 6110-01-M

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[2] Stanton Report, *supra* note 1.

[3] Congressional Budget Office, *Controlling the Risks of Government-Sponsored Enterprises* (April 1991); General Accounting Office, *Government-Sponsored Enterprises—The Government's Exposure to Risks*, (GAO/GCD—90-97) (August 1990); General Accounting Office, *Government-Sponsored Enterprises: A Framework for Limiting the Government's Exposure to Risks* (GAO/GCD—91-90, May 1991); Office of Management and Budget, *Budget of the United States Fiscal Year 1991*, Chapter VI, pp. 231-255; Treasury Department, *Report of the Secretary of the Treasury on Government-Sponsored Enterprises* (May 1990); Treasury Department *Report of the Secretary of the Treasury on Government-Sponsored Enterprises* (April 1991).

[4] 1990 GAO report, *supra* note 2 at 107, and 1991 GAO report at 4, 47-57.

[5] The Conference wishes to emphasize that the GSEs studied are not fungible entities. Each has its own particular characteristics, and any regulatory scheme should be implemented with this in mind.

[6] See, e.g., the 1990 GAO report, *supra* note 2 at 4, 104, and the 1991 Treasury report, *supra* note 2 at 10. Congress has already provided that the Farm Credit System is supervised by an agency with the institutional capabilities and range of administrative authority and enforcement powers available to bank regulators.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-90-013]

United States Standards for Grades of Dry Sweetcream Buttermilk

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the United States Standards for Grades of Dry Sweetcream Buttermilk. In addition to redesignating this product as dry buttermilk, the final rule expands the scope of the current standards by including criteria which evaluate the quality of dry buttermilk product. The final rule also broadens the application of these standards, to more clearly reflect current industry processing practices and marketing needs, by providing for buttermilk derived from the churning of butter obtained from a variety of cream sources. These changes were initiated at the request of the American Dairy Products Institute.

EFFECTIVE DATE: August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Roland S. Golden, Dairy Products Marketing Specialist, USDA/AMS/ Dairy Division, room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7473.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as a "non-major" rule under the criteria contained therein.

The final rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Administrator, Agricultural Marketing Service, has determined that these revisions will not have a significant economic impact on a substantial number of small entities because use of the standards is voluntary and these revisions will not increase costs to those utilizing the standards.

USDA grade standards are voluntary standards that are developed pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to facilitate the marketing process. Such standards for dairy products identify the degree of quality in the various products. Quality in general refers to usefulness, desirability, and value of the product—its marketability as a commodity.

Manufacturers of dairy products are free to choose whether or not to use these grade standards. When products are officially graded, the USDA regulations and standards governing the grading of manufactured or processed dairy products are used. These regulations also require a charge for the grading service provided by USDA.

In accordance with the United States Department of Agriculture policy for regulatory review, the Dairy Standardization Branch conducted a review of the United States Standards for Grades of Dry Sweetcream Buttermilk and the Department's Specification for Dry Buttermilk Product. The objective of the review was to obtain both current and historical information relating to an industry proposal to revise the current standards for dry sweetcream buttermilk and to formalize quality grade standards for dry buttermilk product.

The review involved the collection and evaluation of information from the Department's Dairy Grading Branch and representatives of the American Dairy Products Institute. It was determined that the current definition for dry buttermilk requires that the liquid buttermilk be derived from the churning of butter made entirely from sweet cream. Buttermilk derived from the churning of butter which contains cream from sources other than sweet cream are specifically excluded in the USDA grade standards. Current industry practices, however, utilize cream from a variety of sources in the manufacture of butter. These sources include cream separated from whole milk, cream separated from whey, which is a co-product of the cheese making process, and cultured cream, which encourages the proliferation of lactic-acid-producing bacteria to provide a cultured flavor in butter. Buttermilk obtained from these sources may be further processed into dry buttermilk and dry buttermilk product.

The final rule provides a broader definition of dry buttermilk, changes the nomenclature of dry sweetcream buttermilk to dry buttermilk, and expands the scope of the standards to incorporate quality criteria for dry buttermilk product eligible for USDA grading service.

The primary property which differentiates the value and usability of dry buttermilk and dry buttermilk product is the protein content. The final rule establishes a minimum protein content for dry buttermilk. To achieve this minimum, the dry buttermilk must be obtained from a cream source which has a composition sufficiently high in protein to meet the minimum requirement.

The final rule also incorporates quality criteria for dry buttermilk product. Dry buttermilk product is considered to be a commodity of lesser economic value and may be obtained from a cream source which has a variable protein content. The resulting dry product will not meet the minimum protein content for dry buttermilk.

Corollary changes are also provided in part 58, subpart B, entitled General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service, to conform the definitions of dry buttermilk and dry buttermilk product set forth therein with the United States Standards for Grades of Dry Buttermilk and Dry Buttermilk Product.

Public Comments

On February 7, 1991, the Department published a proposed rule (56 FR 4951) to revise the United States Standards for Grades of Dry Sweetcream Buttermilk and amend the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. The public comment period closed April 8, 1991. USDA received three comments on the proposal. Comments were received from one industry trade association, one user of dry sweetcream buttermilk, and one supplier of dry sweetcream buttermilk.

Discussion of Comments

1. The American Dairy Products Institute (ADPI), a national trade association representing the processed dairy products industry, supported the proposed rule. However, ADPI requested the incorporation of labelling requirements identifying the minimum protein content of dry buttermilk product. ADPI felt this information was useful to the end-user since the protein content of the product may vary considerably and contributes significantly to the functionality of the product.

The Department recognizes and agrees with ADPI that the protein content of buttermilk product is a significant factor in determining functionality and value. The Department supports and encourages efforts by the industry to provide guidance concerning labelling which will promote a clear understanding of the product's functionality and value in the marketplace. However, USDA dairy grade standards are designed to establish quality criteria and are not designed to establish labelling requirements. Therefore, no changes have been made in the final rule to address labelling concerns.

2. Comments in opposition to the proposed rule were submitted by a user of dry sweetcream buttermilk and a supplier of dry sweetcream buttermilk. They claimed that by deleting the term "sweetcream" from the current standard, the proposal would permit the protein content of dry buttermilk product (less than 30 percent) to be increased through the addition of ingredients and marketed as dry buttermilk (minimum protein content of 30 percent).

The Department agrees that the addition of ingredients to increase the protein content should not be permitted and that the protein content should be established solely by the quality and composition of the cream used in the buttermaking process. The definitions contained in the standard which define dry buttermilk and dry buttermilk product, as set forth in the proposed rule and as adopted herein, prohibit the addition of ingredients which would alter the protein content. Therefore, the Department believes that the concerns raised are adequately addressed.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 58 is amended as follows:

PART 58—[AMENDED]

1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627, unless otherwise noted.

2. In subpart B, § 58.205, paragraph (d) is revised and paragraph (e) is added to read as follows:

§ 58.205 Meaning of words.

* * * * *

(d) *Dry buttermilk.* The product resulting from drying liquid buttermilk that was derived from the churning of butter and pasteurized prior to condensing at a temperature of 161 °F for 15 seconds or its equivalent in bacterial destruction. Dry buttermilk shall have a protein content of not less than 30.0 percent. Dry buttermilk shall not contain nor be derived from nonfat dry milk, dry whey, or products other than buttermilk, and shall not contain any added preservative, neutralizing agent, or other chemical.

(e) *Dry buttermilk product.* The product resulting from drying liquid buttermilk that was derived from the churning of butter and pasteurized prior to condensing at a temperature of 161 °F for 15 seconds or its equivalent in bacterial destruction. Dry buttermilk product has a protein content less than 30.0 percent. Dry buttermilk product shall not contain nor be derived from nonfat dry milk, dry whey, or products other than buttermilk, and shall not contain any added preservative, neutralizing agent, or other chemical.

3. In subpart B, § 58.234 is revised to read as follows:

§ 58.234 Buttermilk.

Buttermilk for drying as dry buttermilk or dry buttermilk product shall be fresh and derived from the churning of butter, with or without the addition of harmless lactic culture. No preservative, neutralizing agent or other chemical may be added. Fluid buttermilk, unless cultured, shall be held at 45 °F or lower unless processed within 2 hours.

4. In subpart B, § 58.236 is amended by revising paragraph (a)(2) to read as follows:

§ 58.236 Pasteurization and heat treatment.

* * * * *

(a) * * *

(2) All buttermilk to be used in the manufacture of dry buttermilk or dry buttermilk product shall be pasteurized prior to condensing at a temperature of 161 °F for 15 seconds or its equivalent in bacterial destruction.

* * * * *

5. In subpart B, § 58.251 is revised to read as follows:

§ 58.251 Dry buttermilk and dry buttermilk product.

The quality requirements for dry buttermilk or dry buttermilk product bearing an official identification shall be in accordance with the U.S. Standards for Grades of Dry Buttermilk and Dry Buttermilk Product.

6. Subpart Q—United States Standards for Grades of Dry Sweetcream Buttermilk is revised to read as follows:

Subpart Q—United States Standards for Grades of Dry Buttermilk and Dry Buttermilk Product [1]

Definitions

[1] Compliance with these standards does not excuse failure to comply with provisions of the Federal Food, Drug, and Cosmetic Act.

Subpart Q—United States Standards for Grades of Dry Buttermilk and Dry Buttermilk Product

Authority: Agricultural Marketing Act of 1946, Secs. 203 and 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622 and 1624.

Definitions

§ 58.2651 Dry buttermilk and dry buttermilk product.

(a) *Dry buttermilk* (made by the spray process or the atmospheric roller process) is the product resulting from drying liquid buttermilk that was derived from the churning of butter and pasteurized prior to condensing at a temperature of 161°F for 15 seconds or its equivalent in bacterial destruction. Dry buttermilk shall have a protein content of not less than 30.0 percent. Dry buttermilk shall not contain nor be derived from nonfat dry milk, dry whey, or products other than buttermilk, and shall not contain any added preservative, neutralizing agent, or other chemical.

(b) *Dry buttermilk product* (made by the spray process or the atmospheric roller process) is the product resulting from drying liquid buttermilk that was derived from the churning of butter and was pasteurized prior to condensing at a temperature of 161°F for 15 seconds or its equivalent in bacterial destruction. Dry buttermilk product has a protein content less than 30.0 percent. Dry buttermilk product shall not contain nor be derived from nonfat dry milk, dry whey, or products other than buttermilk, and shall not contain any added preservative, neutralizing agent, or other chemical.

U.S. Grades

§ 58.2652 Nomenclature of U.S. grades.

The nomenclature of U.S. grades is as follows:

(a) U.S. Extra.

(b) U.S. Standard.

§ 58.2653 Basis for determination of U.S. grades.

(a) The U.S. grades of dry buttermilk and dry buttermilk product are determined on the basis of flavor, physical appearance, bacterial estimate on the basis of standard plate count, milkfat, moisture, scorched particles,

solubility index, titratable acidity, and protein content.

(b) The final U.S. grade shall be established on the basis of the lowest rating of any one of the quality characteristics.

§ 58.2654 Specifications for U.S. grades.

(a) *U.S. Extra Grade.* U.S. Extra Grade dry buttermilk and U.S. Extra Grade dry buttermilk product shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor (applies to the reconstituted product).* Shall be sweet and pleasing, and has no unnatural or offensive flavors.

(2) *Physical appearance.* Shall possess a uniform cream to light brown color, be free from lumps except those that readily break up with slight pressure, and be practically free from visible dark particles.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Milkfat content.* Not less than 4.5 percent.

(5) *Moisture content.* Not more than 4.0 percent.

(6) *Scorched particle content.* Not more than 15.0 mg. for spray process and 22.5 mg. for roller process.

(7) *Solubility index.* Not more than 1.25 ml. for spray process and 15.0 ml. for roller process.

(8) *Titratable acidity.* Not less than 0.10 percent nor more than 0.18 percent.

(9) *Protein content (dry buttermilk only).* Not less than 30.0 percent.

(10) *Protein content (dry buttermilk product only).* Less than 30.0 percent.

(b) *U.S. Standard Grade.* U.S. Standard Grade dry buttermilk and U.S. Standard Grade dry buttermilk product shall conform to the following requirements (See Tables I, II, III, and IV of this section):

(1) *Flavor (applies to the reconstituted product).* Should possess a fairly pleasing flavor, but may possess slight unnatural flavors and has no offensive flavors.

(2) *Physical appearance.* Shall possess a uniform cream to light brown color, be free from lumps except those that readily break up with moderate pressure, and be reasonably free from visible dark particles.

(3) *Bacterial estimate.* Not more than 200,000 per gram standard plate count.

(4) *Milkfat content.* Not less than 4.5 percent.

(5) *Moisture content.* Not more than 5.0 percent.

(6) *Scorched particle content.* Not more than 22.5 mg. for spray process and 32.5 mg. for roller process.

(7) *Solubility index.* Not more than 2.0 ml. for spray process and 15.0 ml. for roller process.

(8) *Titratable acidity.* Not less than 0.10 percent nor more than 0.20 percent.

(9) *Protein content (dry buttermilk only).* Not less than 30.0 percent.

(10) *Protein content (dry buttermilk product only).* Less than 30.0 percent.

TABLE I.—CLASSIFICATION OF FLAVOR

Flavor characteristics	U.S. extra grade	U.S. standard grade
Unnatural	None	Slight.
Offensive	None	None.

TABLE II.—CLASSIFICATION OF PHYSICAL APPEARANCE

Physical appearance characteristics	U.S. extra grade	U.S. standard grade
Lumpy	Slight	Moderate.
Visible dark particles.	Practically free	Reasonably free.

TABLE III.—CLASSIFICATION ACCORDING TO LABORATORY ANALYSIS

Laboratory tests	U.S. extra grade	U.S. standard grade
Bacterial estimate:		
Standard plate count per gram (Max.)	50,000	200,000
Milkfat content:		
Percent (Min.)	4.5	4.5
Moisture content:		
Percent (Max.)	4.0	5.0
Scorched particle content: mg.		
Spray process (Max.)	15.0	22.5
Roller process (Max.)	22.5	32.5
Solubility index: ml.		
Spray process (Max.)	1.25	2.0
Roller process (Max.)	15.0	15.0
Titratable acidity:		
Percent	0.10–0.18	0.10–0.20

TABLE IV.—CLASSIFICATION ACCORDING TO PROTEIN

Product	U.S. extra grade	U.S. standard grade
Dry Buttermilk:		
Percent (Min.)	30.0	30.0
Dry Buttermilk Product		
Percent (Less than)	30.0	30.0

§ 58.2655 U.S. grade not assignable.

Dry buttermilk or dry buttermilk product shall not be assigned a U.S. grade for one or more of the following reasons:

(a) Fails to meet or exceeds the requirements for U.S. Standard Grade.

(b) Is produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions.

(c) Is produced in a plant which is not USDA approved.

§ 58.2656 Test methods.

All required tests shall be performed in accordance with "Instructions for Resident Grading Quality Control Service Programs and Laboratory Analysis," DA Instruction No. 918–RL, Dairy Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20090–6456; and "Official Methods of Analysis of the Association of Official Analytical Chemists," 15th Ed. or latest revision.

Explanation of Terms

§ 58.2657 Explanation of terms.

(a) *With respect to flavor:*

(1) *Slight.* Detectable only upon critical examination.

(2) *Offensive.* Those that are obnoxious and cause displeasure when tasted or smelled.

(3) *Unnatural.* Those that are abnormal to the characteristic flavor of the product.

(b) *With respect to physical appearance:*

(1) *Practically free.* Present only upon very critical examination.

(2) *Reasonably free.* Present only upon critical examination.

(3) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(4) *Moderate pressure.* Only enough pressure to disintegrate the lumps easily.

(5) *Lumpy.* Loss of powdery consistency but not caked into hard chunks.

(6) *Visible dark particles.* The presence of scorched or discolored specks.

Signed at Washington, DC, on July 18, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–17459 Filed 7–23–91; 8:45 am]

BILLING CODE 3410–02–M

Food and Nutrition Service

7 CFR Part 245

[Amendment 28]

Determination of Eligibility for Free and Reduced Price Meals and Free Milk in Schools; Free and Reduced Price Eligibility Criteria

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations governing the reporting of a social security number and household income information on the application for free and reduced price meals under the National School Lunch Program and School Breakfast Program, and for free milk under the Special Milk Program. Under this final rule, the Application for free and reduced price benefits must contain the social security number of the adult household member who signs the application. In lieu of providing a social security number, the adult household member who signs the application may indicate that he or she does not possess one. Households will no longer have the option of providing the social security number of the primary wage earner. Social security numbers of all adult household members will continue to be required if the application is selected for verification of eligibility information. When reporting household income, households will no longer be required to indicate how often individual income amounts are received; rather, households will only be required to indicate the amount and the source of income each household member received during the month prior to application. The determining official will total individual income amounts to calculate the household's total current income. This rule will not affect the application procedures for households who are categorically eligible for free benefits. This rule reflects comments received on the interim rule published on May 9, 1990 (55 FR 19237), which implemented certain requirements of the Child Nutrition and WIC Reauthorization Act of 1989, Public Law 101–147, and is intended to further reduce paperwork and to facilitate eligibility determinations for free and reduced price meals and free milk by simplifying the application requirements for both households and school officials.

DATES: This rule is effective July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 1007, Alexandria, Virginia 22302, or by telephone (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed by the Assistant Secretary for Food and Consumer Services under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant adverse economic impact on a substantial number of small entities.

The reporting and recordkeeping burdens concerning the collection of social security numbers and the reporting of income information have been approved by the Office of Management and Budget (OMB). The social security numbers and income reporting burdens, as specified in the interim rule (55 FR 19237), were submitted to Office of Management and Budget (OMB) for their review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). These burdens were approved by OMB on June 18, 1990. This final rule further simplifies the application requirements by clarifying the requirement for a social security number and the listing of income but makes no appreciable change in burdens. The information collections under 7 CFR part 245 have been approved under OMB No. 0584–0026 through June 30, 1993.

This final rule affects the School Breakfast Program, National School Lunch Program and Special Milk Program, which are listed in the Catalog of Federal Domestic Assistance under Nos. 10.553, 10.555 and 10.556, respectively. These programs are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983.)

Background

On May 9, 1990, the Department published an interim regulation (55 FR 19237–19240) which affected the collection of social security numbers and the calculation of total household income on the applications for free and reduced price meals and free milk for the child nutrition programs. The interim rule implemented sections 202(b)(2) (A) and (B)(i) of the Child Nutrition and WIC Reauthorization Act of 1989, Public Law 101–147, enacted November 10, 1989. Comments on these provisions were solicited through January 1, 1991. The Department established a lengthy comment period to give State agencies and school food authorities an opportunity to gain operational experience with the interim application requirements prior to commenting on the rule.

The Department received 27 comments on the interim rule. All comments were supportive of their intent of the regulation, which was to reduce paperwork burdens and facilitate eligibility determinations. However, many of these commenters advised that the revisions to the free and reduced price applications for school meal and free milk benefits resulting from implementation of the interim rule requirements actually increased paperwork and/or caused confusion among applicants. This final rule responds to commenter concerns. The Department would like to thank all commenters for taking the time to give the Department the benefit of their experiences and perceptions. A discussion of the commenters and the Department's response to the comments follows.

Social Security Numbers

Section 202(b)(2)(A) of Public Law 101–147 amended section 9(d)(1) of the National School Lunch Act (42 U.S.C. 1758(d)(1)) to require that the member of the household who executes the application include the social security number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or the number of another appropriate adult household member, as determined by the Secretary. Additionally, the law requires that the household provide the social security numbers of all adult household members if the application is selected for verification of eligibility. The law only affects households establishing their eligibility for benefits based on

household size and income information. Households who are categorically eligible for free meals or milk by virtue of receiving food stamps or AFDC benefits were not affected.

In response to section 202(b)(2)(A), the interim rule amended 7 CFR 245.2(a–4) and 245.6(a) to require that a completed application include the social security number of either the parent or guardian who is the primary wage earner or the adult household member who signs the application. The rule further stipulated that, if neither household member has a social security number, the household must indicate that fact in lieu of providing a number. Additionally, as mandated by section 202(b)(2)(A), § 245.6a(a)(2) of the interim rule required that social security numbers of all adult household members be provided if the household is selected for verification of eligibility. The interim rule also made related changes to the prototype Privacy Act Statement in § 245.6(a)(2) and required school food authorities to provide notice under the Privacy Act to those households selected for verification of eligibility under § 245.6a(a)(2).

Seventeen commenters specifically addressed the issue of the social security number requirement. Although nine commenters believed that requiring only one social security number, rather than the social security numbers for all adults in the household, is a step in the right direction, four commenters recommended that the collection of the social security number on the application be eliminated completely on the grounds that the collection of social security numbers is only procedural and the numbers are of no practical use to determining officials. Another commenter recommended retaining the previous requirement that the application contain the social security number of each adult household member. This commenter argued that under the current interim rule, the determining official has to decide whether the proper social security number has been provided and that it is easier to obtain social security numbers when households apply for benefits rather than at the time of verification of household eligibility. Four commenters believed that the Department should designate the household member whose social security number should be included on the application. These commenters believed that providing households an option complicates, rather than simplifies, the application process. One commenter recommended that the social security number requirement be limited to the primary wage earner, since there is no significance in having the social security number of an individual without income. Another commenter believed that requiring that a complete application contain either the social security number of the parent or guardian who is the primary wage earner or that of the adult household member who signs the application needs to be clarified. According to this commenter, the provision could lead to "technical approval errors." This commenter suggested that since the signature of any adult household member should be a sufficient deterrent for which this requirement is intended, the Department should only require the social security number of any adult household member. Similarly, another commenter suggested that the social security number of the adult signing the application should be the only one required on the application, because applicants may not understand what "primary wage earner" means. Finally, seven commenters addressed the collection of social security numbers for households selected for verification of eligibility. These commenters believe that it complicates the verification process and is contrary to reducing paperwork burdens.

In response to suggestions that the social security number requirement be totally eliminated from both the application and verification requirements, the Department reminds commenters that section 202(b)(2)(a) of Public Law 101–147 specifically amended section 9(d)(1) of the National School Lunch Act to require the social security number of either the parent or guardian who is the primary wage earner or another appropriate adult household member, as designated by the Secretary, on the application. This requirement is a condition of eligibility for free and reduced price meals and free milk. Section 202(b)(2)(A) further requires that the social security numbers of all adults in the household be provided at the time of verification. Thus, in accordance with the law, the free and reduced price application must contain a social security number, and social security numbers must be obtained for all adult household members if the household is selected for verification.

In accordance with the discretion afforded to the Secretary in designating the household member required to provide a social security number, the interim regulation allowed households the option of providing either the social security number of the parent or guardian who is the primary wage earner or that of the adult household member who signs the application. The Department believed this would provide households with maximum flexibility in complying with the social security number requirement. It was the goal of the Department to simplify the application process while maintaining program integrity. However, commenters on the interim rule, as well as other State and school officials who have informally advised the Department of their experiences with the application process for the 1990–1991 School Year, believe that providing households with this option actually results in a complication rather than a simplification of the application procedures and adds to the paperwork and administrative burdens.

After considering these comments, the Department has decided that eliminating the option of providing the social security number of the primary wage earner would simplify completion of the application by households, while maintaining the integrity of the program. As pointed out by one commenter, *any* adult household member is permitted to complete and sign the application. Thus, even with eliminating the option, the household is still afforded the opportunity of having *any* adult household member sign the application, including the primary wage earner. Flexibility is, therefore, not compromised because the household continues to be vested with the option of selecting which adult household member it wishes to sign the application and render his or her social security number, or an indication that he or she does not possess one. In signing the application, the household member is attesting to the completeness and correctness of the information submitted by the household to obtain Federal benefits and acknowledging that he/she is aware of the penalties for misrepresentation of information. This change, therefore, will not result in any reduction in program accountability. Consequently, this final rulemaking amends §§ 245.2(a–4) and 245.6(a) to require that a completed application include the social security number of the adult household member who signs the application. This final rule also makes appropriate changes to the Privacy Act Statement contained in § 245.6(a)(1) to reflect this change.

One commenter addressed the prototype Privacy Act Statements contained in §§ 245.6(a)(1) and 245.6a(a)(2)(i). This commenter believed that the information provided to households is too extensive. Section 7(b) of the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a note) requires Federal, State or local government agencies

which request an individual to disclose his/her social security number must be informed (1) whether that disclosure is mandatory or voluntary, (2) by what statutory authority or other authority each number is solicited, and (3) what uses will be made of the number. The Department's prototype Privacy Act Statement fulfilling these criteria has been incorporated into §§ 245.6(a)(1) and 245.6a(a)(2) of the regulations governing free and reduced price eligibility and has been included in the Department's prototype free and reduced price application. The Department emphasizes that this statement is a prototype statement designed to be used by all States and school food authorities. In addressing the third criterion, uses that may be made of applicants' social security numbers, the Department attempted to include all conceivable uses that a school food authority may make of the social security number. State agencies and school food authorities may, if they wish, alter the prototype Privacy Act statement to reflect the manner in which individual social security numbers may be used. Indeed, the prototype Privacy Act statement must be altered if the State or the local school food authority contemplates using the social security numbers in a manner not envisioned on the prototype. It is the responsibility of State agencies and school food authorities to ensure that the Privacy Act Statement they use does, in fact, comply with all Privacy Act requirements. The Department continues to recommend that State agencies and school food authorities consult with their legal counsel in this area.

Income Information

Section 202(b)(2)(B)(i) of Public Law 101–147 amended section 9(d)(2)(A) of the National School Lunch Act (42 U.S.C. 1758(d)(2)(A)) to require that households provide appropriate documents relating to the income of the household so that the local school officials may calculate total household income to determine eligibility for free and reduced price benefits. The interim regulation amended § 245.2(a-3) to redefine "current income" to mean income received during the month prior to application and to remove the reference to annualization of income. Additionally, the interim regulation provided that, when the prior month's income does not accurately reflect the household's annual rate of income, eligibility shall be based on the household's projected annual income.

Only one commenter addressed the revised definition of "current income." This commenter concurred with defining income as income received during the prior month, because this approach is less cumbersome that annualizing income. Therefore, this final rule adopts, without change, the definition of "current income" as stated in the interim rule.

The interim rule also amended §§ 245.2(a–4) and 245.6(a) to eliminate the requirement that households provide a total monthly income figure on the application. The interim regulation required households to list the income received by each member during the prior month identified by the source of the income (such as earnings from work, payments from welfare or retirement pensions), and the frequency with which each member received the income (such as weekly, every 2 weeks, monthly, etc). Section 245.6(b) of the interim rule specified that it is the responsibility of the determining official to use the individual income information provided by the household to calculate the household's total monthly income when making an eligibility determination.

Ten commenters specifically addressed the issue of income information on the free and reduced price application. The majority of these commenters supported eliminating the requirement that households provide a total income figure on the free and reduced price application. As one commenter noted, the total household income is usually calculated by the determining official so there is no need to have the household also total its income. This observation corresponds to the comments of other State and local officials, including those that served on a task force convened by the Department in 1989 for the purpose of simplifying and clarifying the application process. It should be noted, however, that one commenter opposed the elimination of the requirment that households provide a total income figure because calculating total income adds to the determing official's paperwork.

Section 202(b)(2)(B)(i) of Public Law 101–147 mandated that the Department require households to submit to the local school food authority appropriate documentation of household income to enable the school food authority to calculate the total household income when making free and reduced price eligibility determinations. Sections 245.2(a–4) and 245.6(a) reflect this intent that the total income calculation is to be performed by the school food authority rather than the applicant household. Moreover, the Department believes that school officials are less likely than households to calculate total household income incorrectly, and, as a result, the determination process should be less confusing than in the past. Therefore, this final regulation retains the interim rule's elimination of the requirement that the household provide a total income figure on the application.

To enable school officials to calculate total monthly income, § 245.2(a–4) of the interim rule required that, in addition to listing income by individual and source, the household must indicate the frequency with which income is received. The intent was to relieve the household of the burdens associated with converting individual income amounts to a monthly figure and to ensure that school officials had sufficient information to determine total household income.

The Department received five comments on reporting the source and frequency of income. One commenter suggested that only the income of the parent or guardian be collected, not income for the entire household, since it is the parent or guardian who is responsible for the child. However, section 9(b)(3) of the National School Lunch Act makes any child from a household whose income is at or below the applicable family size income level of the income eligibility guidelines set forth under section 9(b)(1) eligible for a free or reduced price lunch. This provision requires that eligibility be determined on the basis of the income status of the entire household, which is consistent with the treatment of income in other Federal assistance programs.

Two commenters disapproved of requiring households to indicate the source of income, such as wages, welfare payments, etc., because households do not complete that portion of the application correctly or have difficulty identifying sources of income. The requirement that households identify the source of individual income amounts is not a new requirement. Households have been required to indicate the source of income amounts and the individual who receives them since 1984. The pilot study, Income Verification Pilot Project, conducted by the Department to identify procedures to reduce fraud and abuse in the school nutrition programs found that an application which requests income by source and by household member significantly reduces misreporting. The majority of households that complete income information on the application have become accustomed to indicating income by individual and source and do not have a problem completing this portion of the application. The Department has had no indication that requiring income by source causes

widespread problems. For this reason and because the Department believes requiring income by source reduces misreporting, this rule continues to require the reporting of income by source.

Four commenters disapprove of requiring households to indicate the frequency with which each household member received each source of income. These commenters advised that many households either did not complete the frequency portion of the income grid on the 1990–1991 free and reduced price application or misinterpreted the requirement. In either case, requesting households to report how often they receive each source of income complicates the application process. One of these commenters added that requesting households to indicate how often income is received implies steady income, which is not the case for many low income households. This commenter and one other commenter recommended retaining the previous requirement for monthly income amounts on the free and reduced price application. Another commenter recommended asking for yearly income as reported to the Internal Revenue Service.

The Department has also received many similar comments from State and local program administrators concerning the prototype application for free and reduced price meals that the Department issued in the Spring of 1990. Like the commenters on the interim regulation, these administrators believed that requiring households to report how often they receive income actually had the effect of complicating the application process for both households and school determining officials. When households misinterpreted this requirement and completed the application incorrectly, which happened with some frequency, school officials had to resolve the discrepancies, thereby delaying the approval process and adding a burden. These administrators also agreed with commenters that many low income households do not have a steady source of income and/or have erratic work schedules.

The interim rule required households to indicate the frequency of income because the Department believed that many low income households experience difficulty in computing monthly income. Consequently, the Department considered that school officials would be in the best position to compute total household income using the amount and frequency of income reported by the households. However, the Department recognizes the practical difficulties reported by people using the new system. The Department also agrees that it is reasonable to ask households to assess their own circumstances when completing their applications and that households which receive income sporadically are in a better position than the determining official to determine how much income is received monthly. For these reasons, the Department is removing the requirement that households report the frequency with which they receive income. Rather, § 245.6(a) of this final rule will require only that households report their income identified by source so that the school official can calculate the households's total current income as prescribed by § 245.6(b). The Department believes that the removal of the frequency requirement will ensure that needy children are not denied access to the Program while reducing the burden on local school officials.

In response to the commenter who suggested that eligibility be determined on the basis of yearly income as reported to the Internal Revenue Service, income reported on income tax forms is old information and may not be a good indicator of the household's current circumstances.

Summary

Under § 245.6(a), the adult household member who signs the application must include his/her social security number on the application for free and reduced price benefits or indicate that he/she does not possess a number. Households must also report on the application the income received, identified by the household member who received the income and the source of the income. Pursuant to § 245.6(b), the information is used by the determining official to calculate the household's current income. The definition of "current income" under § 245.2(a–3) is adopted from the interim rule without change. Current income is income received during the month prior to application. If the prior month's income does not accurately reflect the household's annual income, households must use their projected annual household income. The interim rule verification provisions in section 245.6a are adopted without change.

Technical amendment

On July 17, 1991, the Department published a final rule, Coordinated Review Effort, at 56 FR 32920. This rule inadvertently removed a sentence from § 245.6(b) which allows school officials to verify the information provided by households on the application. Today's rule corrects that error by adding this sentence back into the regulations, verbatim. However, the sentence, "School food authorities may seek verification of the information on the application," has been moved to a more appropriate section, § 245.6a(a) Verification requirements.

List of Subjects in 7 CFR Part 245

Food assistance programs, Grant programs-social programs, National school lunch program, School breakfast program, Special milk program, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending 7 CFR part 245 which was published at 55 FR 19237 on May 9, 1990, is adopted as a final rule with the following change:

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

1. The authority citation for part 245 continues to read as follows:

Authority: Secs. 3, 4, and 10, 80 Stat. 885, 886, 889, as amended (42 U.S.C. 1772, 1773, 1779); secs. 2–12, 60 Stat. 230, as amended (42 U.S.C. 1751–60).

2. In § 245.2 Definitions, paragraphs (a–4) introductory text, and paragraphs (a–4) (1) through (4) is amended by are revised; to read as follows:

§ 245.2 Definitions.

* * * * *

(a–4) *Documentation* means the completion of the following information on a free and reduced price application:

(1) names of all household members;

(2) income received by each household member, identified by source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, and social security and other cash income);

(3) the signature of an adult household member; and

(4) the social security number of the adult household member who signs the application or an indication that he/she does not possess a social security number.

* * * * *

3. § 245.6 is amended as follows:

a. The introductory text of paragraph (a) is revised after the second sentence;

b. Paragraph (a)(1) is amended by removing the first four sentences and adding two new sentences in their place; and

c. Paragraph (b) is amended by removing the words "and frequency" in the third sentence.

The revision and addition read as follows:

§ 245.6 Application for free and reduced price meals and free milk.

(a) * * * The information requested on the application with respect to the current income of the household shall be limited to the income received by each member identified by the household member who received the income, and the source of the income (such as earnings, wages, welfare, pensions, support payments, unemployment compensation, social security and other cash income). Other cash income includes cash amounts received or withdrawn from any source, including savings, investments, trust accounts, and other resources which are available for payment of the price of a child's meals or milk. Additionally, the application shall require applicants to provide the names of all household members and the social security number of the adult household member who signs the application. In lieu of a social security number, the household may indicate the adult household member who signs the application does not possess a social security number. However, if application is being made for a child who is a member of a food stamp household or an AFDC assistance unit, the application shall enable the household to provide the appropriate food stamp or AFDC case number in lieu of names of all household members, household income information and social security number. The application shall also contain substantially the following statements:

(1) Section 9 of the National School Lunch Act requires that, unless your child's food stamp or AFDC case number is provided, you must include the social security number of the adult household member signing the application or indicate that the household member signing the application does not have social security number. Provision of a social security number is not mandatory, but if a social security number is not given or an indication is not made that the signer does not have such a number, the application cannot be approved.

* * * * *

4. In § 245.6a, a new sentence is added to the beginning of paragraph (a) introductory text to read as follows:

§ 245.6a Verification requirements.

(a) * * * School officials may seek verification of the information on the application.

* * * * *

Dated: July 17, 1991.

Betty Jo Nelsen,

Administrator, Food and Nutrition Service.

[FR Doc. 91-17520 Filed 7-23-91; 8:45 am]

BILLING CODE 3410-30-M

Farmers Home Administration

7 CFR Part 1951

Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Farmer Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to clarify the actions to be taken by the agency, when the borrower received loan servicing and was later determined not eligible. This amendment is necessary because the present regulations do not clearly address unauthorized loan servicing assistance. The intended effect of this action is to provide a procedure whereby field officers can service loans when unauthorized loan servicing was granted.

EFFECTIVE DATE: July 24, 1991.

FOR FURTHER INFORMATION CONTACT: Charles W. Thompson, Farmer Programs Loan Servicing and Property Management Division, FmHA, USDA, room 5441-S, 14th and Independence Ave. SW., Washington, DC 20250. Telephone (202) 475-4011.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it has no impact on FmHA borrowers or other members of the public and it involves only internal Agency management. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary. Specifically, the procedures are only being clarified to aid the field staff in servicing accounts that have received unauthorized loan servicing under subpart S of 7 CFR part 1951.

Intergovernmental Consultation

For the reasons set forth in the final rule related to notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operation Loans, and Farm Ownership Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with state and local officials.

The Soil and Water Loan program is subject to the provisions of Executive Order 12372 and subpart J of part 1940.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the final action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Discussion

The regulations governing unauthorized assistance are contained in 7 CFR part 1951 subpart L. However, unauthorized loan servicing assistance is not clearly covered in this subpart.

An Office of Inspector General (OIG) audit, number 046673-5-SF(3), identified numerous errors committed by the agency in reviewing and processing borrower applications for restructuring of delinquent debt. OIG recommended that the Office of General Counsel (OGC) provide guidance to the agency on corrective actions in these cases.

OGC recognized that errors in loan servicing applications may have originated with the agency, the borrower, or a third party. Therefore, each case would have to be considered separately.

This rule clarification gives guidance to the agency on corrective actions as recommended by OGC. An important recommendation was that if the Government's best interest was to continue with the borrower, then the

borrower could be serviced under 7 CFR part 1951 subpart S.

Very little change is needed in the text of the regulation because most of the language already exists. All that is needed is to include a definition of unauthorized loan servicing, and references to it, in the appropriate places, in the regulation. Therefore, unauthorized loan servicing assistance will be treated in the same manner as unauthorized loan making.

List of Subjects in 7 CFR Part 1951

Loan programs—Housing and Community development, Rent subsidies, Subsidies.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951, continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, and 7 CFR 2.70.

Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Farmer Programs

2. Section 1951.552 is amended by revising paragraph (g) to read as follows:

§ 1951.552 Definitions.

* * * * *

(g) *Unauthorized Assistance.* Any loan, primary loan servicing action, including Net Recovery Buyout, or interest subsidy received for which there was no authorization, for which the borrower was not eligible, or which was obligated from the wrong appropriation or fund. An unauthorized interest subsidy is a benefit received through a loan that was made at a lower interest rate than that to which the borrower was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

3. Section 1951.561 is amended by revising the introductory text of paragraph (a)(1) to read as follows:

§ 1951.561 Servicing options in lieu of liquidation or legal action.

* * * * *

(a) * * *

(1) *Entire loan, or loan servicing unauthorized.* When the entire loan, or all or a portion of primary loan servicing, is determined to be unauthorized because the borrower was not eligible, or because the loan or primary loan servicing was approved for unauthorized purposes, the following alternatives will be considered in the order listed:

* * * * *

Dated: June 27, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91-17565 Filed 7-23-91; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 91-034]

Horses From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of horses from Canada to (1) no longer require USDA veterinary port inspection for horses coming into the United States from Canada under temporary Customs authorization for a period not to exceed 30 days from the date the health certificate for the horse is issued and to allow the use of the certificate each time the animal is imported into the United States, at any Customs land border port designated for horses from Canada, during the 30-day period; and (2) to permit horses of United States origin that enter Canada under an export health certificate valid for a period of 30 days from the date of issue, to re-enter the United States an unlimited number of times during the 30-day period, without USDA veterinary port inspection, at any Customs land border port of entry designated for animals from Canada, when accompanied by the original export health certificate under which they were permitted entry into Canada. These actions are warranted because they will reduce unnecessary restrictions on the importation of horses and reduce transportation costs without causing a significant increase in the risk of introducing communicable animal diseases.

EFFECTIVE DATE: August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel Richeson, Senior Staff Veterinarian, VS, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8144.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92, referred to below as the regulations, govern the importation into the United States of specified animals and animal products, including horses from Canada, to prevent the introduction into the United States of various animal diseases.

On December 28, 1990, we published in the **Federal Register** (55 FR 53310-53312, Docket No. 90-069), a proposal to amend § 92.317(a) to no longer require inspection of horses imported from Canada under temporary Customs authorization, for a stay not to exceed 30 days from the date of issue of the certificate, and to allow the certificate issued to be valid for multiple importations into the United States throughout the 30-day period. We also proposed to amend § 92.317(b) to allow horses of United States origin to be imported into Canada under an export health certificate which would be valid for 30 days from the date of issue and, during the 30-day period, allow unlimited re-entries into the United States without inspection, through any U.S. Customs land border port designated for the entry of animals from Canada.

Comments on the proposed rule were required to be received on or before February 26, 1991. We received 17 comments. Twelve comments were in favor of the proposed rule. They indicated that adopting the proposal as a final rule would benefit individuals crossing the border with animals used in their hobbies or sporting events, making it more convenient and cost effective by allowing them to cross the border freely within the 30-day period.

Three commenters supported the proposed rule but recommended that the term "health certificate" be changed to "certificate of veterinary inspection." These organizations stated concerns in the veterinary community about signing statements that imply a warranty as to the "health" of an animal. Therefore, they would prefer that the certificate be titled "certificate of veterinary inspection." They asserted that this title would more accurately describe the true nature of the document and the medical examination on which it is based. We do not feel that there is sufficient cause at this time to change the term. "Health certificate" is understood by members of the veterinary community and the public to reflect that the animal has been inspected.

One commenter supported the proposed rule but requested that we go one step further and go to a "passport"

system, a document that would be valid for a set period of time agreed upon by both the U.S. and Canada, and that could be renewed in either country. The document would allow movement between the U.S. and Canada without requiring requalification by veterinary inspection. We will consider the possibility of a "passport" system with the Canadian government, and any amendments to that effect would be the subject of a future rulemaking.

The final commenter was concerned that persons moving horses across the border for more than a 30-day period could claim to be moving under the 30-day provision and thus avoid inspection. The commenter suggests removal of the 30-day certificate provision or the use of some procedures to ensure that horses moved across the border for more than 30 days are inspected. We plan to clearly identify those horses that are exempt from the port inspection requirement. The health certificate will indicate whether the horses are entering on a temporary (30-day) or permanent basis. This will prevent false claims to temporary status and will facilitate our ability to track individuals and to verify compliance with the 30-day certificate.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will 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 rule affects Canadian and U.S. importers and shippers of horses. Most of these businesses would be considered small entities. This rule will reduce the number of times the animal has to be requalified by veterinary inspection for movement and would result in a reduction of transportation costs. This change will increase efficiency and convenience of import operations. Based on the experience of APHIS inspectors over the last five years, we do not anticipate any significant change in the number of horses moving between the United States and Canada as a result of this rule.

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

Paperwork Reduction Act

This 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 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

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

Accordingly, 9 CFR part 92 is amended as follows:

1. The authority citation for part 92 continues to read as follows:

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

2. Section 92.317 is amended as follows:

a. In paragraph (a), that portion of the sentence immediately following *"And provided, further,"* is removed, and in its place a new proviso is added, and

b. Paragraph (b) is revised.

The amendments read as follows:

§ 92.317 Horses from Canada.

(a) * * * That USDA veterinary port inspection is not required for horses imported from Canada under temporary Customs authorization for a period of 30 days from the date of issue of the certificate and the certificate issued is valid for an unlimited number of importations into the United States during the 30-day period.

(b) Horses of United States origin that are imported into Canada under an export health certificate valid for a period of 30 days from the date of issue may re-enter the United States an unlimited number of times during the 30-day period, without USDA veterinary port inspection, at any Custom land border port of entry designated for animals from Canada, if accompanied by the original export health certificate under which they were permitted entry into Canada.

* * * * *

Done in Washington, DC, this 19th day of July 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91–17510 Filed 7–23–91; 8:45 am]

BILLING CODE 3410–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–17–AD; Amendment 39–7070; AD 91–15–07]

Airworthiness Directives; Schempp-Hirth Cirrus and Cirrus VTC Sailplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Schempp-Hirth Cirrus and Cirrus VTC sailplanes. This action requires (1) Replacing the 8mm elevator drive tube with a round bar; (2) determining the elevator moments and weights; and (3) removing the tail parachute from operation and installing a mass balance on the elevator if the moments and weights exceed the published criteria. Reports confirmed that several of the affected sailplanes have experienced tail flutter. The actions specified by this AD are intended to prevent possible loss of control of the sailplane.

DATES: Effective September 1, 1991. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 1, 1991.

ADDRESSES: Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982, that is discussed in this AD may be obtained from Schempp-Hirth Flugzeugbau GmbH, Postfach 1443, D–7312 Kirchheim, Federal Republic of Germany. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Mittag, Program Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 322.513.38.30 extension 2710; or Mr. Herman Belderok, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Schempp-Hirth Cirrus and Cirrus VTC sailplanes was published in the **Federal Register** on March 21, 1991 (56 FR 11977). The action proposed (1) Replacing the 8mm elevator drive tube with a round bar; (2) Determining the elevator moments and weights; and (3) Removing the tail parachute from operation and installing a mass balance on the elevator if the moments and weights exceed the published criteria. All of these actions would be performed in accordance with Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost of the public.

The FAA was determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. These minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA has determined that calendar time is the most desirable method of compliance for this AD action because yearly operational times vary throughout the fleet. For example, one owner/operator might utilize the sailplane 10 hours in one month, while another may not utilize the sailplane 10 hours in one year. To maintain continuity and avoid inadvertent grounding of the affected sailplanes, compliance based upon calendar time is used.

It is estimated that 21 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 20 hours per sailplane to accomplish the required actions, and that the average labor rate is approximately $55 an hour. Parts cost approximately $70 per sailplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $24,570.

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

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

AD 91–15–07 Schempp-Hirth: Amendment 39–7070; Docket No. 91–CE–17–AD.

Applicability: Cirrus and Cirrus VTC sailplanes (serial numbers 1 through 183, with or without a Y suffix), certificated in any category.

Compliance: Required within the next 30 calendar days after the effective date of this AD, unless already accomplished.

To prevent tail flutter that could result in complete loss of control of the sailplane, accomplish the following:

(a) Replace the 8mm diameter drive tube on the elevator drive lever with a round bar in accordance with drawing Cirrus No. 30.011/1—Elevator Drive Axle of Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982.

(b) Determine the elevator hinge moments and weights using the criteria on page 27 of the Cirrus service manual. If the moments and weights exceed the published criteria, prior to further flight, accomplish the following:

(1) Remove the tail parachute from operation and perform the requirements in Action 3, a) through d), of Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982.

(2) Install a mass balance on the elevator in accordance with drawing Cirrus No. 30.001/1—Elevator mass balance of Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982.

Note: Although not required by this AD, the pages referenced by Action 3 e) and Action 5 of Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982, should be incorporated into the service manual.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(d) The inspections and replacements required by this AD shall be done in accordance with Schempp-Hirth Technical Note No. 265–6, dated April 27, 1982, which incorporates the following pages:

Pages	Revision level	Date
1 through 4	Original	April 27, 1982.
Cirrus No. 30.001/1, as referenced on page 2 of Technical Note 265–6.	Attachment	Undated.
Cirrus No. 30.011/1, as referenced on page 1 of Technical Note 265–6.	Attachment	Undated.
Page 27 of the Schempp-Hirth Cirrus Service Manual.	Attachment	August, 1982.

(The attachments listed in the above table are sent by the manufacturer as part of Technical Note 265–6). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Schempp-Hirth Flugzeugbau GmbH, Postfach 1443, D–7312 Kirchheim, Federal Republic of Germany. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC. This amendment becomes effective on September 1, 1991.

Issued in Kansas City, Missouri, on June 26, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-17524 Filed 7-23-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 90-ASO-24]

Alteration of Jet Route J-151

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J-151 by extending the route from Vulcan, AL, to Cross City, FL. This extension enhances the transition phase of flight from high altitude to the low-altitude airway structure over the Tallahassee, FL, very high frequency omnidirectional radio range. This action reduces en route delays and reduces controller workload.

EFFECTIVE DATE: 0901 u.t.c., September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On February 8, 1991, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of Jet Route J-151 by extending that route from Vulcan, AL, direct to Cross City, FL (56 FR 05165). The addition of this route segment improves the traffic flow while in transition from the terminal area. 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 which include removal of the proposed dogleg and making the jet route direct, this amendment is the same as that proposed in the notice. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations alters the description of Jet Route J-151 by extending the route from Vulcan, AL, to Cross City, FL. This extension enhances the transition phases of flight from high altitude to the low-altitude airway structure over the Tallahassee, FL, very high frequency omnidirectional radio range. This action reduces en route delays and reduces controller workload.

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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-151 [Amended]

By removing the words "From Vulcan, AL, via" and substituting the words "From Cross City, FL; Vulcan, AL;"

Issued in Washington, DC, on July 16, 1991.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-17525 Filed 7-23-91; 8:45 am]

BILLING CODE 4910-13-M.

14 CFR Part 75

[Airspace Docket No. 91-AGL-1]

Alteration of Jet Route J-522; MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendent alters the description of Jet Route J-522 located in the vicinity of Traverse City, MI. The realignment eliminates the dogleg between Traverse City and Toronto, ON, Canada, thereby improving navigation between those facilities. This action enhances flight operation in the area.

EFFECTIVE DATE: 0901 u.t.c., September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 14, 1991, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to realign a segment of Jet Route J-522 between Traverse City, MI, and Toronto, ON, Canada (56 FR 10843). The realignment eliminates a dogleg to the north, thereby saving fuel and improving navigation along the course line. This action enhances flight operations in the area. 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. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations alters the description of Jet Route J-522 located in the vicinity of Traverse City, MI. The realignment eliminates the dogleg between Traverse City and Toronto, ON, Canada, thereby improving navigation between those facilities. This action enhances flight operation in the area.

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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–522 [Revised]

From Green Bay, WI; Traverse City, MI; Au Sable, MI; Toronto, ON, Canada; INT Toronto 099° and Hancock, NY, 302° radials; Hancock; to Kingston, NY. The airspace within Canada is excluded.

Issued in Washington, DC, on July 16, 1991.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91–17526 Filed 7–23–91; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–3977–1]

Indiana: Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Indiana has applied for final authorization of a revision to its authorized hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter "RCRA" or the "Act"). The Environmental Protection Agency (EPA) has reviewed Indiana's application and has reached a decision, subject to public review and comment, that Indiana's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Indiana to operate its revised program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter "HSWA").

DATES: Final authorization for Indiana's application shall be effective September 23, 1991 unless EPA publishes a prior **Federal Register** action withdrawing this final rule. All comments on Indiana's Final authorization must be received by 4:30 p.m. on August 23, 1991.

ADDRESSES: Copies of Indiana's program revision application are available from 8:30 a.m., to 4:30 p.m., at the following addresses for inspection and copying: Indiana Department of Environmental Management, Hazardous Waste Management Branch, 105 South Meridian Street, Indianapolis, Indiana 46206, Contact: Michael Dalton, (317) 232–8884; U.S. EPA Headquarters Library, PM211A, 401 M Street SW., Washington, DC 20460, Phone: (202) 382–5926; U.S. EPA Region V, Waste Management Division, Office of RCRA, 230 South Dearborn Street, Chicago, Illinois 60604, Contact: George Woods (312) 886–6134. Written comments on Indiana's application should be sent to George Woods, at the address listed below.

FOR FURTHER INFORMATION CONTACT: George Woods, Indiana Regulatory Specialist, U.S. Environmental Protection Agency Region V, Waste Management Division, Office of RCRA, Program Management Branch, Regulatory Development Section, 5HR–JCK–13, 230 South Dearborn, Chicago, Illinois 60604, (312) 886–6134, [FTS 886–6134].

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is at least equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 allow States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. A State exercising this latter option receives "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later applies for final authorization for the HSWA requirements.

In accordance with part 271, § 271.21(a) of Title 40 of the Code of Federal Regulations (40 CFR 271.21(a)), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260–268 and 270.

B. Indiana

Indiana initially received final authorization for its base RCRA program on January 31, 1986, (51 FR 3953–3954, January 31, 1986). Indiana received authorization for revisions to its program on December 31, 1986, (51 FR 39752–39754, October 31, 1986), January 19, 1988, (53 FR 128–129, January 5, 1988), and on September 11, 1989, 54 FR 29557–29559, July 13, 1989). On July 13, 1988, Indiana submitted a program revision application seeking approval for an additional revision to its authorized program. This program revision is due to an Indiana Legislative Services Agency requirement that the Indiana Department of Environmental Management (IDEM) recodify its hazardous waste management rules. The IDEM became the state Agency responsible for administering the authorized RCRA hazardous waste management program in Indiana as of April 1, 1986. Those rules that were codified at title 320 of the Indiana Administrative Code, Article 4.1 (320 IAC 4.1) were recodified at title 329 of the Indiana Administrative Code, Article 3 (329 IAC 3). This program revision reflects the recodified rules that became effective June 30, 1988. No substantive changes were made to the text of the rules themselves, only the proper citations of the rules were changed. The recodified rules effectively continue the original 320 IAC 4.1 rules and in no way alter the State's regulatory and statutory equivalence to the Federal RCRA program. On July 22, 1988, the Indiana Attorney General certified that the recodification of

Indiana's hazardous waste management rules does not affect the IDEM's authority to implement the State's authorized RCRA program.

EPA has reviewed Indiana's application and has made an immediate final decision, subject to public review and comment, that Indiana's hazardous waste management program revision does reflect the State's equivalency with the Federal program and satisfies all the requirements necessary to qualify for Federal authorization. Consequently, EPA is granting final authorization to Indiana for its additional program revision. The public may submit written comments on EPA's immediate final decision up until August 23, 1991. Copies of Indiana's application for this program revision are available for inspection at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of Indiana's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of this immediate final rule or (2) a notice containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

Indiana will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which were recodified at title 329 of the Indiana Administrative Code, Article 3, and which are analogous to the following Resource Conservation and Recovery Act rules found at title 40 of the Code of Federal Regulations:

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 124.1	329 IAC 3-39-1	320 IAC 4.1-39-1
40 CFR 124.3	329 IAC 3-39-2	320 IAC 4.1-39-2
40 CFR 124.5	329 IAC 3-39-3	320 IAC 4.1-39-3
40 CFR 124.6	329 IAC 3-39-4	320 IAC 4.1-39-4
40 CFR 124.8	329 IAC 3-39-5	320 IAC 4.1-39-5
40 CFR 124.10	329 IAC 3-39-6	320 IAC 4.1-39-6
40 CFR 124.11	329 IAC 3-39-7	320 IAC 4.1-39-7
40 CFR 124.12	329 IAC 3-39-8	320 IAC 4.1-39-8
40 CFR 124.17	329 IAC 3-39-9	320 IAC 4.1-39-9
40 CFR 260.3	329 IAC 3-1-3	320 IAC 4.1-1-3
40 CFR 260.10	329 IAC 3-1-7	320 IAC 4.1-1-7
40 CFR 260.11	329 IAC 3-1-6	320 IAC 4.1-1-6
40 CFR 260.20	329 IAC 3-1-5	320 IAC 4.1-1-5
40 CFR 260.22	329 IAC 3-1-4	320 IAC 4.1-1-4
40 CFR 260.30	329 IAC 3-1-8	320 IAC 4.1-1-8
40 CFR 260.31	329 IAC 3-1-9	320 IAC 4.1-1-9
40 CFR 260.32	329 IAC 3-1-10	320 IAC 4.1-1-10
40 CFR 260.33	329 IAC 3-1-11	320 IAC 4.1-1-11
40 CFR 260.40	329 IAC 3-1-12	320 IAC 4.1-1-12
40 CFR 260.41	329 IAC 3-1-13	320 IAC 4.1-1-13
40 CFR 261.1	329 IAC 3-3-1	320 IAC 4.1-3-1
40 CFR 261.2	329 IAC 3-3-2	320 IAC 4.1-3-2
40 CFR 261.3	329 IAC 3-3-3	320 IAC 4.1-3-3
40 CFR 261.4	329 IAC 3-3-4	320 IAC 4.1-3-4
40 CFR 261.5	329 IAC 3-3-5	320 IAC 4.1-3-5
40 CFR 261.6	329 IAC 3-3-6	320 IAC 4.1-3-6
40 CFR 261.7	329 IAC 3-3-7	320 IAC 4.1-3-7
40 CFR 261.10	329 IAC 3-4-1	320 IAC 4.1-4-1
40 CFR 261.11	329 IAC 3-4-2	320 IAC 4.1-4-2
40 CFR 261.20	329 IAC 3-5-1	320 IAC 4.1-5-1
40 CFR 261.21	329 IAC 3-5-2	320 IAC 4.1-5-2
40 CFR 261.22	329 IAC 3-5-3	320 IAC 4.1-5-3
40 CFR 261.23	329 IAC 3-5-4	320 IAC 4.1-5-4
40 CFR 261.24	329 IAC 3-5-5	320 IAC 4.1-5-5
40 CFR 261.30	329 IAC 3-6-1	320 IAC 4.1-6-1
40 CFR 261.31	329 IAC 3-6-2	320 IAC 4.1-6-2
40 CFR 261.32	329 IAC 3-6-3	320 IAC 4.1-6-3
40 CFR 261.33	329 IAC 3-6-4	320 IAC 4.1-6-4
40 CFR 261.—	329 IAC 3-6-5	320 IAC 4.1-6-5
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40 CFR 261.—	329 IAC 3-6-6	320 IAC 4.1-6-6
Appendix II		
40 CFR 261.—	329 IAC 3-6-7	320 IAC 4.1-6-7
Appendix III		
40 CFR 261.—	329 IAC 3-6-8	320 IAC 4.1-6-8
Appendix VII		
40 CFR 261.—	329 IAC 3-6-9	320 IAC 4.1-6-9
Appendix VIII		
40 CFR 261.—	329 IAC 3-6-10	320 IAC 4.1-6-9.1
Appendix X		
40 CFR 262.10	329 IAC 3-7-1	320 IAC 4.1-7-1
40 CFR 262.11	329 IAC 3-7-2	320 IAC 4.1-7-2
40 CFR 262.12	329 IAC 3-7-3	320 IAC 4.1-7-3
40 CFR 262.20	329 IAC 3-8-1	320 IAC 4.1-8-1
40 CFR 262.21	329 IAC 3-8-2	320 IAC 4.1-8-2
40 CFR 262.22	329 IAC 3-8-3	320 IAC 4.1-8-3
40 CFR 262.23	329 IAC 3-8-4	320 IAC 4.1-8-4
40 CFR 262.30	329 IAC 3-9-1	320 IAC 4.1-9-1

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 262.31	329 IAC 3-9-2	320 IAC 4.1-9-2
40 CFR 262.32	329 IAC 3-9-3	320 IAC 4.1-9-3
40 CFR 262.33	329 IAC 3-9-4	320 IAC 4.1-9-4
40 CFR 262.34	329 IAC 3-9-5	320 IAC 4.1-9-5
40 CFR 262.40	329 IAC 3-10-1	320 IAC 4.1-10-1
40 CFR 262.41	329 IAC 3-10-2	320 IAC 4.1-10-2
40 CFR 262.42	329 IAC 3-10-3	320 IAC 4.1-10-3
40 CFR 262.43	329 IAC 3-10-4	320 IAC 4.1-10-4
40 CFR 262.44	329 IAC 3-10-5	320 IAC 4.1-10-5
40 CFR 262.50	329 IAC 3-11-1	320 IAC 4.1-11-1
40 CFR 262.51	329 IAC 3-11-2	320 IAC 4.1-11-2
40 CFR 262.—	329 IAC 3-14-3	320 IAC 4.1-14-3
Appendix: UNIFORM HAZARDOUS WASTE MANIFEST and INSTRUCTIONS		
40 CFR 263.10	329 IAC 3-12-1	320 IAC 4.1-12-1
40 CFR 263.11	329 IAC 3-12-2	320 IAC 4.1-12-2
40 CFR 263.12	329 IAC 3-12-3	320 IAC 4.1-12-3
40 CFR 263.20	329 IAC 3-13-1	320 IAC 4.1-13-1
40 CFR 263.21	329 IAC 3-13-2	320 IAC 4.1-13-2
40 CFR 263.22	329 IAC 3-13-3	320 IAC 4.1-13-3
40 CFR 263.30	329 IAC 3-14-1	320 IAC 4.1-14-1
40 CFR 263.31	329 IAC 3-14-2	320 IAC 4.1-14-2
40 CFR 264.1	329 IAC 3-40-1	320 IAC 4.1-40-1
40 CFR 264.3	329 IAC 3-40-2	320 IAC 4.1-40-2
40 CFR 264.4	329 IAC 3-40-3	320 IAC 4.1-40-3
40 CFR 264.10	329 IAC 3-41-1	320 IAC 4.1-41-1
40 CFR 264.11	329 IAC 3-41-2	320 IAC 4.1-41-2
40 CFR 264.12	329 IAC 3-41-3	320 IAC 4.1-41-3
40 CFR 264.13	329 IAC 3-41-4	320 IAC 4.1-41-4
40 CFR 264.14	329 IAC 3-41-5	320 IAC 4.1-41-5
40 CFR 264.15	329 IAC 3-41-6	320 IAC 4.1-41-6
40 CFR 264.16	329 IAC 3-41-7	320 IAC 4.1-41-7
40 CFR 264.17	329 IAC 3-41-8	320 IAC 4.1-41-8
40 CFR 264.18	329 IAC 3-41-9	320 IAC 4.1-41-9
40 CFR 264.30	329 IAC 3-42-1	320 IAC 4.1-42-1
40 CFR 264.31	329 IAC 3-42-2	320 IAC 4.1-42-2
40 CFR 264.32	329 IAC 3-42-3	320 IAC 4.1-42-3
40 CFR 264.33	329 IAC 3-42-4	320 IAC 4.1-42-4
40 CFR 264.34	329 IAC 3-42-5	320 IAC 4.1-42-5
40 CFR 264.35	329 IAC 3-42-6	320 IAC 4.1-42-6
40 CFR 264.37	329 IAC 3-42-7	320 IAC 4.1-42-7
40 CFR 264.50	329 IAC 3-43-1	320 IAC 4.1-43-1
40 CFR 264.51	329 IAC 3-43-2	320 IAC 4.1-43-2
40 CFR 264.52	329 IAC 3-43-3	320 IAC 4.1-43-3
40 CFR 264.53	329 IAC 3-43-4	320 IAC 4.1-43-4
40 CFR 264.54	329 IAC 3-43-5	320 IAC 4.1-43-5
40 CFR 264.55	329 IAC 3-43-6	320 IAC 4.1-43-6
40 CFR 264.56	329 IAC 3-43-7	320 IAC 4.1-43-7
40 CFR 264.70	329 IAC 3-44-1	320 IAC 4.1-44-1
40 CFR 264.71	329 IAC 3-44-2	320 IAC 4.1-44-2
40 CFR 264.72	329 IAC 3-44-3	320 IAC 4.1-44-3
40 CFR 264.73	329 IAC 3-44-4	320 IAC 4.1-44-4
40 CFR 264.74	329 IAC 3-44-5	320 IAC 4.1-44-5
40 CFR 264.75	329 IAC 3-44-6	320 IAC 4.1-44-6
40 CFR 264.76	329 IAC 3-44-7	320 IAC 4.1-44-7
40 CFR 264.77	329 IAC 3-44-8	320 IAC 4.1-44-8
40 CFR 264.90	329 IAC 3-45-1	320 IAC 4.1-45-1
40 CFR 264.91	329 IAC 3-45-2	320 IAC 4.1-45-2
40 CFR 264.92	329 IAC 3-45-3	320 IAC 4.1-45-3
40 CFR 264.93	329 IAC 3-45-4	320 IAC 4.1-45-4
40 CFR 264.94	329 IAC 3-45-5	320 IAC 4.1-45-5
40 CFR 264.95	329 IAC 3-45-6	320 IAC 4.1-45-6
40 CFR 264.96	329 IAC 3-45-7	320 IAC 4.1-45-7
40 CFR 264.97	329 IAC 3-45-8	320 IAC 4.1-45-8
40 CFR 264.98	329 IAC 3-45-9	320 IAC 4.1-45-9
40 CFR 264.99	329 IAC 3-45-10	320 IAC 4.1-45-10
40 CFR 264.100	329 IAC 3-45-11	320 IAC 4.1-45-11
40 CFR 264.101	329 IAC 3-45-12	320 IAC 4.1-45-12
40 CFR 264.110	329 IAC 3-46-1	320 IAC 4.1-46-1
40 CFR 264.111	329 IAC 3-46-2	320 IAC 4.1-46-2
40 CFR 264.112	329 IAC 3-46-3	320 IAC 4.1-46-3
40 CFR 264.113	329 IAC 3-46-4	320 IAC 4.1-46-4
40 CFR 264.114	329 IAC 3-46-5	320 IAC 4.1-46-5
40 CFR 264.115	329 IAC 3-46-6	320 IAC 4.1-46-6
40 CFR 264.116	329 IAC 3-46-7	320 IAC 4.1-46-6.5
40 CFR 264.117	329 IAC 3-46-8	320 IAC 4.1-46-7
40 CFR 264.118	329 IAC 3-46-9	320 IAC 4.1-46-8
40 CFR 264.119	329 IAC 3-46-10	320 IAC 4.1-46-9
40 CFR 264.120	329 IAC 3-46-11	320 IAC 4.1-46-10
40 CFR 264.140	329 IAC 3-47-1	320 IAC 4.1-47-1

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 264.141	329 IAC 3-47-2	320 IAC 4.1-47-2
40 CFR 264.142	329 IAC 3-47-3	320 IAC 4.1-47-3
40 CFR 264.143	329 IAC 3-47-4	320 IAC 4.1-47-4
40 CFR 264.144	329 IAC 3-47-5	320 IAC 4.1-47-5
40 CFR 264.145	329 IAC 3-47-6	320 IAC 4.1-47-6
40 CFR 264.146	329 IAC 3-47-7	320 IAC 4.1-47-7
40 CFR 264.147	329 IAC 3-47-8	320 IAC 4.1-47-8
40 CFR 264.148	329 IAC 3-47-9	320 IAC 4.1-47-9
40 CFR 264.151	329 IAC 3-47-10	320 IAC 4.1-47-10
40 CFR 264.151(a)	329 IAC 3-22-26	320 IAC 4.1-22-26
40 CFR 264.151(b)	329 IAC 3-22-27	320 IAC 4.1-22-27
40 CFR 264.151(c)	329 IAC 3-22-28	320 IAC 4.1-22-28
40 CFR 264.151(d)	329 IAC 3-22-29	320 IAC 4.1-22-29
40 CFR 264.151(e)	329 IAC 3-22-30	320 IAC 4.1-22-30
40 CFR 264.151(f)	329 IAC 3-22-31	320 IAC 4.1-22-31
40 CFR 264.151(g)	329 IAC 3-22-32	320 IAC 4.1-22-32
40 CFR 264.151(h)(1)	329 IAC 3-22-33	320 IAC 4.1-22-33
40 CFR 264.151(h)(2)	329 IAC 3-22-34	320 IAC 4.1-22-33.1
40 CFR 264.151(i)	329 IAC 3-22-35	320 IAC 4.1-22-34
40 CFR 264.151(j)	329 IAC 3-22-36	320 IAC 4.1-22-35
40 CFR 264.170	329 IAC 3-48-1	320 IAC 4.1-48-1
40 CFR 264.171	329 IAC 3-48-2	320 IAC 4.1-48-2
40 CFR 264.172	329 IAC 3-48-3	320 IAC 4.1-48-3
40 CFR 264.173	329 IAC 3-48-4	320 IAC 4.1-48-4
40 CFR 264.174	329 IAC 3-48-5	320 IAC 4.1-48-5
40 CFR 264.175	329 IAC 3-48-6	320 IAC 4.1-48-6
40 CFR 264.176	329 IAC 3-48-7	320 IAC 4.1-48-7
40 CFR 264.177	329 IAC 3-48-8	320 IAC 4.1-48-8
40 CFR 264.178	329 IAC 3-48-9	320 IAC 4.1-48-9
40 CFR 264.190	329 IAC 3-49-1	320 IAC 4.1-49-1
40 CFR 264.191	329 IAC 3-49-2	320 IAC 4.1-49-2
40 CFR 264.192	329 IAC 3-49-3	320 IAC 4.1-49-3
40 CFR 264.193	329 IAC 3-49-4	320 IAC 4.1-49-3.5
40 CFR 264.194	329 IAC 3-49-5	320 IAC 4.1-49-4
40 CFR 264.195	329 IAC 3-49-6	320 IAC 4.1-49-4.5
40 CFR 264.196	329 IAC 3-49-7	320 IAC 4.1-49-4.6
40 CFR 264.197	329 IAC 3-49-8	320 IAC 4.1-49-5
40 CFR 264.198	329 IAC 3-49-9	320 IAC 4.1-49-6
40 CFR 264.199	329 IAC 3-49-10	320 IAC 4.1-49-7
40 CFR 264.220	329 IAC 3-50-1	320 IAC 4.1-50-1
40 CFR 264.221	329 IAC 3-50-2	320 IAC 4.1-50-2
40 CFR 264.226	329 IAC 3-50-3	320 IAC 4.1-50-4
40 CFR 264.227	329 IAC 3-50-4	320 IAC 4.1-50-5
40 CFR 264.228	329 IAC 3-50-5	320 IAC 4.1-50-6
40 CFR 264.229	329 IAC 3-50-6	320 IAC 4.1-50-7
40 CFR 264.230	329 IAC 3-50-7	320 IAC 4.1-50-8
40 CFR 264.231	329 IAC 3-50-8	320 IAC 4.1-50-9
40 CFR 264.250	329 IAC 3-51-1	320 IAC 4.1-51-1
40 CFR 264.251	329 IAC 3-51-2	320 IAC 4.1-51-2
40 CFR 264.254	329 IAC 3-51-3	320 IAC 4.1-51-5
40 CFR 264.256	329 IAC 3-51-4	320 IAC 4.1-51-6
40 CFR 264.257	329 IAC 3-51-5	320 IAC 4.1-51-7
40 CFR 264.258	329 IAC 3-51-6	320 IAC 4.1-51-8
40 CFR 264.259	329 IAC 3-51-7	320 IAC 4.1-51-9
40 CFR 264.270	329 IAC 3-52-1	320 IAC 4.1-52-1
40 CFR 264.271	329 IAC 3-52-2	320 IAC 4.1-52-2
40 CFR 264.272	329 IAC 3-52-3	320 IAC 4.1-52-3
40 CFR 264.273	329 IAC 3-52-4	320 IAC 4.1-52-4
40 CFR 264.276	329 IAC 3-52-5	320 IAC 4.1-52-5
40 CFR 264.278	329 IAC 3-52-6	320 IAC 4.1-52-6
40 CFR 264.279	329 IAC 3-52-7	320 IAC 4.1-52-7
40 CFR 264.280	329 IAC 3-52-8	320 IAC 4.1-52-8
40 CFR 264.281	329 IAC 3-52-9	320 IAC 4.1-52-9
40 CFR 264.282	329 IAC 3-52-10	320 IAC 4.1-52-10
40 CFR 264.283	329 IAC 3-52-11	320 IAC 4.1-52-11
40 CFR 264.300	329 IAC 3-53-1	320 IAC 4.1-53-1
40 CFR 264.301	329 IAC 3-53-2	320 IAC 4.1-53-2
40 CFR 264.303	329 IAC 3-53-3	320 IAC 4.1-53-4
40 CFR 264.309	329 IAC 3-53-4	320 IAC 4.1-53-5
40 CFR 264.310	329 IAC 3-53-5	320 IAC 4.1-53-6
40 CFR 264.312	329 IAC 3-53-6	320 IAC 4.1-53-7
40 CFR 264.313	329 IAC 3-53-7	320 IAC 4.1-53-8
40 CFR 264.314	329 IAC 3-53-8	320 IAC 4.1-53-9
40 CFR 264.315	329 IAC 3-53-9	320 IAC 4.1-53-10
40 CFR 264.316	329 IAC 3-53-10	320 IAC 4.1-53-11
40 CFR 264.317	329 IAC 3-53-11	320 IAC 4.1-53-12
40 CFR 264.340	329 IAC 3-54-1	320 IAC 4.1-54-1
40 CFR 264.341	329 IAC 3-54-2	320 IAC 4.1-54-2
40 CFR 264.342	329 IAC 3-54-3	320 IAC 4.1-54-3
40 CFR 264.343	329 IAC 3-54-4	320 IAC 4.1-54-4
40 CFR 264.344	329 IAC 3-54-5	320 IAC 4.1-54-5
40 CFR 264.345	329 IAC 3-54-6	320 IAC 4.1-54-6

Federal provision	Recodified IAC provision	Former IAC provision
40 CFR 264.347	329 IAC 3-54-7	320 IAC 4.1-54-7
40 CFR 264.351	329 IAC 3-54-8	320 IAC 4.1-54-8
40 CFR 264.——	329 IAC 3-32-2	320 IAC 4.1-32-2
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40 CFR 264.——	329 IAC 3-32-4	320 IAC 4.1-32-4
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40 CFR 264.——	329 IAC 3-32-5	320 IAC 4.1-32-5
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40 CFR 264.——	329 IAC 3-32-6	320 IAC 4.1-32-6
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40 CFR 265.1	329 IAC 3-15-1	320 IAC 4.1-15-1
40 CFR 265.4	329 IAC 3-15-2	320 IAC 4.1-15-2
40 CFR 265.10	329 IAC 3-16-1	320 IAC 4.1-16-1
40 CFR 265.11	329 IAC 3-16-2	320 IAC 4.1-16-2
40 CFR 265.12	329 IAC 3-16-3	320 IAC 4.1-16-3
40 CFR 265.13	329 IAC 3-16-4	320 IAC 4.1-16-4
40 CFR 265.14	329 IAC 3-16-5	320 IAC 4.1-16-5
40 CFR 265.15	329 IAC 3-16-6	320 IAC 4.1-16-6
40 CFR 265.16	329 IAC 3-16-7	320 IAC 4.1-16-7
40 CFR 265.17	329 IAC 3-16-8	320 IAC 4.1-16-8
40 CFR 265.18	329 IAC 3-16-9	320 IAC 4.1-16-9
40 CFR 265.30	329 IAC 3-17-1	320 IAC 4.1-17-1
40 CFR 265.31	329 IAC 3-17-2	320 IAC 4.1-17-2
40 CFR 265.32	329 IAC 3-17-3	320 IAC 4.1-17-3
40 CFR 265.33	329 IAC 3-17-4	320 IAC 4.1-17-4
40 CFR 265.34	329 IAC 3-17-5	320 IAC 4.1-17-5
40 CFR 265.35	329 IAC 3-17-6	320 IAC 4.1-17-6
40 CFR 265.37	329 IAC 3-17-7	320 IAC 4.1-17-7
40 CFR 265.50	329 IAC 3-18-1	320 IAC 4.1-18-1
40 CFR 265.51	329 IAC 3-18-2	320 IAC 4.1-18-2
40 CFR 265.52	329 IAC 3-18-3	320 IAC 4.1-18-3
40 CFR 265.53	329 IAC 3-18-4	320 IAC 4.1-18-4
40 CFR 265.54	329 IAC 3-18-5	320 IAC 4.1-18-5
40 CFR 265.55	329 IAC 3-18-6	320 IAC 4.1-18-6
40 CFR 265.56	329 IAC 3-18-7	320 IAC 4.1-18-7
40 CFR 265.70	329 IAC 3-19-1	320 IAC 4.1-19-1
40 CFR 265.71	329 IAC 3-19-2	320 IAC 4.1-19-2
40 CFR 265.72	329 IAC 3-19-3	320 IAC 4.1-19-3
40 CFR 265.73	329 IAC 3-19-4	320 IAC 4.1-19-4
40 CFR 265.74	329 IAC 3-19-5	320 IAC 4.1-19-5
40 CFR 265.75	329 IAC 3-19-6	320 IAC 4.1-19-6
40 CFR 265.76	329 IAC 3-19-7	320 IAC 4.1-19-7
40 CFR 265.77	329 IAC 3-19-8	320 IAC 4.1-19-8
40 CFR 265.90	329 IAC 3-20-1	320 IAC 4.1-20-1
40 CFR 265.91	329 IAC 3-20-2	320 IAC 4.1-20-2
40 CFR 265.92	329 IAC 3-20-3	320 IAC 4.1-20-3
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C. Decision

I conclude that Indiana's application for this program revision meets all the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Indiana final authorization to operate its hazardous waste program as revised. Indiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the other aspects of the RCRA program. This responsibility is subject to the limitations of this program revision application and previously approved authorities. Indiana also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

D. Codification in Part 272

EPA codifies authorized State programs in part 272 of 40 CFR. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. In a future **Federal Register** notice, EPA will codify Indiana's revised hazardous waste program.

Compliance with Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Indiana's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

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

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

Dated: February 8, 1990.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 91–17470 Filed 7–23–91; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–5

[FPMR Amdt. A–49]

Miscellaneous Changes

AGENCY: General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA published a proposed rule (December 1, 1989, 54 FR 49777) on prescribing the methods by which the General Services Administration provides for the establishment of centralized services in Federal buildings occupied by a number of executive agencies. GSA adopted recommended changes to provide printing and photocopying services in multi-occupant Federal buildings or complexes.

EFFECTIVE DATE: July 24, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Johnny Young, Reproduction Services Division Director (202–566–1961).

SUPPLEMENTARY INFORMATION: GSA has determined that this is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR 101–5

Government property management.

PART 101–5—CENTRALIZED SERVICES IN FEDERAL BUILDINGS

1. The authority citation for part 101–5 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Part 101–5 is retitled to read as follows:

PART 101–5—CENTRALIZED SERVICES IN FEDERAL BUILDINGS AND COMPLEXES

3. Section 101–5.000 is revised to read as follows:

§ 101–5.000 Scope of part.

This part prescribes the methods by which the General Services Administration provides for establishment of centralized services in Federal buildings or complexes occupied by a number of executive agencies.

Subpart 101–5.1—General

4. Section 101–5.101 is revised to read as follows:

§ 101–5.101 Applicability.

The regulations in this part apply to all executive agencies which occupy space in or are prospective occupants of multi-occupant Federal buildings located in the United States. In appropriate circumstances, the centralized services provided pursuant to this part are extended to agencies occupying other Federal buildings in the same geographical area. For purposes of this part, reference to Federal buildings may be deemed to include, when appropriate, leased buildings or specific leased space in a commercial building under the control of GSA.

5. Section 101–5.102 is revised to read as follows:

§ 101–5.102 Definitions.

(a) *Centralized services* means those central supporting and administrative services and facilities provided to occupying agencies in Federal buildings or nearby locations in lieu of each agency providing the same services or facilities for its own use. This includes those common administrative services provided by a Cooperative Administrative Support Unit (CASU). It does not include such common building features as cafeterias, blind stands, loading platforms, auditoriums, incinerators, or similar facilities. Excluded are interagency fleet management centers established pursuant to Public Law 766, 83d Congress, and covered by part 101–39 of this chapter.

(b) *Occupying agency* means any Federal agency assigned space in a building or complex for which GSA has oversight of, or responsibility for the functions of operation and maintenance in addition to space assignment.

(c) *Cooperative Administrative Support Unit (CASU)* means an organized mechanism for providing administrative services for agencies in multi-tenant federally occupied buildings.

6. Section 101–5.104–1 is revised to read as follows:

§ 101–5.104–1 General.

GSA is currently providing various centralized services to Federal agencies in such fields as office and storage space, supplies and materials, communications, records management, transportation services, and printing and reprographics. Other centralized CASU's may be providing supporting services or activities such as health units, use of training devices and facilities, pistol ranges, and central facilities for receipt and dispatch of mail. Consolidation and sharing is frequently feasible with resulting economies in personnel, equipment, and space. Opportunities to effect economies through planned consolidation of such services occur particularly during the design stage of the construction of new Federal buildings, or the renovations to existing buildings. Opportunities may also occur as a result of needs assessments jointly conducted by local agencies.

7. Section 101–5.104–2 is amended by revising paragraph (b) as follows:

§ 101–5.104–2 Basis for determining economic feasibility.

* * * * *

(b) In the absence of standard data on which a determination of economic feasibility can be based, or where such data must be supplemented by additional factual information, a formal feasibility study may be made by GSA or a CASU workgroup, in coordination with local agencies to be involved, prior to a final determination to proceed with the furnishing of a centralized service. Generally, a formal feasibility study will be made only if provision of the proposed centralized service would involve the pooling of staff, equipment, and space which occupying agencies otherwise would be required to use in providing the service for themselves. Examples of centralized services which may require formal studies include printing and duplicating plants and similar facilities.

* * * * *

8. Section 101–5.104–3 is amended by revising paragraph (a) as follows:

§ 101–5.104–3 Data requirements for feasibility studies.

(a) The data requirements for feasibility studies may vary from program to program, but shall be standard within any single program. Such data shall disclose the costs resulting from provisions of the service on a centralized basis as compared to the same service provided separately by each occupying agency, including the costs of personnel assigned to provide the service, comparative space needs, equipment use, and any other pertinent factors.

* * * * *

9. Section 101–5.105 is amended by revising paragraph (a) to read as follows:

§ 101–5.105 Operation of the centralized facility.

(a) GSA will continually appraise the operation of centralized facilities to insure their continued justification in terms of economy and efficiency. Centralized services provided pursuant to the regulation may be discontinued or curtailed if no actual savings or operating improvements are realized after a minimum operating period of one year. Occupying agencies will be consulted regarding the timing of curtailment or discontinuance of any centralized services and the heads of such agencies notified at least 120 days in advance of each action.

* * * * *

10. Section 101–5.106 is amended by revising paragraph (a) and paragraph (b) to read as follows:

§ 101–5.106 Agency committees.

(a) *Establishment.* An occupying agency committee will be established by GSA if one does not exist, to assist the occupying agency, or such other agency as may be responsible, in the cooperative use of the centralized services, as defined in 101–5.102(a), provided in a Federal building. Generally, such a committee will be established when the problems of administration and coordination necessitate a formal method of consultation and discussion among occupying agencies.

(b) *Membership.* Each occupying agency of a Federal building is entitled to membership on an agency committee. The chairperson of each such committee shall be a GSA employee designated by the appropriate GSA Regional Administrator, except when another agency had been designated to administer the centralized service. In this instance, the chairperson shall be an employee of such other agency as designated by competent authority within that agency.

* * * * *

11. Subpart 101–5.2 is retitled to read as follows:

Subpart 101–5.2—Centralized Field Reproduction Services

12. The Table of Contents for Subpart 101–5.2 is amended by revising three entries to read as follows:

Sec.

13. Section 101–5.200 is revised to read as follows:

§ 101–5.200 Scope of subpart.

This subpart states general guidelines and procedures for the establishment and operation of centralized field printing, duplicating, and photocopying services on a reimbursable basis. These services may be provided in multi-occupant leased and/or government-owned buildings.

14. Section 101–5.202 is retitled and amended by revising paragraph (a) to read as follows:

§ 101–5.202 Types of centralized field reproduction services.

(a) Services will include offset reproduction, electronic publishing, photocopying, distribution, bindery services, and other closely related services as requested or required.

* * * * *

15. Section 101–5.203 is retitled to read as follows:

§ 101–5.203 Economic feasibility of centralized field reproduction services.

16. Section 101–5.203–1 is revised to read as follows:

§ 101–5.203–1 Scheduling of feasibility studies.

(a) Based on the available data on the proposed size, location, number of agencies scheduled for occupancy, and other factors pertinent to a proposed new or acquired Federal building, GSA may determine whether to provide for a centralized field reproduction facility in the space directive covering the new building. A feasibility study thereafter will be scheduled and coordinated with the Federal building program of the Public Buildings Service, GSA, and the occupying agencies to occur during the period following development of the prospectus and before development of final working drawings for the space directive. The final decision to provide centralized field reproduction services in a new or acquired Federal building will be subject to subsequent determination by the GSA Administrator based upon results of the formal feasibility study. Agencies wishing not to participate may do so by requesting an exception from the appropriate GSA Regional Administrator.

(b) Feasibility studies may be initiated by GSA and coordinated with occupying agencies in existing Federal buildings. Such studies will be conducted in accordance with the rules prescribed in 101–5.203.

17. Section 101–5.203–2 is revised to read as follows:

§ 101–5.203–2 Notification of feasibility studies.

The Administrator of General Services, or his authorized designee, will give at least 30 days notice to the head of each executive agency that would be served by a proposed centralized field reproduction facility in accordance with 101–5.104–4, and will request the designation of agency representatives, as provided in 101–5.104–5.

18. Section 101–5.203–5 is revised to read as follows:

§ 101–5.203–5 Uniform space allowances.

The space requirements for printing, duplicating, photocopying, and related equipment under individual agency use as compared with use in a centralized

facility will be based upon uniform space allowances applied equally under both conditions.

19. Section 101–5.203–6 is amended by revising paragraph (a), paragraph (c) and paragraph (d) to read as follows:

§ 101–5.203–6 Pooling of equipment and personnel.

(a) In establishing centralized reproduction facilities in Federal buildings or complexes, GSA's regional office will make arrangements with participating agencies for the transfer of duplicating and related equipment for the centralized plant. Equipment for which there is no foreseeable need in the centralized plant will not be transferred to the plant but will be disposed of or transferred by the owning agency out of the centralized plant. Copy processing machines, as provided in paragraph (b) of this section, as well as reproduction, addressing, and automatic-copy processing equipment used in bona fide systems applications may be retained by mutual agreement with user agencies.

* * * * *

(c) Personnel devoting over 50 percent of time to the duplicating activities of the affected agency will be identified for transfer to the operating agency upon establishment of a centralized plant, in accordance with the Office of Personnel Management regulations relating to the transfer of functions. Agencies will transfer personnel ceiling to the operating agency for employees so transferred. In the event of later disestablishment of the centralized facility or substantial reduction in operations thereof, personnel ceiling will be returned to the agencies from which originally received.

(d) Exceptions to pooling of equipment to meet the individual agency programmatic need, special physical security needs, confidentiality requirements, and/or certain quality standards will be made available to occupant agencies when use of such equipment is justified. Each agency must provide justification for approval of the GSA regional printing and distribution activity before acquiring space and/or electrical service from the building's manager. Otherwise, as agreed by the user agencies, GSA will not make available space for duplicating equipment, or provide other support services for such equipment in Federal buildings where use of that equipment would duplicate the services provided by the centralized services plant.

20. Section 101–5.203–7 is revised to read as follows:

§ 101–5.203–7 Determination of feasibility.

The Administrator of General Services will determine the economic feasibility of each proposed centralized field reproduction facility in accordance with 101–5.104–7. The Director of the Office of Management and Budget and the head of each affected agency will be advised of the Administrator's determination to establish a centralized facility.

21. Section 101–5.204 is retitled to read as follows:

§ 101–5.204 Operation of centralized field reproduction facilities.

22. Section 101–5.204–1 is revised to read as follows:

§ 101–5.204–1 Continuity of service.

Each new centralized field reproduction facility will be established in sufficient time to assure occupants moving into the building that there will be no interruption of duplicating services in support of their program activities.

23. Section 101–5.204–2 is revised to read as follows:

§ 101–5.204–2 Announcement of centralized services.

The appropriate GSA regional office will announce the availability of a centralized field reproduction facility approximately 90 days in advance of its activation, including:

(a) The date service will be available;

(b) The services which will be furnished, including technical assistance on reproduction problems;

(c) A current price schedule;

(d) Procedures for obtaining service; and

(e) Billing procedures.

24. Section 101–5.204–3 is revised to read as follows:

§ 101–5.204–3 Appraisal of operations.

(a) The appropriate GSA regional office will appraise continually the operation of each centralized field reproduction facility. Proposals to expand, modify, or discontinue a centralized activity shall be made to the Director, Reproduction Services Division, in the Central Office, and must be supported by all pertinent information.

(b) The Administrator of General Services will give a minimum of 120 days notice to the heads of agencies concerned before any action to curtail or discontinue centralized services is taken.

25. Section 101–5.205–1 is revised to read as follows:

§ 101–5.205–1 General.

The Administrator of General Services, in accordance with 101–5.105(b), may designate an agency other than GSA to operate a centralized field reproduction facility. Such designation will be made only by mutual agreement with the agency head concerned.

26. Section 101–5.205–2 is revised to read as follows:

§ 101–5.205–2 Prerequisites to designation of other agencies.

The following conditions are to be met by an agency designated by GSA to operate a centralized field reproduction facility:

(a) Generally, prices changed to Government agencies using the centralized field facility should be no higher than those specified on the currently effective nationwide uniform General Services Administration Reproduction Services Price Schedule. In special circumstances, deviations from the Price Schedule may be developed jointly by GSA and the designated agency.

(b) The designated agency shall accept responsibility for implementing the determination of the Administrator of General Services to establish a centralized reproduction facility, issued in accordance with 101–5.104–7 and 101–5.203–7, including the provisions for transfer of excess equipment and ⅛⅛⅛⅛⅛⅛⅛other procedures and conditions specified in that determination. Necessary deviations from the determination may be developed jointly by GSA and the designated agency.

27. Section 101–5.205–3 is retitled and amended by revising the introductory paragraph, paragraph (a) and paragraph (c) to read as follows:

§ 101–5.205–3 Actions prior to operation of facilities.

The following actions are to be taken by an agency designated by GSA to operate a centralized field reproduction facility prior to operations of such a facility:

(a) The designated agency shall assist the appropriate GSA regional office in the determination of firm space needs, including any special requirements. Space needs will be furnished by the GSA regional Administrative Services Division, Printing and Distribution Branch, before forwarding it to the Public Buildings Service, GSA, for preparation of final working drawings in the Federal building where the plant is to be located.

* * * * *

(c) After coordination with the designated operating agency to obtain its current price schedule, procedures for obtaining service, and billing procedures, GSA will announce the availability of the centralized field reproduction facility in the manner prescribed in 101–5.204–2.

28. Section 101–5.205–4 is revised to read as follows:

§ 101–5.205–4 Plant inspections and customer evaluations.

Periodic facility inspections and customer evaluations will be performed jointly by GSA and the designated agency in order to appraise the continuing effectiveness of the centralized facility.

Dated: June 3, 1991.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 91–17548 Filed 7–23–91; 8:45 am]

BILLING CODE 6820–81–M

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41 CFR Part 101–40

[FPMR Temp. Reg. G–54]

Use of Contractor for Express Small Package Transportation

AGENCY: Federal Supply Services, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation mandates the use of the new contract by Federal civilian executive agencies when next day express small package transportation is required. The regulation also contains a description of the services provided and an appendix listing the rates and accessorial charges. The information is provided because a new contract was awarded containing additional services and a new rate schedule. This regulation is necessary to provide the Government user with information concerning the provisions of the contract.

DATES: *Effective date:* January 15, 1991. *Expiration date:* January 14, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh Pollon, Transportation Management Division, 703–557–8084.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property, Moving of household goods, Office relocations, Transportation.

The authority citation for part 101–40 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR chapter 101, the following temporary regulation is added to the appendix at the end of subchapter G to read as follows:

GENERAL SERVICES ADMINISTRATION

Washington, DC 20405

Federal Property Management Regulations

Temporary Regulation G–54

To: Heads of Federal agencies.

Subject: Use of contractor for express small package transportation.

July 9, 1991.

1. *Purpose.* This regulation prescribes policies and procedures applicable to Federal civilian agencies and departments when next day express small package transportation service is required. In addition, this regulation identifies the new contractor and the new contract rates effective January 15, 1991.

2. *Effective date.* This regulation is effective January 15, 1991.

3. *Expiration date.* This regulation expires January 14, 1992, unless sooner canceled, revised, or extended.

4. *Background.* Under subsection 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), the General Services Administration (GSA) is responsible for prescribing policies and procedures that are advantageous to the Government in terms of economy, efficiency, or service, regarding program activities in the area of transportation and traffic management. Accordingly, GSA has entered into a contract with Federal Express (FedEx) for the transportation of express small packages from, to, and between specified locations in the United States (including Alaska and Hawaii) and Puerto Rico, where the contractor or its agent presently provides or will provide next day service. In consideration of the contract rates listed in attachment A and to the extent provided in this regulation, the Government has agreed to place all its transportation requirements for express small package service with the contractor.

5. *Scope.* a. This regulation is mandatory for all civilian executive agencies pursuant to subsection 201(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)), and also may be used by (1) The Department of Defense, (2) the legislative and judicial branches of the U.S. Government, and (3) cost-reimbursable contractors of the Government.

b. Next day express small package transportation is premium transportation. Therefore, agencies and other qualified users shall make prudent use of services available under the contract. When next day service is not required to accomplish an agency's mission, other less costly methods of transportation shall be used.

6. *Definitions.* a. *Additional service* means other agency-required services beyond the basic service but still within the scope of the contract. Such additional services are: Saturday pickup service, Saturday delivery service, dangerous goods service, collect on delivery service, excess declared value, address correction, rebill, no/invalid account number on airbill, hold for agency pickup, and attempted delivery. The contractor will only provide holiday pickup service and holiday delivery service within the 48 contiguous United States and the District of Columbia. Activities requesting holiday service must make prior arrangements with the Federal Express Government Sales Office, Greenbelt, Maryland, before this service will be provided.

b. *Agency* means any ordering activity (including cost-reimbursable contractors) authorized to obtain contractor services at the contract rate.

c. *Basic service* means pickup and next business day delivery (including desk pickup and desk delivery) between the hours of 8 a.m. and 6 p.m. (local time) for pickup and 8 a.m. and 5 p.m. (local time) for delivery, Monday through Friday, except holidays.

d. *Commercial form* means a commercial uniform straight bill of lading, a commercial express receipt, or any other commercial instrument constituting a contract of carriage subject to the terms and conditions set forth in Standard Form 1103, U.S. Government Bill of Lading. (See 41 CFR 101–41.302–3.)

e. *Commercial forms and procedures* means a provision whereby shipments are made using commercial forms and commercial billing procedures instead of Government Bills of Lading (SF 1103) and their related billing procedures. (See 41 CFR 101–41.304–2.)

f. *Contract rate* means a shipment charge listed in attachment A.

g. *Contractor* means Federal Express as awardee listed in attachment A.

h. *Express small package shipment* means a single package or multiple packages as defined below containing general commodities except:

(1) Cash, currency, and collectible stamps and coins;

(2) Live animals, including birds, reptiles, and fish;

(3) Corpses, or parts thereof, cremated or disinterred remains;

(4) Shipments which require the contractor to obtain a Federal, State, or local license for their transportation;

(5) Shipments which may cause damage or delay to equipment, to personnel, or to other shipments;

(6) Lottery tickets or gambling devices;

(7) FM–04 Class 8 Corrosives;

(8) Shipments whose carriage is prohibited by law;

(9) Fireworks (Explosive Class C, Common Fireworks) unless prior written approval is obtained from the contractor;

(10) Used hypodermic needles and/or syringes or medical wastes;

(11) Any other article which the contractor prohibits its commercial customers from shipping (See Federal Express U.S. Government Service Guide and Federal Express Worldwide Service Guide); and

(12) Letters, unless adhering to the criteria established by the U.S. Postal Service as specified in subpar. 7a, below.

i. *Geographical areas* means locations lying wholly or partially within cities, towns, and communities identified by the U.S. Postal Service national five-digit ZIP code in the contractor's service guide or analogous listing.

j. *Holiday* means a Federal holiday.

k. *Multiple package* means an express small package shipment where:

(1) No single package in the shipment exceeds 70 pounds;

(2) No single package in the shipment is greater than 108 inches in length and girth combined;

(3) The aggregate weight does not exceed 150 pounds;

(4) All packages are listed on the same airbill;

(5) All packages are tendered to the contractor at the same time by the same consignor and are destined for the same consignee; and

(6) The total transportation charges do not exceed $250.00 per shipment.

l. *Single package* means an express small package shipment where:

(1) The package does not exceed 70 pounds; and

(2) Is not greater than 108 inches in length and girth combined.

(7) *Applicability.* a. The scope of the express small package contract does not include "letters"; i.e., routine first class mail, as defined in U.S. Postal Service Regulations, 39 CFR 310.1 (Private Express Statutes) unless the letters are "extremely urgent." "Letter" is generally defined as "a message directed to a specific person or address and recorded in or on a tangible object." (See 39 CFR 310.1 for specific exclusions from the definition.)

(1) If the value or usefulness of a letter would be lost or greatly diminished if the letter were not delivered under the following conditions, then the letter is considered "extremely urgent" and may be shipped by the contractor under the express small package contract:

(a) Where the letter is dispatched within 50 miles of the intended destination, delivery must be completed within 6 hours or by the close of the addressee's normal business hours on the date of dispatch, whichever is later, except that letters dispatched after noon and before midnight must be delivered by 10 a.m. of the addressee's next business day;

(b) For all other letters, delivery must be completed within 12 hours or by noon of the addressee's next business day;

(c) Agencies shall ensure that all outside covers or containers of letters are prominently marked with the words "Extremely Urgent" or "Private Carriage Authorized by Postal Regulations (39 CFR 320.6)." In addition, each outside cover shall show the names and addresses of the contractor, the sender, and the addressee; or

(d) The determination that a letter or letters meet the extreme urgency provisions of 39 CFR 320.6 shall be made by the responsible sending office. If such letters are sent to an agency mail room for pickup by the contractor rather than being picked up at the sending office, the sending office shall ensure that such letters are marked clearly with the legend "Extremely Urgent" or "Private Carriage Authorized by Postal Regulations (39 CFR 320.6)."

(2) It is conclusively presumed that a letter is "extremely urgent" if the amount paid for carriage under the contract is at least $3 or twice the applicable U.S. postage for First-Class Mail (including priority mail), whichever is greater. If a single shipment consists of a number of letters that are picked up together at a single origin for shipment to a single destination, postage may be computed as though the shipment constitutes a single letter. For other types of charges, a bona fide estimate of the average number of letters or shipments may be divided into the charge.

(3) In addition to the exception for shipping extremely urgent letters, data processing materials may be shipped as an express small package if the data processing materials are conveyed (a) To a data processing center, if carriage is completed within 12 hours or by noon of the addressee's next business day and if data processing work is commenced on such materials within 36 hours of their receipt at the center; or (b) back from the data processing center to the address of the office originating the incoming materials, if carriage is completed within 12 hours or by noon of the addressee's next business day and if data processing work was commenced on the incoming materials within 36 hours of their receipt at the center. (See 39 CFR 320.2.)

(4) For further guidance with respect to shipments of letters, including data processing materials, see U.S. Postal Service Regulations at 39 CFR parts 310 and 320, or call the U.S. Postal Service, Law Department, General Administrative Law Division at (202) 268–2971.

b. The provisions of this regulation apply only when agencies subject to this regulation are using commercial forms and procedures.

c. To the extent cost-reimbursable contractors are authorized by an agency to ship under this regulation and are reimbursed the transportation costs as direct allowable costs, the contract rates and services apply to cost-reimbursable contractors. To obtain contract rates and services, a cost-reimbursable contractor must provide FedEx a written authorization from the Government contracting officer designating the contract(s) under which the cost-reimbursable contractor is authorized to obtain rates and services.

d. The contractor will not impose any rates or charges for services under this contract which are higher than those published in its commercial tariffs and/or service guides for services available to the general public.

e. The contract rate does not apply for local pickup and delivery between locations in the metropolitan area of any city, town, or community.

8. *Contractor responsibilities.* a. In consideration of payment for services provided at the contract rates, the contractor will furnish:

(1) Basic service (see subpar. 6c);

(2) Additional service, when requested by the ordering activity in writing on the airbill or when otherwise applicable (see subpar. 6a);

(3) Delivery service for "Extremely Urgent" letters (see par. 7);

(4) Pickup service on the same day pickup is requested (see subpar. 12a); and

(5) Delivery service on the next business day, Monday through Friday (excluding holidays) following receipt from the shipper. Next day delivery service will not apply when delivery is delayed due to acts of God, the public enemy, the authority of law, or the negligent act or default of the consignor (shipper) or consignee (receiver).

b. Packages not delivered on the next day as prescribed in subpar. 8a(5) shall be transported free of charge.

9. *Payment responsibilities.* a. Payment by Government agencies for contractor services are subject to the Prompt Payment Act of 1982, as amended. Agencies will normally pay the contractor within 30 calendar days from receipt of a proper invoice.

b. At the option of the agency, and with concurrence of the contractor, the use of automated electronic billing and payment systems, or other sophisticated methods to simplify the verification and control process, may be separately arranged and established by agreement between the Government agency and the contractor.

c. Agencies shall instruct their cost-reimbursable contractors shipping under this regulation to ensure that the commercial document bears a proper "bill to" address and appropriate account reference(s) to facilitate the prompt processing and payment of the contractor's invoice by the due date.

10. *Deliquent payments and service suspension.* a. The contractor is authorized to suspend service to any account if:

(1) The delinquent amounts are undisputed and overdue more than 90 calendar days;

(2) The contractor notified the account holder in writing 60 calendar days after billing that the account is overdue and will be suspended if not settled within 30 calendar days; and

(3) The contractor simultaneously furnishes the appropriate GSA zone office a copy of the written delinquency notice.

b. Within 5 calendar days of suspension of service, the contractor will send a list of agency accounts which have been suspended to the contracting officer and simultaneously to the appropriate GSA zone office. Only those ordering activities within an agency which are identified as separate accounts and are delinquent will be suspended. All ordering activities within an agency will not be suspended. Contractors will restore service to a suspended activity within 5 calendar days of the agency's payment of the outstanding bills over 90 days.

c. When a question arises concerning the proper amount of charges for services rendered (e.g., improper billing, failure to post payments, erroneous charges, etc.), agencies shall give notice of the defect to the contractor's billing office in writing within 7 days after receipt of the invoice, pursuant to 31 U.S.C. 3903 and OMB Circular A–125 (Revised), which implement the Prompt Payment Act of 1982, as amended.

d. Any dispute as to the proper amount of charges for services rendered shall be referred to the contracting officer for resolution. No suspension shall be permitted where such disputes exist if an agency has paid the undisputed billings.

11. *Shipment weight and charge for multiple packages.* Rates applicable under this regulation will be assessed on the total weight of each shipment moving at one time from one consignor to one consignee. For example, if four packages weigh one pound each, the applicable charge of the shipment will be computed at the rate applicable to one 4-pound package.

12. *Agency procedures for obtaining service.* a. Picking service as noted in subpar. 6c may be ordered on an as-needed basis. In most instances, the contractor can provide pickup service within one hour of the original pickup request. However, agencies should provide the contractor with as much advance pickup notice as possible to assure a timely pickup. For repetitive shipments, agencies may arrange with the contractor to install "lock boxes" and/or furnish regular pickup service at specified times on specified days to meet the shipper's requirements. Agencies should arrange such security clearances and passes as may be necessary to enable the contractor to perform pickup services in a timely fashion in accordance with agency procedures.

b. When and where practicable, agencies shall minimize transportation and administrative costs by consolidating into one shipment packages moving at one time from one consignor to one consignee.

c. Agencies shall determine the weight of each shipment and have the weight indicated on the appropriate commercial form. The total weight of a shipment shall be rounded to the next whole pound. Shipments weighing less than 8 ounces shipped in a Letter Pak shall be shown as Letter Pak and shipments weighing over 8 ounces but less than 1 pound shall be shown as weighing 1 pound.

d. When the Government requires additional services (such as Saturday pickup service, Saturday delivery service, holiday pickup service, holiday delivery service, dangerous goods service, collect on delivery service, and excess declared value), an agency shall request these services in writing on the airbill.

e. Where the Government requires special services beyond the scope of the contract (such as escorted courier services, heavyweight service, international service), an agency will have the option either to purchase these services from the contractor or another carrier.

f. Agencies shall provide the contractor with a billing address at the time an agency account is established. To ensure that billings are directed to the proper paying office and subsequent payments are credited, agencies may establish a centralized payment system or clearly identify individual shipping activities/accounts to which billings are to be directed.

g. When an agency uses a purchase order (PO), blanket purchase agreement (BPA), or other simplified procedure as permitted by title 48, Code of Federal Regulations, Subpart 13.2, to order service with the contractor, such instruments should provide the following information:

(1) Name of contractor;
(2) Account number(s);
(3) GSA contract number GS–00F–13300;
(4) Purchase order number;
(5) "Bill to" address;
(6) Term of the BPA/PO; and
(7) Total dollar value authorized under the BPA/PO.

Some agencies may require more than one account number per ordering activity if they wish to differentiate billing of different type shipments.

h. The contractor's Government coordinator may be contacted to establish accounts or resolve service issues.

13. *Contractor performance.* The performance of contractor responsibilities as specified in par. 8 is essential to meet the objectives for which the express small package contract and these regulations were developed. Agency accounts using this contract should notify their agency Contracting Officer's Representative (COR), in writing, when the contractor fails to meet its contractual responsibilities. If the agency COR is unable to resolve the problem with the contractor, then the problem should be referred to the Contracting Officer's Technical Representative (COTR), GSA Transportation Management Division (FBX), Washington, DC 20406.

14. *Comments.* Comments and recommendations concerning use of this program or implementing regulations may be submitted to the General Services Administration, Transportation Management Division (FBX), Washington, DC 20406.

Richard G. Austin,

Administrator of General Services.

Federal Express Contract Service Rates

[Continental U.S., Alaska, Hawaii, and Puerto Rico]

Weight (lbs.)	Price
FedEx Letter Pak (up to 8 oz.)	$3.75
1	3.99
2	3.99
3	3.99
4	4.80
5	5.61
6	6.42
7	7.23
8	8.04
9	8.85
10	9.66
11	10.47
12	11.28
13	12.09
14	12.90
15	13.71
16	14.35
17	14.99

Federal Express Contract Service Rates—Continued

[Continental U.S., Alaska, Hawaii, and Puerto Rico]

Weight (lbs.)	Price
18	15.63
19	16.27
20	16.91
21	17.55
22	18.19
23	18.83
24	19.47
25	20.11
26	20.75
27	21.39
28	22.03
29	22.67
30	23.31
31	23.95
32	24.59
33	25.23
34	25.87
35	26.51
36	27.15
37	27.79
38	28.43
39	29.07
40	29.71
41	30.35
42	30.99
43	31.63
44	32.27
45	32.91
46	33.55
47	34.19
48	34.83
49	35.47
50	36.11
51	36.75
52	37.39
53	38.03
54	38.67
55	39.31
56	39.95
57	40.59
58	41.23
59	41.87
60	42.51
61	43.15
62	43.79
63	44.43
64	45.07
65	45.71
66	46.35
67	46.99
68	47.63
69	48.27
70	48.91
71	49.55
72	50.19
73	50.83
74	51.47
75	52.11
76	52.75
77	53.39
78	54.03
79	54.67
80	55.31
81	55.95
82	56.59
83	57.23
84	57.87
85	58.51
86	59.15
87	59.79
88	60.43
89	61.07
90	61.71
91	62.35
92	62.99
93	63.63
94	64.27

FEDERAL EXPRESS CONTRACT SERVICE RATES—Continued

[Continental U.S., Alaska, Hawaii, and Puerto Rico]

Weight (lbs.)	Price
95	64.91
96	65.55
97	66.19
98	66.83
99	67.47
100	68.11
101	68.75
102	69.39
103	70.03
104	70.67
105	71.31
106	71.95
107	72.59
108	73.23
109	73.87
110	74.51
111	75.15
112	75.79
113	76.43
114	77.07
115	77.71
116	78.35
117	78.99
118	79.63
119	80.27
120	80.91
121	81.55
122	82.19
123	82.83
124	83.47
125	84.11
126	84.75
127	85.39
128	86.03
129	86.67
130	87.31
131	87.95
132	88.59
133	89.23
134	89.87
135	90.51
136	91.15
137	91.79
138	92.43
139	93.07
140	93.71
141	94.35
142	94.99
143	95.63
144	96.27
145	96.91
146	97.55
147	98.19
148	98.83
149	99.47
150	100.11

FEDERAL EXPRESS ADDITIONAL CONTRACT SERVICE RATES

	Per shipment
Saturday pickup service	$3.50
Saturday delivery service	3.50
Holiday pickup service[1]	3.50
Holiday delivery service[1]	3.50
Dangerous goods service	5.00
Collect on delivery service	5.00
Address correction	3.00
Rebill	3.00
No/invalid account number on airbill	5.00
Excess declared value	[2]

[1] Activities requesting holiday service must make prior arrangements with the Federal Express Government Sales Office, Greenbelt, Maryland, before this service will be provided.

[2] 0.30 per $100.00 or part thereof of declared value over the greater of $250.00 or $9.07/lb. per package. Maximum declared value per package $25,000.

[FR Doc. 91-17547 Filed 7-23-91; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[CC Docket Nos. 89-79, 87-313, FCC 91-186]

Creation of Access Charge Subelements for Open Network Architecture and Policy and Rules Concerning Rates for Dominant Carriers

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: The Commission amends its part 69 access charge rules to enable the Bell Operating Companies (BOCs) and other local exchange carriers (LECs) desiring to implement Open Network Architecture (ONA) to offer unbundled ONA services. The Commission also modifies the interim pricing test for new services adopted in the LEC Price Cap Reconsideration Order to provide carriers with additional pricing flexibility. The showing for LEC rates for new services may now include a demonstration that the service is especially risky. LECs will also be allowed to justify non-uniform allocation of overheads. In addition, the Commission requires that the existing feature groups offered by the BOCs be eliminated after a transition period. The Commission expects these actions to stimulate the introduction of innovative new enhanced services.

EFFECTIVE DATE: August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Mark S. Nadel, Common Carrier Bureau, (202) 632-6363.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collections of information is estimated to average 258.13 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project (3060-0298), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060-0298), Washington, DC 20503.

Background

CC Docket 89-79: Notice of Proposed Rulemaking, Amendments of part 69 of the Commission's rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket 89-79. *Adopted:* March 30, 1989. *Released:* May 9, 1989. 54 FR 20873 (May 15, 1988).

CC Docket No. 87-313: Notice of Proposed Rulemaking. Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313. *Adopted:* August 4, 1987. *Released:* August 21, 1987. 52 FR 33962 (Sept. 9, 1987). By the Commission. Further Notice of Proposed Rulemaking, CC Docket No. 87-313. *Adopted:* May 12, 1988. *Released:* May 23, 1988. 53 FR 22356 (June 15, 1988). By the Commission. Supplemental Notice of Proposed Rulemaking, CC Docket No. 87-313. *Adopted:* March 8, 1990. *Released:* March 12, 1990. 55 FR 12526 (Apr. 4, 1990). By the Commission. Second Report and Order, CC Docket No. 87-313. *Adopted:* September 19, 1990. *Released:* October 4, 1990. 55 FR 42375 (Oct. 19, 1990). By the Commission. Commissioner Duggan concurring in part and dissenting in part and issuing a separate statement. Order on Reconsideration, CC Docket No. 87-313, *Adopted:* April 9, 1991. *Released:* April 17, 1991. 56 FR 21612 (May 10, 1991). By the Commission.

Summary of Report and Order and Order on Further Reconsideration

This is a summary of the Commission's Report and Order and Supplemental Notice of Proposed Rulemaking in Amendments of part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89-79 and Order on Further Reconsideration in Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313; FCC 91-186, *Adopted:* June 13, 1991 and *Released:* July 11, 1991. 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 St., NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422,

1411 21st St., NW, Washington, DC 20037.

The Commission has amended its part 69 access charge rules to enable the Bell Operating Companies (BOCs), and other local exchange carriers (LECs) desiring to implement Open Network Architecture (ONA), to offer unbundled ONA services. This represents another major step towards the creation of an unbundled ONA environment, which should promote efficient and innovative use of the network by enhanced service providers. The BOCs must file tariffs on or before November 1, 1991, on 90 days' notice, to provide the initial ONA offerings.

The Commission also modified the interim pricing test for new services adopted in the LEC Price Cap Reconsideration Order. The modified test continues to provide protection against excessive new service prices by requiring price cap LECs to provide cost studies for all new service prices, including those of their initial basic service elements (BSEs) and basic serving arrangements (BSAs). However, the Commission modified the pricing rules to give price cap LECs some additional flexibility.

As part of the implementation of ONA, the Commission ordered the BOCs to replace existing feature groups with BSE features and functions and the underlying BSA access arrangements. However, because interexchange carriers (IXCs) said they would need time to adjust their ordering and billing systems to handle such a modification, the Commission provided a transaction period during which the feature groups will continue to be available alongside the unbundled BSEs and BSAs. This will promote the timely implementation of ONA, while avoiding unnecessary disruptions to IXCs.

The BOCs will tariff all BSEs listed in approved ONA plans and will be permitted to tariff additional BSEs approved under an expedited review process. In addition, BOCs will tariff one trunkside and one lineside switched access BSA and a number of special access BSAs. BOCs that wish to offer additional switched access BSAs will be required to obtain waivers of the Commission's part 69 rules.

With respect to the cost showing for "new" services introduced by price cap LECs, the Commission said it will require the submission of cost studies, as in the interim approach of the LEC Price Cap Reconsideration Order. While LECs will be required to set their rates based on reasonable, consistent costing methodologies, they will be given the opportunity to select those methodologies, to justify reasonable non-uniform overhead loadings, and to seek higher returns on investment commensurate with the risks they assume. To address concerns that LECs might discriminate against ESPs that compete with LEC enhanced service operations, the Commission required the LECs to identify BSEs that will be used by LEC enhanced service operations.

Once initial BSA/BSE prices become effective and adequate historical data have been generated, the services will be brought under price caps, subject to an additional disclosure requirement. The order does not modify the price cap bands and baskets, but establishes new rules requiring the BOCs to report the percentage of the demand for each BSE that their own usage represents, thereby revealing any discriminatory pricing patterns. This represents a relatively unburdensome way of constraining the ability of a BOC to raise the price of the BSEs used by its competitors while lowering the price of the BSEs used by the BOC enhanced service operators.

The Commission retained, in its current form, the enhanced service provider (ESP) exemption for interstate access charges. It denied as unnecessary, in light of the adoption of the ONA pricing rules today, requests by Ameritech and Southwestern Bell for waivers of the part 69 access charge rules.

List of Subjects in 47 CFR parts 61 and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Amendments to the Code of Federal Regulations

Title 47 of the CFR, parts 61 and 69 are amended as follows:

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

2. Section 61.49 is amended by adding a new paragraph (h) to read as follows:

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

* * * * *

(h) Each tariff filing by a local exchange carrier that introduces a new service that will later be included in a basket must also be accompanied by

(1) The following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new tariff on the traffic and revenues from the service to which the new tariff applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in paragraph (h)(1)(i) of this section.

(2) Working papers and statistical data.

(i) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (h)(1) of this section, and a clear explanation of how the working papers relate to that information.

(ii) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of the Commission's rules.

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.2 is amended by adding the following new paragraph (mm) to read as follows:

§ 69.2 Definitions.

* * * * *

(mm) *Basic Service Elements* are optional unbundled features that enhanced service providers may require or find useful in the provision of enhanced services, as defined in Amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd _____, CC Docket No. 89-79, FCC 91-186 (1991).

3. Section 69.4 is amended by revising paragraph (b) to read as follows:

§ 69.4 Charges to be filed.

* * * * *

(b) Except as provided in subpart C of this part, in §§ 69.4 (c) and (d), and in § 69.118, the carrier's carrier charges for access service filed with this Commission shall include charges for each of the following elements:

(1) Limited pay telephone;

(2) Carrier common line;

(3) Local switching;
(4) Information;
(5) Common transport;
(6) Dedicated transport; and
(7) Special access.

* * * * *

4. Section 69.106 is amended by revising paragraph (a) to read as follows:

§ 69.106 Local switching.

(a) Except as provided in § 69.118, charges that are expressed in dollars and cents per access minute of use shall be accessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services.

* * * * *

5. Section 69.107 is amended by revising paragraphs (a) and (b) to read as follows:

§ 69.107 Equal access.

(a) A monthly charge that is expressed in dollars and cents either per Feature Group D trunk, per presubscribed equal access line, or per trunk line that is receiving from a local exchange switch service that is substantially equivalent to the access provided for MTS or WATS, shall be assessed by telephone companies that implement an Equal Access element as provided in § 69.4(d) upon all interexchange carriers for either the interstate and foreign Feature Group D access service trunks the interexchange carriers uses, the interstate and foreign access service trunk lines receiving service substantially equivalent to the access provided for MTS or WATS from a local exchange switch, or the presubscribed equal access lines the carrier serves.

(b) A monthly charge per Feature Group D trunk or per trunk line that is receiving from a local exchange switch service that is substantially equivalent to the access provided for MTS or WATS shall be computed by dividing the projected annual revenue requirement for the Equal Access element by twelve times the projected annual average number of the total of interstate and foreign Feature Group D access service trunks and interstate and foreign access service trunk lines receiving service substantially equivalent to the access provided for MTS or WATS from a local exchange switch.

* * * * *

6. Section 69.109 is amended by revising paragraph (b) to read as follows:

§ 69.109 Information.

* * * * *

(b) Except as provided in § 69.118, if such connections are maintained exclusively by carriers that offer MTS, the projected annual revenue requirement for the Information element shall be divided by 12 to compute the monthly assessment to such carriers.

* * * * *

7. Section 69.111 is amended by revising paragraph (a) to read as follows:

§ 69.111 Common transport.

(a) Except as provided in § 69.118, a charge that is expressed in dollars and cents per access minute shall be accessed upon all interexchange carriers that use

(1) Switching or transmission facilities that are apportioned to the Common Transport element for purposes of apportioning net investment, or

(2) Equivalent facilities offered by carriers subject to price cap regulation as the term is defined in § 61.3(v) of this chapter.

* * * * *

8. Section 69.112 is amended by revising paragraph (b) introductory text to read as follows:

§ 69.112 Dedicated transport.

* * * * *

(b) Appropriate subelements shall be established for the use of interface arrangements. Except as provided in § 69.118, charges for such subelements shall be assessed and computed as follows:

* * * * *

9. Section 69.113 is amended by revising paragraph (a) and adding a new paragraph (e) to read as follows:

§ 69.113 Non-premium charges for MTS-WATS equivalent services.

(a) Charges that are computed in accordance with this section shall be assessed upon interexchange carriers or other persons that receive access that is not deemed to be premium access (as this term is defined in § 69.105(b)(1)) in lieu of carrier charges that are computed in accordance with §§ 69.105, 69.106, 69.111, 69.112 and 69.118.

* * * * *

(e) The non-premium charge for any BSEs in transport or local switching shall be computed by multiplying the premium charge for the corresponding BSEs by .45.

10. New § 69.118 is added to read as follows:

§ 69.118 Traffic sensitive switched services.

Notwithstanding §§ 69.4(b), 69.106, 69.109, 69.111, and 69.112, telephone companies subject to the BOC ONA Order, 4 Fcd Rcd 1 (1988), shall, and other telephone companies may, establish approved Basic Service Elements as provided in amendments of part 69 of the Commission's rules relating to the Creation of Access Charge Subelements for Open Network Architecture, Report and Order, 6 FCC Rcd _____, CC Docket No. 89-79, FCC 91-186 (1991). Telephone companies shall take into account revenues from the relevant Basic Service Element or Elements in computing rates for the Local Switching, Common Transport, Dedicated Transport, and/or Information elements.

11. New § 69.119 is added to read as follows:

§ 69.119 Basic service element expedited approval process.

The rules for filing comments and reply comments on requests for expedited approval of new basic service elements are those indicated in § 1.45 of the rules, except as specified otherwise.

12. Section 69.205 is amended by revising paragraph (a) to read as follows:

§ 69.205 Transitional premium charges.

(a) Charges that are computed in accordance with this section shall be asessed upon interexchange carriers or other persons that receive premium access in lieu of carrier charges that are computed in accordance with §§ 69.106, 69.111, 69.112, and 69.118 of this part if any carrier or other person does not receive premium access, as this term is defined in § 69.105.

* * * * *

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 91-17340 Filed 7-23-91; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Part 352

Acquisition Regulation; Publication

AGENCY: Department of Health and Human Services (HHS).

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (HHSAR), Title 48, Code of Federal Regulations, Chapter 3, to add a contract clause which will be

included in all solicitations and resultant contracts.

DATES: *Effective Date:* July 24, 1991. *Comment Date:* Comments may be submitted to the Department at the address shown below on or before September 9, 1991.

ADDRESSES: Interested parties should submit typed comments to: Division of Acquisition Policy, Department of Health and Human Services—room 513 D, 200 Independence Avenue, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Lanham, at the above address, (202) 245–8890.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation to add a contract clause to be included in all solicitations and resultant contracts. The clause, title "Publications and Publicity," has been determined to be necessary to allow publication of work accomplished under a departmental contract while requiring that the contractor acknowledge that the publication does not necessarily reflect the views of the Department, nor does it imply endorsement by the Department. The Department has determined it is essential to put the referenced clause into effect immediately; however, the Department also recognizes that imposing a clause on its contractor community should not be done on a unilateral basis. Hence, the Department is seeking comments concerning the clause, and will consider any and all comments received by the due date in formulating the finalization of the rule.

The Department of Health and Human Services certifies this document will 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.); therefore, no regulatory flexibility statement has been prepared. Furthermore, this document does not contain information collection requirements needing approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Part 352

Government procurement.

Accordingly, the Department of Health and Human Services amends 48 CFR chapter 3 as set forth below.

Dated: July 18, 1991

Terrence J. Tychan,

Director, Office of Acquisition and Grants Management.

As indicated in the preamble, chapter 3 of title 48 Code of Federal Regulations is amended as shown.

1. The authority citation for part 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 352—[AMENDED]

Subpart 352.2 [Amended]

2. Subpart 352.2 is amended by adding section 352.270–6 as follows:

352.270–6 Publication and publicity.

Insert the following clause in all solicitations and resultant contracts.

Publications and Publicity (JUL 1991)

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish, and make available through accepted channels, the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Officer. The Contractor shall also inform the Project Officer when the article or other publication is published, and furnish a copy of it as finally published.

(b) The Contractor shall include in any publication resulting from work performed under this contract a disclaimer reading as follows:

The content of this publication does not necessarily reflect the views or policies of the Department of Health and Human Services, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.

(End of Clause)

[FR Doc. 91–17506 Filed 7–23–91; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 40

Announcement of Drug Testing Conference on Urine Specimen Collection

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of conferences on urine specimen collection procedures for DOT regulated drug testing.

SUMMARY: The Department of Transportation (DOT) is sponsoring three training conferences on urine specimen collection procedures required in the DOT drug testing regulations. This notice should not be confused with a previous notice of two conferences on consortia-operated drug testing programs which appeared in the **Federal Register** on July 3, 1991 (30513). This notice concerns the dates, locations, agenda, and registration information for the specimen collection conferences.

DATES: The conference will be held in three cities, Baltimore, MD, Houston, TX; and St. Louis, MO. The Houston conference will be held September 19, 1991; the St. Louis conference is scheduled for September 24, 1991 and the Baltimore conference is October 2, 1991.

FOR FURTHER INFORMATION CONTACT: RII, Inc., 1010 Wayne Avenue, suite 300, Silver Spring, MD 20910 Phone: (301) 565–4048.

SUPPLEMENTARY INFORMATION: In November 1988, the Department of Transportation published regulations requiring drug testing programs in the aviation, maritime, railroad, mass transit, pipeline, and motor carrier industries. Employers in these industries should have begun drug testing no later than December 1990. Procedures required for specimen collection, drug testing, and review and interpretation of test results, are prescribed in 49 CFR part 40 (54 FR 49354). The Department recognizes that the required specimen collection procedures are complex and may seem cumbersome. Therefore, the DOT is providing this opportunity for specific training regarding the procedures.

The specimen collection conferences are designed to provide specific information and training to personnel who collect and process urine specimens. The conference agenda will include a thorough review of the collection procedures, to include maintaining security and integrity of the specimen and documenting the collection process on the custody and control form. The conference format will provide for "hands on" training in the correct implementation of procedures outlined in 49 CFR part 40.

The conferences will provide a forum for discussing the DOT drug testing rules as they apply to the specimen collection process. Special circumstances and "problem collections" will be presented and discussed. The conferences are designed for participants who are directly involved in specimen collection. The emphasis is on procedure not policy development. Participation is appropriate for clinic, hospital, laboratory, or other employees who serve as collection site persons. Again, these conferences should not be confused with the conference on consortia-operated drug testing programs which will be held during the first two weeks of September in

Washington, DC and Denver, CO. The consortia conferences are planned to provide information about implementation of the DOT drug rules using consortia operations. The specimen collection conferences are designed as training sessions to improve the basic understanding and skill of collection site personnel.

The conferences will be one day in length. Due to the "hands on" nature of the training event, each conference is limited to 150 participants. Registration will be accepted on a first come-first served basis. The conference registration fee will be $25 per person. All conference attendees are responsible for their own travel, lodging, and incidental expenses. We request that specimen collection facilities and regulated employers limit participation to no more than two attendees. Training materials suitable for on-site education/training of collection site personnel will be available.

For registration materials and information, you should contact RII, Inc., 1010 Wayne Avenue, suite 300, Silver Spring, MD 20910 Phone: (301) 565–4048, Fax: (301) 587–4138.

Robert A. Knisely,

Special Assistant to the Secretary and Director for Drug Enforcement and Program Compliance, U.S. Department of Transportation.

[FR Doc. 91–17507 Filed 7–23–91; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 910512–1180]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary) changes the commercial quota and total allowable catch (TAC) for red snapper in the Gulf of Mexico reef fish fishery in accordance with the framework procedure of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as amended. This notice establishes for red snapper an annual commercial quota of 2.04 million pounds. Coupled with the retention of the existing 7-fish recreational bag limit, this results in a TAC for 1991 of 4.0 million pounds. The intended effect is to protect the overfished red snapper resource while still allowing catches by important recreational and commercial fisheries that are dependent on red snapper.

EFFECTIVE DATE: August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3722.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP prepared and amended by the Gulf of Mexico Fishery Management Council (Council), and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

In accordance with the framework procedure of the FMP, the Council recommended and NOAA published a proposed rule to implement a TAC for red snapper of 4.0 million pounds by (1) establishing a commercial quota of 2.04 million pounds; and (2) retaining the 7-fish recreational bag limit (56 FR 23044, May 20, 1991). The proposed rule described the framework procedure and explained the rationale for the proposed TAC and commercial quota. They are not repeated here.

Comments and Responses

Comment: A sportfishing association objected to the proposed 4.0-million-pound TAC for red snapper. The overfished status of the resource, partially due to large numbers of juvenile red snapper incidentally caught in shrimp trawls, was cited as justification for a more conservative allocation. The commenter also objected to the target year of 2007 proposed under amendment 3 for rebuilding the red snapper resource, suggesting that the rebuilding schedule be extended only to 2001.

Response: The Council's proposal responds to NMFS analyses and public testimony indicating that the 7-fish bag limit, along with the 13-inch minimum size limit, for red snapper reduced recreational fishing mortality significantly more than the 20 percent targeted under amendment 1. The Council also was presented resource survey recruitment indices showing increases for the last 3 years, suggesting that the resource is recovering, or that shrimp trawl bycatch may be having less of an effect on the red snapper population than had been perceived previously. However, wide confidence limits in the indices over the last 3 years, and especially in 1990, restrict their reliability. Nonetheless, these data, coupled with recovery dates projected by the computer model, suggest that immediate reductions in TAC of the magnitude formerly anticipated may not be necessary. In response, the Council selected a 4.0-million-pound TAC, a reduction of 1.1 million pounds from the 1990 TAC. NOAA supports this adjustment as another step in a series that will further reduce red snapper fishing mortality while maintaining the economic structure of the fishery and associated industries.

This rule adjusts the allowable catch of red snapper. It does not address the target date for recovery of the reef fish resource, including red snapper, and does not address the incidental catch of juvenile red snapper in the shrimp fishery. Therefore, the rebuilding schedule and the problem of incidental catch are outside the scope of this rule. Under amendment 3, the Council proposed an extension of the target date from January 1, 2000, to January 1, 2007, as a more reasonable timeframe for rebuilding the red snapper resource. During the 45-day comment period on amendment 3, no comments were received on the proposed extension. The Secretary approved amendment 3 on June 5, 1991. Reduction of the incidental catch of red snapper in the shrimp trawl fishery is limited by the 1990 amendment to the Magnuson Act (Pub. L. 101–627), which prohibits gear restrictions to reduce incidental catch in the shrimp fishery until 1994. However, reduction of red snapper incidental catch in the shrimp fishery is expected to be the subject of a future amendment to the FMP.

Comment: A commercial fishing organization generally supported the proposed TAC and suggested that a program designed to limit entry into the red snapper fishery be considered.

Response: A system that would distribute the allowable catch to certain participants in the fishery is outside the scope of this rule. The Council may develop a management program to restrict access to the reef fish fishery, possibly similar to that envisioned by the commenter. Such a program, if submitted by the Council, will be thoroughly reviewed for consistency with the Magnuson Act and made available for public comment at the appropriate time.

Comment: One Council member submitted a minority report objecting to the proposed TAC and commercial quota on the grounds that the status of the resource dictates a more conservative management approach. The minority report recommended rejection of the Council proposal, followed by implementation by the Secretary of a 3.6-million-pound TAC, 1.84-million-pound commercial quota, and 5-fish bag limit.

Response: The minority proposal offers only a 10 percent reduction in the Council's proposed TAC and, therefore, would be of limited value in restoring the resource at a faster rate. Furthermore, disapproval of the current proposal and subsequent preparation of a rule by the Secretary would delay implementation of any conservation measures until late in the fishing year. The FMP provides a 3-year window for a series of TACs to be set at levels above those projected for the stock to recover fully by the target year (i.e., by 2007). Accordingly, NOAA supports the adjustment, the first in the 3-year timeframe starting in 1991, which minimizes short-term social and economic impacts while continuing the rebuilding program.

The Regional Director, Southeast Region, NMFS, concurs that the Council's recommended commercial quota for red snapper is necessary to protect the resource and finds that it is consistent with the goals and objectives of the FMP, as amended. In addition, NOAA finds that it is consistent with the Magnuson Act and other applicable law. Accordingly, the Council's recommended red snapper commercial quota is implemented for the fishing year that commenced January 1, 1991.

Other Matters

This action is authorized by the FMP and complies with E.O. 12291.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 18, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

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

2. In § 641.25, paragraph (a) is revised to read as follows:

§ 641.25 Commercial quotas.

* * * * *

(a) Red snapper—2.04 million pounds.

* * * * *

[FR Doc. 91-17505 Filed 7-18-91; 4:41 pm]

BILLING CODE 3510-22-M

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50 CFR Part 651

[Docket No. 901246-1100]

RIN 0648-AC88

Northeast Multispecies Fishery; Correction

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

ACTION: Final rule; correction.

SUMMARY: NOAA issues this document to correct the final rule to implement Amendment 4 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) published May 31, 1991 (56 FR 24724, corrected by 56 FR 26774, June 11, 1991, and by 56 FR 27786, June 17, 1991). As originally submitted by the New England Fishery Management Council (Council), Amendment 4 required that vessels fishing with trawl nets for yellowtail flounder in the Southern New England yellowtail area use a 5½ inch (13.97 cm) minimum mesh. The amendment qualified this requirement by making it applicable only to at least 75 meshes counted from the terminus of the net. However, through an oversight, the draft regulations implementing Amendment 4 as submitted to NMFS did not include the 75-mesh qualification. Neither the proposed nor the final regulations corrected this oversight. Therefore, this document is being issued to correct the inconsistency between Amendment 4 and the implementing regulations.

EFFECTIVE DATE: June 27, 1991.

FOR FURTHER INFORMATION CONTACT: Jack Terrill (NMFS, Resource Policy Analyst), 508-281-9252.

SUPPLEMENTARY INFORMATION: One of the measures approved in Amendment 4 and implemented by the final rule is a 5½ inch (13.97 cm) minimum mesh size in the Southern New England Yellowtail Area (§ 651.20(a)(3)). The implementing regulations currently require that the minimum mesh size apply throughout the entire net. However, the measure had originally been proposed by the Council as applying only to at least the last 75 meshes of the net. This was presented as the preferred alternative to the public for comment at several hearings and was approved by the Council for inclusion in Amendment 4. The preamble to the proposed rule (56 FR 979, January 10, 1991) correctly included the qualification that the minimum mesh would apply to 75 meshes from the end of the net in trawl nets. However, through an oversight, the amendatory language in the proposed rule to revise § 651.21 did not reflect this qualification. No public comments were received on the measure or the discrepancy between Amendment 4 and the proposed amendatory language during the public comment period on the proposed rule. The final rule also failed to include the clarifying language, that the minimum mesh size requirement applies to at least the last 75 meshes forward of the terminus of the net. The publication of the final rule and the subsequent notification to the industry prompted questions by the industry on the specifics of the mesh-size requirement. A review of the proposed rule and the amendment determined that an error had occurred in the amendatory language of the proposed and final rules.

Failure to implement this correction immediately would result in a regulatory requirement that is an unnecessary and an unintended economic burden contrary to the public interest. This correction will correctly implement 5½ inch (13.97 cm) minimum mesh requirement for at least 75 meshes from the terminus of the trawl net.

In rule document 91-12894, beginning on page 24724, in the issue of May 31, 1991, make the following corrections.

PART 651—[CORRECTED]

§ 651.20 [Amended]

1. On page 24727, in the third column, § 651.20(b) should read as follows: (b) *Trawl nets.*—(1) *Diamond mesh.* (i) Except as provided for in §§ 651.20(b)(3), 651.20(d), and 651.22, the minimum mesh size for any trawl net, including midwater trawls or Scottish seine, used by a vessel fishing in the mesh are described in paragraphs (a)(1) and (a)(2) of this section, is 5½ inches (13.97 cm) throughout the entire net.

(ii) The minimum mesh size for any trawl net, including midwater trawls or Scottish seine, used by a vessel fishing in the mesh are described in paragraph (a)(3) of this section, is 5½ inches (13.97 cm) for at least 75 continuous meshes forward of the terminus of the net.

* * * * *

Dated: July 18, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-17559 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 901184-1042]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director of the Alaska Region, NMFS (Regional Director), has determined that the total allowable catch (TAC) specified for pollock in the third quarter of 1991 for the Central pollock subarea of the Gulf of Alaska soon will be reached. The Regional Director is establishing a directed fishing allowance and the directed fishery for pollock in that subarea is closed. This action is necessary to prevent the TAC of pollock in the Central pollock subarea for the third quarter from being exceeded. The intent of this action is to ensure optimum use of groundfish while conserving pollock stocks.

DATES: Effective 12 noon, A.l.t., July 20, 1991, through 24:00 midnight, A.l.t., September 29, 1991.

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

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone within the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is TAC, as stated in § 672.20(c)(1). Under § 672.20(a)(2)(v), the TAC for pollock in the Western and Central Regulatory Areas is apportioned equally to the Western pollock subarea (combined regulatory areas 61 and 62) and the Central pollock subarea (regulatory area 63). Each apportionment is divided equally into four quarterly reporting periods of the fishing year. The announcement of initial harvest specifications for pollock for the 1991 fishing year established a TAC of pollock for the Central pollock subarea as 50,000 metric tons (mt) or, for each quarter, 12,500 mt plus or minus that quarter's proportional share of over or under harvest from prior quarters (56 FR 28112; June 19, 1991). The cumulative amount of pollock available for harvest for the Central pollock subarea through the third quarter of 1991 is 36,065 mt.

Under § 672.20(c)(2), the Regional Director has determined that the catch of pollock in the Central pollock subarea will reach 35,165 mt by July 20, 1991. The remaining 900 mt of pollock will be necessary for bycatch to support remaining groundfish fisheries in the Central pollock subarea during the third quarter.

With this action the Regional Director is establishing a directed fishing allowance of 35,165 mt, and is prohibiting directed fishing for pollock in the Central pollock subarea of the Gulf of Alaska for the remainder of the third quarter.

Under § 672.20(g)(3), during the effective dates of this action, vessels fishing in the Central pollock subarea (regulatory area 63) may not retain, at any particular time during a trip, pollock in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time by the vessel during the same trip.

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 19, 1991.

Richard H. Schaefer,

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

[FR Doc. 91–17558 Filed 7–19–91; 2:58 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 142
Wednesday, July 24, 1991

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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 1436-91]

Aliens in Religious Occupations (R Nonimmigrants)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule implements provisions of section 209 of the Immigration Act of 1990, Public Law 101-649, November 29, 1990, by providing procedures for admission to the United States of nonimmigrant religious workers under section 101(a)(15)(R) of the Immigration and Nationality Act (Act). This rule will conform Immigration and Naturalization Service (Service) policy as it relates to this classification, and clarify for the general public and religious organizations requirements for classification, admission, and maintenance of status.

DATES: Written comments must be submitted on or before August 23, 1991.

ADDRESSES: Please submit written comments, in triplicate, to Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5304, Washington, DC 20536. To ensure proper handling, please reference the INS number 1436-91 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Edward H. Skerrett, Senior Immigration Examiner, or Carla J. Hengerer, Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone (202) 514-3946.

SUPPLEMENTARY INFORMATION: Section 101(a)(15) of the Immigration and Nationality Act has been amended by the Immigration Act of 1990 with the addition of a nonimmigrant classification for religious workers. This marks the first time such workers have had a specific nonimmigrant classification available to them. Prior to this legislation, aliens seeking entry as religious workers were admitted in existing nonimmigrant categories such as B-1 Visitor for Business, H Temporary Worker, or L-1 Intracompany Transferee.

Section 209 of Public Law 101-649 requires that the religious worker must have been, for at least the two years immediately preceding the time of application for admission, a member of a religious denomination having a bonafide religious organization in the United States. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of the religious denomination; or, at the religious organization's request, to work for the religious organization in a professional capacity, or to work in a religious vocation or occupation for the religious organization, or a bonafide organization which is affiliated with the religious denomination and which is exempt from taxation as a religious organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

There is no requirement, as there is in the provision for the immigrant religious worker, that the nonimmigrant religious worker has been carrying on such vocation of minister, professional work, or other work continuously for at least the two-year period immediately preceding the time of application for admission.

Proposed Changes in 8 CFR 214.2

Paragraph (r)(1) of these regulations contains a restatement of the basic statutory requirements for classification as a religious worker.

Paragraph (r)(2) contains definitions of terms used within the proposed regulation.

Paragraph (r)(3) provides initial evidence requirements. There is no prior petition, labor certification, or prior approval required. An alien seeking classification as a religious worker would make application directly to a United States consular officer or, if visa exempt, to an immigration officer at a United States port of entry. A certificate showing that the religious organization in the United States for which the alien would be providing services is tax exempt in accordance with section 501(c)(3) of the Internal Revenue Code of 1986, as it applies to religious organizations, would be required. Additionally, the alien would be required to provide a letter from an authorized official of the religious organization in the United States. That letter would include statements regarding the affiliation between the religious organization in the United States and abroad; the duration of the alien's membership in the religious denomination; authorization to function as a minister, attainment of a baccalaureate degree, or relation of the work to be done to a religious vocation or occupation; arrangements for remuneration for services; and the name and exact location of the organizational unit for which the alien will be providing services.

An initial admission period of three years is authorized in paragraph (r)(4) for the principal alien, spouse, and unmarried children under the age of 21. Also, the Form I-94 Arrival-Departure Record of the principal alien will be endorsed with the name and location of the organizational unit of the religious organization for which the services will be provided. The admission symbol for a religious worker will be R-1; the admission symbol for a spouse or children will be R-2.

Although a petition is not required for initial visa issuance or admission, paragraph (r)(5) provides that the organizational unit of the religious organization employing the alien shall file a petition on Form I-129, Petition for Nonimmigrant Worker, to extend the alien's stay. An extension of stay may be authorized for a period of up to two years. The religious worker's total period of stay in the United States may not exceed five years. The petition must be accompanied by a letter from an authorized official of the religious denomination confirming the worker's continuing eligibility for R-1 classification.

Prior to the worker changing or adding an employer within the religious denomination, the new or additional organizational unit must file an I-129 petition with the Service for such change or addition. This requirement is contained in paragraph (r)(6).

A religious worker who has remained in the United States in R nonimmigrant status for five years will not be readmitted to the United States in that classification unless he/she has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. This limitation on admission is found in paragraph (r)(7).

Paragraph (r)(8) contains a provision relating to the spouses and unmarried minor children of religious workers and specifically precludes them from accepting employment while in the United States in R–2 nonimmigrant status.

In accordance with 5 U.S.C. 605(b), the Commissioner or the Immigration and Naturalization Service certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section (1)(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

This rule contains information collection requirements which have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegation (Government agencies), Employment, Organization and functions, (Government agencies), Passports and visas.

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations will be amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a, and 8 CFR part 2.

2. Section 214.2 is amended by adding a new paragraph (r) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(r) *Religious workers*—(1) *General.* Under section 101(a)(15)(R) of the Act, an alien who, for at least the two (2) years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit religious organization in the United States, may be admitted temporarily to the United States to carry on the activities of a religious worker for a period not to exceed five (5) years. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of the religious denomination; or, at the request of the religious organization, to work for the religious organization in a professional capacity, or to work in a religious vocation or occupation for the religious organization, or a bona fide organization which is affiliated with the religious denomination and which is exempt from taxation as a religious organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

(2) *Definitions.* As used in this section:

Bona fide nonprofit religious organization in the United States means an organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations.

Bona fide organization which is affiliated with the religious denomination means an organization which is closely associated with the religious denomination in a subordinate or dependent position and which is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations.

Minister means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. The term does not include a lay preacher not authorized to perform such duties.

Professional capacity means an activity in a religious vocation or occupation for which the minimum of a United States baccalaureate degree (or a foreign equivalent degree) is required.

Religious denomination means a religious group or community of believers having some form of ecclesiastical government, a recognized creed and form of worship, a formal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, and religious congregations.

Religious occupation means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, and clerks.

Religious vocation means a calling to religious life as evidenced by the taking of vows. Examples of individuals with a religious vocation include, but are not limited to nuns, monks, and religious brothers and sisters.

(3) *Initial evidence.* An alien seeking classification as a religious worker shall present to a United States consular officer, or, if visa exempt, to an immigration officer at a United States port of entry, documentation which establishes to the satisfaction of the consular or immigration officer that the alien will be providing services to a bona fide nonprofit religious organization in the United States or to an affiliated religious organization as defined in paragraph (r)(2) of this section, and that the alien meets the criteria to perform such services. This documentation shall be in the form of a letter from an authorized official of the specific organizational unit of the religious organization which will be employing or engaging the alien's services in the United States and which, if required, will be maintaining the religious worker's form I–9, Employment Eligibility Verification Form. (Form I–9 would be maintained by an organizational unit of the religious organization if the organizational unit is either paying the alien a salary or otherwise remunerating the alien in exchange for services rendered.) This letter must be accompanied by a tax exempt certificate showing that the organization is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations. Additional documentation in the form of diplomas, degrees, financial statements, certificates of ordination, or any other documentation as deemed necessary by the examining officer may be required. No prior petition, labor certification, or prior approval shall be required. The letter from the authorized official shall establish:

(i) That the religious denomination has a bona fide nonprofit religious organization in the United States;

(ii) If the alien's religious membership was maintained, in whole or in part, outside the United States, that the foreign and United States religious organizations belong to the same religious denomination;

(iii) That, immediately prior to the application for the nonimmigrant visa or application for admission to the United States, the alien has the required two (2) years of membership in the religious denomination;

(iv) If the alien is a minister, that the alien has authorization to conduct religious worship for that denomination and to perform other duties usually performed by authorized members of the clergy of that denomination, including a detailed description of those authorized duties;

(v) If the alien is a religious professional, that at least a baccalaureate is required for entry into the religious profession;

(vi) If the alien is to work in another religious vocation or occupation, that the alien is qualified in the religious vocation or occupation (including, but not limited to, establishing that the alien is a monk, nun or religious brother, or that the type of work to be done relates to a traditional religious function);

(vii) If the alien is to work in a non-ministerial or nonprofessional capacity for a bona fide religious organization at the request of an organization which is affiliated with the religious organization, how the affiliation exists;

(viii) The arrangements made for remuneration for services to be rendered by the alien, including amount and source of salary, a description of any other types of remuneration to be received including housing, food and clothing, and any other benefits to which a monetary value may be affixed, and a statement as to whether such remuneration shall be in exchange for services rendered; and

(ix) The name and location of the specific organizational unit of the religious organization for which the alien will be providing services within the United States.

(4) *Initial admission.* The initial admission of a religious worker, spouse, and unmarried children under 21 years of age shall not exceed three (3) years. A Form I–94 Arrival-Departure Record shall be provided for every alien who qualifies for admission as an R nonimmigrant and, in the case of a principal alien, the Form I–94 shall be endorsed with the name and location of the specific organizational unit for which the alien will be providing services within the United States. The admission symbol for the religious worker shall be R–1; the admission symbol for the worker's spouse and children shall be R–2.

(5) *Extension of stay.* The organizational unit of the religious denomination employing the nonimmigrant religious worker admitted under this section shall use Form I–129, Petition for Nonimmigrant Worker, along with the appropriate fee, to extend the stay of the worker. The petition shall be filed at the Service Center having jurisdiction over the place of employment. An extension of stay may be authorized for a period of up to two (2) years. The worker's total period of stay may not exceed five (5) years. The petition must be accompanied by evidence in the form of a letter from an authorized official of the organizational unit confirming the worker's continuing eligibility for classification as an R–1 nonimmigrant.

(6) *Change of employers.* A different or additional organizational unit of the religious denomination seeking to employ a religious worker admitted under this section shall file Form I–129 with the appropriate fee. The petition shall be filed with the Service Center having jurisdiction over the place of employment. The petition must be supported by evidence that the alien will still be classifiable as a religious worker in accordance with this section. Any unauthorized change to a new religious organizational unit will constitute a failure to maintain status within the meaning of section 241(a)(1)(C)(i) of the Act.

(7) *Limitation on stay.* An alien who has spent five (5) years in the United States under section 101(a)(15)(R) of the Act may not be readmitted to the United States under the R visa classification unless the alien has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. Such visits do not interrupt the one year abroad, but do not count toward fulfillment of that requirement.

(8) *Spouse and children.* The spouse and unmarried minor children of the religious worker are entitled to the same nonimmigrant classification and length of stay as the religious worker, if the religious worker will be employed and residing primarily in the United States, and if the spouse and unmarried minor children are accompanying or following to join the religious worker in the United States. Neither the spouse nor any child may accept employment while in the United States in R–2 nonimmigrant status.

Dated: March 26, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91–17491 Filed 7–23–91; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[IA–51–91]

RIN 1545–AP80

Authority of the Secretary of Agriculture To Require Employer Identification Numbers From Retail Food Stores and Wholesale Food Concerns for Purposes of the Food Stamp Act of 1977

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the authority of the Secretary of Agriculture to require retail food stores and wholesale food concerns to furnish employer identification numbers for purposes of administering the Food Stamp Act of 1977. The authority to solicit employer identification numbers was conferred upon the Secretary of Agriculture by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990.

DATES: Written comments must be received by August 23, 1991. A public hearing will be held on Friday, August 30, 1991, at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, August 16, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register**.

ADDRESSES: Send comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (IA–51–91), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Lisa J. Byun of the Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:IT&A:4) or telephone 202–566–5935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR part 301) to provide rules under section 6109 of the Internal Revenue Code of 1986, as amended by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law 101–624, 104 Stat. 3359 (November 28, 1990) ("1990 Act").

Explanation of Provision

Section 1735(c) of the 1990 Act added a new subsection (f) to section 6109 of the internal Revenue Code of 1986 (Code) to authorize the Secretary of Agriculture to require retail food stores and wholesale food concerns to furnish employer identification numbers for purposes of administering section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) (relating to the determination of the qualifications of applicants under the Food Stamp Act).

These proposed regulations only relate to the amendments made by section 1735(c) of the 1990 Act. They do not relate to the amendments made by section 2201(d) of the 1990 Act which added another subsection (f) to section 6109 of the Code (concerning access to employer identification numbers by the Federal Crop Insurance Corporation for purposes of the Federal Crop Insurance Act).

Section 6109(f)

Section 6109(f)(1) of the Code provides that the Secretary of Agriculture may require each applicant retail store or wholesale food concern to furnish its employer identification number (EIN), but only for purposes of establishing and maintaining a list of the names and EINs of retail stores and wholesale food concerns for use in determining whether an applicant firm has been previously sanctioned or convicted under section 12 or 15 of the Food Stamp Act. The Secretary of Agriculture may use this determination of sanctions and convictions in administering section 9 of the Food Stamp Act of 1977. Because the only retail stores that may participate in the food stamp program are retail food stores, § 301.6109–2(a) refers to "retail food stores."

Section 6109(f)(2) provides that the Secretary of Agriculture must restrict access to the EINS only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977.

Section 6109(f)(2) further provides that the Secretary of Agriculture must provide any additional safeguards that the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the EINs. This requirement is reflected in § 301.6109–2(c)(2) of the proposed regulations. Section 301.6109–2(c)(2) also provides that the Secretary of Agriculture may provide for any additional safeguards to protect the confidentiality of the EINs so long as these safeguards are consistent with any safeguards determined by the Secretary of the Treasury to be necessary or appropriate.

Section 6109(f)(3) provides that no officer or employee of the United States (including former officers and employees) who has or had access to an EIN obtained or maintained by the Secretary of Agriculture pursuant to section 6109(f)(1) may make any unauthorized disclosure of any such EIN in any manner. This requirement is reflected in § 301.6109–2(d) of the proposed regulations.

Section 6109(f)(4) provides that (a) the sanctions under sections 7213(a) (1), (2), and (3) of the Code apply to any unauthorized, willful disclosure of EINs to any person in the same manner and to the same extent as those sections apply with respect to unauthorized disclosures of return and returns information, and (b) the sanction under section 7213(a)(4) applies to any willful solicitation of EINs in the same manner and to the same extent that section 7213(a)(4) applies with respect to willful solicitation of returns or return information. The sanctions for unauthorized, willful disclosure of EINs and for willful solicitation of EINs are set forth in § 301.6109–2(e) of the proposed regulations.

These regulations are proposed to be effective the first day of the first month beginning at least 120 days after these proposed regulations are published as final regulations.

Special Analyses

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

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are timely submitted (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. The Treasury Department expects to issue final regulations on this matter as soon as possible. Written comments must be received by August 23, 1991. A public hearing will be held beginning at 10 a.m. on August 30, 1991. Requests to appear at the public hearing and outlines of oral comments must be received by August 16, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Lisa J. Byun, Office of the Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Proposed Amendments to the Regulations

Accordingly, it is proposed to amend part 301 of title 26 of the Code of Federal Regulations as follows.

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority for part 301 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6109–2 is added to read as follows.

§ 301.6109–2 Authority of the Secretary of Agriculture to collect employer identification numbers for purposes of the Food Stamp Act of 1977.

(a) *In general.* The Secretary of Agriculture may require each applicant retail food store or wholesale food concern to furnish its employer identification number in connection with the administration of section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) (relating to the determination of the qualifications of applicants under the Food Stamp Act).

(b) *Limited purpose.* The Secretary of Agriculture may have access to the employer identification numbers obtained pursuant to paragraph (a) of this section, but only for the purpose of establishing and maintaining a list of the names and employer identification numbers of the stores and concerns for

use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977 (7 U.S.C. 2021 or 2024). The Secretary of Agriculture may use this determination of sanctions and convictions in administering section 9 of the Food Stamp Act of 1977.

(c) *Safeguards*—(1) *Restrictions on access to employer identification numbers.* The persons permitted access to employer identification numbers obtained pursuant to paragraph (a) of this section are officers and employees of the United States whose duties or responsibilities require access to the employer identification numbers for the administrations or enforcement of the Food Stamp Act of 1977.

(2) *Other safeguards.* The Secretary of Agriculture must provide for any additional safeguards that the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers. The Secretary of Agriculture may also provide for any additional safeguards to protect the confidentiality of employer identification numbers so long as these safeguards are consistent with any safeguards determined by the Secretary of the Treasury to be necessary or appropriate.

(d) *Confidentiality and disclosure of employer identification numbers.* Employer identification numbers obtained pursuant to paragraph (a) of this section are confidential. No officer or employee of the United States who has or had access to any such employer identification number may disclose that number in any manner, except to persons described in paragraph (c) of this section. For purposes of this paragraph (d), the term "officer or employee" includes a former officer or employee.

(e) *Sanctions*—(1) *Unauthorized, willful disclosure of employer identification numbers.* Sections 7213(a)(1), (2) and (3) apply with respect to the unauthorized, willful disclosure to any person of employer identification numbers that are maintained by the Secretary of Agriculture pursuant to this section in the same manner and to the same extent as sections 7213(a)(1), (2) and (3) apply with respect to unauthorized disclosures of returns and return information described in those sections.

(2) *Willful solicitation of employer identification numbers.* Section 7213(a)(4) applies with respect to the willful offer of any item of material value in exchange for any employer identification number maintained by the Secretary of Agriculture pursuant to this section in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section.

(f) *Delegation.* All references in this section to the Secretary of Agriculture are references to the Secretary of Agriculture or his delegate.

(g) *Effective date.* The provisions of this section are effective on the first day of the first month beginning at least 120 days after [Insert date final regulations are published in the Federal Register].

Fred T. Goldberg, Jr.

Commissioner of Internal Revenue.

[FR Doc. 91-17509 Filed 7-23-91; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 301

[IA-51-91]

RIN 1545-AF80

Authority of the Secretary of Agriculture To Require Employer Identification Numbers From Retail Food Stores and Wholesale Food Concerns for Purposes of the Food Stamp Act of 1977; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the authority of the Secretary of Agriculture to require retail food stores and wholesale food concerns to furnish employer identification numbers for purposes of administering the Food Stamp Act of 1977.

DATES: The public hearing will be held on Friday, August 30, 1991, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, August 16, 1991.

ADDRESSES: The public hearing will be held in room 2615, Second floor, 2600 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA-51-91), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9236 or (202) 566-3935 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1361 of the Internal Revenue Code of 1986. The proposed regulations appear elsewhere in this issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, August 16, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

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

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

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

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

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

[FR Doc. 91-17509 Filed 7-23-91; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 172

[OPP-250085, FRL-3866-6]

Notification to Secretary of Agriculture of a Proposed Regulation On Microbial Pesticides; Experimental Use Permits and Notifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a proposed regulation under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The proposed rule amends the experimental use permit regulations. The document also proposes to implement a screening procedure that requires notification before initiation of small-scale testing of certain microbial pesticides. This action is required by section 25(a)(2)(A) of FIFRA, as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Frederick Betz, Environmental Fate and Effects Division (H7507C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 728A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–9307).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue for publication in the **Federal Register**, with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30–day period. As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

As required by FIFRA section 25(d), a copy of this proposed regulation has also been forwarded to the Scientific Advisory Panel.

Authority: 7 U.S.C. 136 et seq.

Dated: July 15, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91–17595 Filed 7–23–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[Docket Nos. 89–79, 87–313, FCC 91–186]

Creation of Access Charge Subelements for Open Network Architecture and Policy and Rules Concerning Rates for Dominant Carriers

AGENCY: Federal Communications Commission (FCC).

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on the pricing rules that should apply to price cap local exchange carriers (LECs) with respect to the rates they charge for future unbundled ONA elements that qualify as restructured services under price cap rules. Unless the current rules are modified, price cap LECs would be required to make the showing for restructured services, and demonstrate that the restructured service continues to comply with the price cap index and applicable banding rules. The Commission seeks to determine whether this showing is sufficient to ensure that the ONA element prices are reasonable.

DATES: Comments must be filed by August 26, 1991. Reply comments are due by September 25, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mark S. Nadel, Common Carrier Bureau, (202) 632–6363.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)). Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st St., NW., Washington, DC 20036. Persons wishing to comment on this collection of information should direct their comments to Jonas Neihardt, (202) 395–4814, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Commission: Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project, Washington, DC 20554. For further information contact Judy Boley, 202–632–7513.

Title: Part 61—Tariffs (Other Than Tariff Review Plan).

OMB Number: 3060–0298.

Respondents: Businesses.

Frequency of Response: On Occasion.

Estimated Annual Burden: 696,950.

Needs and Uses: This rulemaking will consider whether additional cost support is required by regulators to help insure that LECs do not partake in price discrimination. If it is adopted, the additional support would be used by regulators to permit them to make more effective evaluations of the relative prices of various price cap LEC ONA services, so as to ensure that rates are reasonable.

Background

CC Docket No. 89–79: Notice of Proposed Rulemaking, Amendments of part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89–79. *Adopted:* March 30, 1989. *Released:* May 9, 1989. 54 FR 20873 (May 15, 1988).

CC Docket No. 87–313: Notice of Proposed Rulemaking, Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313. *Adopted:* August 4, 1987. *Released:* August 21, 1987. 52 FR 33962 (Sept. 9, 1987). By the Commission. Further Notice of Proposed Rulemaking, CC Docket No. 87–313. *Adopted:* May 12, 1988. *Released:* May 23, 1988. 53 FR 22356 (June 15, 1988). By the Commission. Supplemental Notice of Proposed Rulemaking, CC Docket No. 87–313. *Adopted:* March 8, 1990. *Released:* March 12, 1990. 55 FR 12526 (Apr. 4, 1990). By the Commission. Second Report and Order, CC Docket No. 87–313. *Adopted:* September 9, 1990. *Released:* October 4, 1990. 55 FR 42375 (Oct. 19, 1990). By the Commission. Commissioner Duggan concurring in part and dissenting in part and issuing a separate statement. Order on Reconsideration, CC Docket No. 87–313, *Adopted:* April 9, 1991. *Released:* April 17, 1991. 56 FR 21612 (May 10, 1991). By the Commission.

Summary of Supplemental Notice of Proposed Rulemaking

This is a summary of the Commission's Supplemental Notice of Proposed Rulemaking in Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, CC Docket No. 89–79 and Order on Further Reconsideration in

Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313; FCC 91–186, Adopted: June 13, 1991 and Released: July 11, 1991. The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., NW., Washington, DC. The complete text of this Supplemental Notice may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1114 21st St., NW., Washington, DC 20036.

The Supplemental Notice solicits comment on whether the existing price cap rules for restructured services should be supplemented with additional rules directed at the increased danger of discrimination inherent in Open Network Architecture (ONA) services. The public is asked to comment on whether local exchange carriers should be required to make the cost showings required for new services when they introduce restructured ONA services. Alternatively, price cap LECs would only be subject to the normal constraints of the restructured services test. Any cost showings submitted by the LECs will be used by the Commission to determine the reasonableness of rates.

With respect to the cost showing for "new" services introduced by price cap LECs, the Commission said it will require the submission of cost studies, as in the interim approach of the LEC Price Cap Reconsideration Order. While LECs will be required to set their rates based on a reasonable, consistent costing methodology, they will be given the opportunity to select that methodology, to justify reasonable non-uniform overhead loadings, and to seek higher returns on investment commensurate with the risks they assume. To address concerns that LECs would discriminate against ESPs that compete with LEC enhanced service operations, the Commission required the LECs to identify BSEs that will be used by LEC enhanced service operations.

List of Subjects in 47 CFR Parts 61 and 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91–17341 Filed 7–23–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 33

[FAR Case 91–41]

General Accounting Office Protest Costs; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; correction.

SUMMARY: At 55 FR 28652, June 21, 1991, a proposed rule was published amending Federal Acquisition Regulation (FAR) 33.104 to provide that, pending a judicial resolution of the constitutionality of 31 U.S.C. 3554(c), the General Accounting Office's awards of contract protest costs will be treated as advisory recommendations. The Regulatory Flexibility Act section of that proposed rule is being corrected to present a summary of the Initial Regulatory Flexibility Analysis.

FOR FURTHER INFORMATION CONTACT: Ms. Jeritta Parnell at (202) 501–3856 in reference to this correction. For general information, contact Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR Case 91–41.

SUPPLEMENTARY INFORMATION:

* * * * *

B. Regulatory Flexibility Act

The proposed changes to FAR part 33 may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the proposed rule, if implemented, may impose different requirements on both Federal agencies and contractors when GAO recommends award of protest costs. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

FAR part 33 is being revised to clarify the General Accounting Office's (GAO) authority to award bid protest costs and attorney fees. FAR 33.104(g) is amended to provide that GAO awards of bid protest costs and attorney fees are to be treated as recommendations to the agency. FAR 33.104(h) is revised to provide that an agency may pay protest costs as a result of a GAO recommendation, but such payments may be subject to recoupment if 31 U.S.C. 3554(c) is judicially determined to be unconstitutional. The proposed changes arose as a result of a recommendation from the Department of Justice (DOJ) to revise FAR 33.104 (g) and (h) in anticipation of constitutional litigation. DOJ has determined that the current FAR coverage implements an unconstitutional statute, 31 U.S.C. 3554(c). DOJ has advised that the award of protest costs and attorney fees by GAO is unconstitutional because it violates the separation of powers doctrine. Therefore, DOJ is seeking a declaratory judgment that the provision is unconstitutional and the Comptroller General has no authority to order Executive branch agencies to pay attorney fees and protest costs to successful bid protesters. Pending a judicial determination, agencies may continue to pay protest costs out of funds available for the acquisition of services or supplies. The proposed rule would apply to all small businesses that contract with the Federal Government and which might protest to the GAO. It is not possible to estimate the number of small business entities that may be impacted by the proposed rule.

A copy of the IRFA has been submitted to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR case 91–41 in correspondence.

* * * * *

Dated: July 19, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 91–17641 Filed 7–22–91; 10:06 am]

BILLING CODE 6820–34–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Finding on Petition to Reclassify the Grizzly Bear in the North Cascades Area as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the 12-

month finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. These findings must be made within 1 year of either the date of receipt of such a petition or of a previous positive finding. The Service finds that the petition to reclassify the North Cascades population of the grizzly bear as endangered is warranted but precluded.

DATES: The finding announced in this notice was made in June 21, 1991.

ADDRESSES: Questions or comments concerning this finding should be sent to Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, NS 312, University of Montana, Missoula, Montana 59812, telephone 406/329–3223. The petition's finding and supporting data are available at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen (see **ADDRESSES** above).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 et seq.), requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made on the merits within 12 months of the date of receipt of the petition.

The Service received and made a positive 90-day finding and initiated a status review (55 FR 32103–32104) on the following petition:

A petition dated March 13, 1990, was received from The Humane Society of the United States, Greater Ecosystem Alliance, North Cascades Audubon Society, Kittitas Audubon Society, Pilchuck Audubon Society, Skagit Alpine Club, North Cascades Conservation Council, and Carol Rae Smith on March 14, 1990. The petition requested the Service to reclassify the grizzly bear (*Ursus arctos horribilis*) in the North Cascades area of Washington State from threatened to endangered.

The petitioners submitted information that there is a very small grizzly bear population remaining in the North Cascades area. They also indicated that a range of threats exist to the survival of the remaining small population of bears from road construction, land management activities, livestock grazing, land development, and inadequate support from management agencies. The petitioners further indicated that the present population of grizzly bears in the North Cascades area may number fewer than 10–20 animals. They also questioned the numbers and genetic viability of the grizzly bear population on the Canadian side of the United States-Canadian border adjacent to the range of the population in the North Cascades.

As a result of the **Federal Register** notice, 20 letters were received by the Service with general comments on the petition. Only one, a letter from a British Columbia Ministry of Environment wildlife biologist, contained new biological information on the grizzly bear. He reports that a small population of grizzly bears, probably less than 10, occurs in an isolated population north and adjacent to the Washington Cascades.

The grizzly bear in the North Cascades is presently listed as threatened. As such, the grizzly bear receives all the normal protection afforded a listed species by the Endangered Species Act. Section 7 (Consultation) and section 9 (Prohibited Acts) fully apply. The Grizzly Bear Recovery Plan, approved in 1982, provides guidance for recovery of the species.

To advance North Cascades grizzly bear conservation, a special Interagency Grizzly Bear Work Group was formed and is working under the direction of the Northwest Ecosystem Grizzly Bear Management Subcommittee of the Interagency Grizzly Bear Committee. This Work Group embarked on a 5-year hibitat evaluation and grizzly bear verification study which will be completed in 1991. The habitat evaluation effort involves: (1) Mapping of the major habitat components in the area using LANDSAT and Geographic Information Systems techniques; (2) delineation of the presence, abundance, and diversity of grizzly bear foods; (3) delineation of spring, summer, and fall denning habitat based on the habitat mapping and food data; (4) evaluation of the extent, quality, and accessibility of spring range; and (5) delineation of human activities such as roads, habitation, timber harvest, and recreation in the area. Based on this information, a technical review team of biologists will assess the value of the available habitat and the suitability of the area to support a viable grizzly bear population. The recommendation of this technical review team will be the basis for a decision on whether to attempt to recover grizzly bears in the North Cascades. The evaluation by the technical review team is scheduled to be completed in late 1991 and presented to the Interagency Grizzly Bear Committee at their fall 1991 meeting.

Reference is made in the petition to the grizzly bear population in the North Cascades being a separate subspecies of the brown bear, specifically *Ursus arctos stikeenensis.* This subspeciation is based on the classification of Hall (1984). The Service rejects the implication that the grizzly bears of the North Cascades are a distinct subspecies based on the analysis of Rausch (1963). Rausch (1963) found that for North American brown bears, based on measurements of condylobasal length, "formal recognition of segments of intergrading populations of brown bears at the subspecific level is not justified" except for the reproductively isolated populations on Kodiak-Afognak-Shuyak Islands, Alaska. Rausch (1963) further stated that *Ursus arctos horribilis* be used for brown bears over "the greater parts of the range of the species in North America" and the Service holds with this opinion.

The Service agrees with the statements in the petition that the number of grizzly bears in the North Cascades is small. Although no credible estimate can be made of the actual numbers of bears in this area, the population is so small that very few credible sights or signs have been documented in this area in the past 5 years.

The North Cascades population may be isolated from contiguous populations in Canada. R.D. Forbes, a wildlife biologist for the Ministry of Environment, Province of British Columbia, stated in a letter to Dr. Christopher Servheen dated August 13, 1990, that "healthy grizzly populations located to the north and northwest are effectively precluded from immigrating to the ecosystem by immigration barriers presented by high density human populations or extensive development not compatible to grizzly occurrence * * *." The Service thus agrees with the statements of the petitioners that the North Cascades grizzly bear population may be isolated from other North American populations.

Section 4(b)(3)(B) of the Endangered Species Act requires that the Service make one of the following 12-month findings on each petition presenting substantial information: (i) The petitioned action is not warranted; (ii) the petitioned action is warranted and will be proposed promptly; or (iii) the petitioned action is warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species. Section 4(b)(3)(B)(ii) requires that petitions for which the action requested is found to be warranted will be

promptly published in the **Federal Register** along with a general notice and complete text of a proposed regulation to implement such action.

The Service finds that changing the listing of the North Cascades population of grizzly bears from threatened to endangered is warranted but precluded at this time. The Service is expeditiously working on listing a backlog of species having a higher priority of needing protection of the Endangered Species Act. This finding will be re-evaluated after the habitat evaluation work is completed and the Interagency Grizzly Bear Committee has deliberated the results. In the meantime the grizzly bear in the North Cascades remains listed as threatened and retains full protection under the Endangered Species Act.

References Cited

Hall, E.R. 1964. Geographic variation among brown and grizzly bears (*Ursus arctos*) in North America. Special Publication of the Museum of Natural History, University of Kansas, No. 13, 16 pp.

Rausch, R.L. 1963. Geographic variation in size in North American brown bears, *Ursus arctos L.*, as indicated by condylobasal length. Can. J. Zool. 41:33–45.

Author

This notice was prepared by Dr. Christopher Servheen (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended. (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: July 9, 1991.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 91–17516 Filed 7–23–91; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Changes To Be Proposed in Appendices to the Endangered Species Convention

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for information.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in certain animal and plant species, which are listed in the appendices of this treaty. The United States, as a Party to CITES, may propose amendments to the appendices for consideration by the other Parties.

This notice invites comments and information from the public on species that have been identified as candidates for U.S. proposals to amend Appendix I or II at the next biennial meeting of Party nations. The meeting is scheduled for March 2–13, 1992, in Kyoto, Japan.

DATES: The Service will consider all comments received September 6, 1991, on proposals described in this notice.

ADDRESSES: Please send correspondence concerning this notice to Chief, Office of Scientific Authority; room 725, Arlington Square Building; U.S. Fish and Wildlife Service; Washington, DC 20240. Fax number (703) 358–2202. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, telephone (703) 358–1708 (or FTS 921–1708).

SUPPLEMENTARY INFORMATION: In its previous notice on this subject (56 FR 4965; February 7, 1991) the U.S. Fish and Wildlife Service (Service) requested information on plant and animal species that might lead the Service to prepare proposals to amend the listings under CITES for consideration at the next regular meeting of the Conference of the Parties (COP8). That notice described the provisions of CITES for listing species in the appendices and set forth information requirements for proposals. The present notice announces the proposals received, explains why the Service does not intend to consider certain proposals, and describes those proposals that will receive further consideration prior to deciding whether to submit any of these proposals to the CITES Secretariat by the October 4, 1991, deadline.

The Service received more proposals for species changes to CITES appendices than in recent years before other meetings of the Conference of the Parties, and in addition, has reason to develop certain other proposals on its own initiatives. Therefore, in deciding which proposals to consider further, the Service generally focused on native species, and those species for which the information indicating possible threat to the species is most complete, and for which the threat appears to be most severe.

The Service continues to consider submitting proposals on the following species: Painted stork (as possible listing in appendix II pursuant to article II.2b); Goffin's cockatoo, blue-streaked lory, and blue-fronted amazon (transfer each to appendix I); Goliath frog (list in appendix I or II); box turtle and wood turtle (appendix II); paddlefish (appendix I or II); blue-fin tuna (appendix II); unionids (from I to II and add others to II); American mahogany (appendix II); Venus fly-trap (appendix II); Montezuma quail (remove from appendix II); San Diego horned lizard (remove from appendix II); Mexican bobcat (remove from appendix I); pronghorns (present as geographic listing), northern elephant seal (remove from appendix II); *Turbinicarpus* spp. (clarify listing), Queen conch (add to appendix II); commoner lignum vitae (add to appendix II); and scarlet macaw (register captive breeding facility). Additional information on each of these possible proposals is presented in a later section, and information sought is discussed.

The Service for reasons presented above and discussed later, does not intend to submit proposals for the whip-tailed wallaby, hippopotamus, American black bear, Ducorp's cockatoo, red-vented cockatoo, gray-cheeked parakeet, red-masked conure, ploceids, fringillids, emberizids, estrildids, file snakes, bog turtle, blue shark, requiem sharks, hammerhead sharks, three *Ariocarpus* cacti, trilliums, Brazilian rosewood, North Andean walnut, and several Central American tree species.

Proposals Which the Service Does Not Plan To Submit

The Humane Society of the United States proposed that the whip-tailed wallaby be included in appendix II of CITES. The population was estimated to be about 900,000 animals in 1987–1988, sustains a commercial harvest with recent quotas at about 5.5 percent of population, and has recovered from drought periods. The Humane Society of the United States and the International Wildlife Coalition requested the Service to propose listing the hippopotamus in appendix I and II, respectively, although no draft proposal or trade statistics were submitted.

The World Wildlife Fund-U.S. requested the Service to submit a proposal to list the American black bear on appendix II under the provisions of Article II, paragraph 2(b) of the Convention (similarity of appearance), and the Humane Society of the United

States requested the Service to propose this species on appendix II. The proponents believe that listing the American black bear will, by requiring CITES documents on any shipments of bear parts, remove the possibility of Asian bear parts being traded under the guise of undocumented parts from American black bears. However, the Service believes this concern can be addressed in other ways.

The black bear is widespread throughout Alaska, Canada, and the continental United States (32 States, and 9 Canadian Provinces and 2 Territories). The annual legal sport-harvest is 41,000–42,000 animals. Illegal take exists in the form of poaching for parts and/or meat. While there is no quantitative estimate of the overall take, the Service does not believe that the level of take jeopardizes the survival of the species. Trade of parts from legaliy harvested bears is permitted in several U.S. States and Canadian Provinces/Territories.

The Service recognizes the desirability of CITES documentation on exports to Asian countries, and supports the action taken by Canadian CITES authorities to list the American black bear in appendix III. The Service understands that such a listing was requested by the government of Japan. This listing will enable the Canadian government to issue CITES export documents for any black bear, its parts or products, except a full hide with claws attached or skull. This exemption by Canada will avoid the need to issue CITES permits for sport-hunted trophies; trade in these specimens is not viewed as any threat to Asian black bears. The parts sought for the Asian trade are gall bladders, and to a lesser extent the claws and teeth for jewelry.

In the United States, the Lacey Act makes it a federal violation to export wildlife specimens taken in violation of State laws. With the appendix III listing by Canada, the United States will be required to issue documents identifying the United States as the country of export, except for the parts exempted from the listing by Canada. For movement of other legally taken specimens between the United States and Canada, the CITES authorities in these two countries are considering accepting State hunting permits as country of origin declarations. However, for exports to other countries, the Service intends to require a CITES certificate issued by the Office of Management Authority. Furthermore, the Service intends to emphasize to Asian countries importing bear parts that CITES responsibilities include enforcement of the requirement for export permits or country of origin certificates, and that the American black bear listing is intended to provide additional protection to the endangered Asiatic black bear populations. If the Service receives substantial evidence that the present appendix III listing will not accomplish its intended purpose, the Service may reconsider an appendix II (similarity of appearance) proposal for this species. Finally, the Service's Forensic Laboratory has developed techniques to distinguish between the gall bladders of bears and those of other species, and is developing techniques to distinguish them between the various bear species.

The International Wildlife Coalition requested that the United States propose transferring the Ducorp's cockatoo (*Cacatua ducorpsii*), red-vented cockatoo (*C. haematuropygia*), gray-cheeked parakeet (*Brotogeris pyrrhopterus*), and red-masked conure (*Aratinga erythrogenys*) from appendix II to appendix I. This request for listing the first two species was based largely on their similarity of appearance to Goffin's cockatoo that they proposed, and which the Service has agreed to consider for inclusion in appendix I. The Service believes that the similarity of appearance issue is adequately addressed by the present appendix II listing of those other species.

In 1987, the CITES Parties accepted the report of the Working Group on Significant Trade in Appendix II Species. This Working Group sought to assess the effects of trade on appendix II animal species traded in numbers greater that 100 specimens per year. The result of this effort was the development of three lists of species: Those that were likely to be detrimentally impacted by trade (C1 species), those for which the information available was not sufficient to determine whether the current level of trade was detrimental (C2 species), and those that were not being detrimentally impacted by trade (C3 species). Actions have been taken by the Parties individually or collectively to address the detrimental impact of trade in most C1 species. It was expected that studies would be conducted to further assess the effect of trade on the biological status of C2 species, but very few studies have been initiated.

The Ducorp's cockatoo, the red-vented cockatoo, the gray-cheeked parakeet and the red-masked conure were not included in the C1, C2 or C3 lists. The request to propose the gray-cheeked parakeet and the red-masked conure was accompanied by complete proposals indicating a high volume of trade. However, this information by itself does not indicate that the trade is detrimental to the survival of the species, and it is not anticipated that new information on population status can be available, reviewed and included in a proposal, if appropriate, in time for submission to the CITES Secretariat.

The International Wildlife Coalition and the Humane Society of the United States requested the listing of the avian families Emberizidae, Estrildidae, Fringillidae, and Ploceidae on appendix II of CITES. Approximately 200,000 finches are, according to the proponent, imported into the United States annually without proper identification as to species. This proposal to list the above four families includes approximately 126 genera and 663 species of passerine birds. Even though the Service recognizes that trade may be detrimental to the survival of a few of the species, the Service does not believe that listing all families of finches to address this concern for some species is appropriate at this time. Insufficient information was presented to justify proposals for individual species.

The New York Zoological Society provided a proposal to transfer the bog turtle (*Clemmys muhlenbergii*) from appendix II to appendix I. The species has been listed to CITES appendix II since 1975 and reported international trade has been virtually non-existent. Nevertheless, the Service opposed removal of the species from appendix II at the meeting of the Parties in 1987, because of the probability of trade. Although the biological information on this species would otherwise appear sufficient to warrant its transfer to appendix I, trade has been very limited. There have been only four specimens reported as legal exports from the United States during the last 3 years. The Service is reviewing the original export declaration forms to determine if any of the specimens recorded as *Chemmys* spp. (an average of less than 200 annually for the last 3 years) were *Clemmys muhlenbergii*, but without further documentation of international trade, the Service does not believe that it can justify a proposal to transfer this species to appendix I.

TRAFFIC USA asked the Service to propose adding the genus *Acrochordus* (file snakes) to appendix II of CITES. *Acrochordus* is a widely distributed genus, ranging from the Indian subcontinent throughout Southeast Asia, and as far east as the Solomon Islands and Australia. There are three species of *Acrochordus* (*A. arafurae, A. Granulatus,* and *A. javanicus*), of which at least *A. granulatus* and *A. javanicus* are hunted primarily for the snakeskin

market. The information provided indicates a high-volume of trade, but does not address the possible threat to the species. The Service believes that the appropriateness of such a proposal should be considered by a range State, and has provided the information to the Asian Regional representative to the Animals Committee and to the Australian Scientific and Management Authorities.

The National Audubon Society requested the Service to consider listing the blue shark (*Prionase glauca*), requiem sharks (*Carcharinus* spp.), and hammerhead sharks (*Sphyrna* spp.) in either appendix II or III of CITES. The request provided only limited information, and the Service does not intend to propose these taxa.

At the fourth meeting of the CITES Plants Committee in April 1991, the Netherlands asked the United States to consider submitting a proposal to transfer from appendix II to appendix I the species of the genus *Ariocarpus* (living-rock cacti) that are not already in appendix I. The six known species in the genus mostly occur in Mexico; the appendix II species are *A. fissuratus* (*A. f.* var. *fissuratus* extends into Texas), *A. kotschoubeyanus,* and *A. retusus.* Since the Plants Committee meeting, Mexico has acceded to CITES. The United States, recognizing that now it is appropriate for Mexico to take the lead in considering the proposal drafted by the Netherlands, has sent the proposal to Mexico and has so informed both governments.

At the recent meeting of the Plants Committee, the Natural Resources Defense Council (NRDC) provided trade information on some species of *Trillium* (wake-robins) a genus which occurs in North America and eastern Asia. This was referred to the United States for consideration; in doing so, the Committee recognized that additional information would be needed to determine whether a proposal for the genus (or some species) might be warranted. The Service has not been in a position to undertake the additional work in light of other more immediate work priorities, and will not consider developing a proposal for COP8.

The NRDC also provided information on *Dalbergia nigra* (Brazilian rosewood) at the Plants Committee meeting, and this was referred to the United States for consideration. TRAFFIC USA recently informed the Service that Brazil now has a presidential decree restricting exploitation of plants in its remaining Atlantic forests. The Service therefore believes it most appropriate that Brazil consider whether to propose to include the Brazilian rosewood in appendix II or I, and the Service has transmitted the available information to the Brazilian Scientific and Management Authorities.

The NRDC provided information on *Juglans neotropica* (North Andean walnut), which occurs from Venezuela to Peru, at the recent meeting of the Plants Committee. This was referred to the United States for consideration; in doing so, the Committee recognized that additional information would be needed to determine whether a proposal might be warranted. Furthermore, NRDC has provided the Service with some information on 11 other localized neotropical walnut (*Juglans*) species. The Service has not been in a position to undertaken the additional work in light of other more immediate work priorities, and will not consider developing a proposal for any of these species for COP8.

At the Seventh Meeting of the Conference of the Parties (COP7), the Plants Group recommended to Committee I that eight 10-year review species of trees should be resubmitted for delisting at COP8, if in the meantime no data or evidence of international trade (especially from the range States) became known. The eight species are *Caryocar costaricensis* (Costa Rica and Panama), *Quercus copeyensis* (Costa Rica and Panama), *Vantanea barbourii* (Costa Rica), *Oreomunnea pterocarpa* (= *Engelhardia pterocarpa*) (Costa Rica), *Cynometra hemitomophylla* (Costa Rica and Honduras), *Tachigali vesicolor* (Costa Rica to Colombia), *Platymiscium pleiostachyum* (Central America), and *Batocarpus costaricensis* (Costa Rica to Peru). At COP7, the 10-year review delisting proposal for *Caryocar costaricensis* was submitted by the United States, and the others by Switzerland (assisting the Plants Committee). The Service has not attempted to collect new data and information adequate to warrant any new proposals, but is seeking information and data as to whether *Batocarpus costaricensis* is correctly listed.

Proposals Which the Service May Submit

The following proposals were received and will be considered for possible submission as proposed amendments to the CITES. The Service seeks additional comments and information to assist it in making a decision whether to submit these proposed amendments.

1. Painted stork (Mycteria leucocephala)

The American Association of Zoological Parks and Aquariums (AAZPA) requested listing of the painted stork in appendix II due to its similarity of appearance [Article II.2(b)] in juvenile plumage to juvenile milky storks (*Mycteria cinerea*), which is listed in appendix I. The intent of this proposal is to protect *M. cinerea* by regulating commercial trade in *M. leucocephala*. The milky stork was listed in appendix I at COP6 because populations were severely reduced and only one breeding population existed. The additional protection to be provided by listing the painted stork appears to be warranted. The painted stork is still widespread throughout India and Sri Lanka, although throughout the rest of its range (Burma, Bangladesh, Thailand, Malaysia, and Vietnam), it is rare. The only potential area of overlap with the milk stork is in Peninsular Malaysia, but the milky stork population on this peninsula totals less than 150 individuals and if breeding were to occur any loss of individuals would be detrimental to the survival of the species. The only known international market for either species is for public exhibition. Twice in the past four years, birds have been imported into the United States ostensibly as juvenile *M. leucocephala*, when in fact these birds were *M. cinerea*. Therefore, it is likely that these birds were illegally exported from the country of origin. The Service seeks information on trade in either of these species.

2. Psittacines (Parrots, Parakeets, Macaws, Lories)

The International Wildlife Coalition requested that the Service propose transferring the Goffin's cockatoo (*Cacatua goffini*) and the blue-streaked lory (*Eos reticulata*) from appendix II to appendix I. This request was accompanied by complete species proposals. The Humane Society of the United States requested that the United States support proposals to place Goffin's cockatoo (*C. goffini*), and the blue-fronted Amazon (*Amazona aestiva*), in appendix I of CITES.

In 1987, the blue-fronted Amazon, the Goffin's cockatoo, and the blue-streaked lory were identified by the CITES Parties as species for which the volume of trade may be detrimental to the survival of the species (two as C2 species and a C1 species deserving further study, respectively). Although CITES-supported studies have not been conducted to determine whether the trade is detrimental, trade has remained high and other information may be available to indicate that these species should be considered for transfer to appendix I. The Service seeks any

information on the status of these species.

3. Goliath frog (Conraua goliath)

The Service received a proposal from Dr. Christina M. Richards and Dr. Victor H. Hutchinson to list the Goliath frog in appendix I of CITES. The species is sparsely distributed in coastal rain forests in the Republic of Cameroon, Equatorial Guinea, and Gabon. It is reported that its habitat is rapidly being destroyed by the clearing of rain forests and construction of dams. The species is extremely difficult to maintain in captivity, but being the world's largest frog, has generated interest by animal dealers. The species is listed as vulnerable in the "1988 World Checklist of Threatened Amphibians and Reptiles," published by the Nature Conservancy Council, and the Service is considering proposing the species for listing as threatened under the Endangered Species Act (Act). While the Service is not yet sure that the information will support an appendix I listing, it is concerned that a complete review should be had on this proposal before any lesser classification is determined.

4. Testudines (Turtles)

The New York Zoological Society provided proposals to add the genus *Terrapene* (box turtles) to appendix II while retaining *T. coahuila* (aquatic box turtle) in appendix I, and to add *Clemmys insculpta* (weed turtle) to appendix II.

The genus *Terrapene* is comprised of four species (*T. carolina, T. coahuila, T. nelsoni,* and *T. ornata*) with 11 recognized subspecies, of which *T. coahuila* is already listed in appendix I. *Terrapene nelsoni* has a very small and fragmented range. It has been reported from widely disjunct, high-altitude localities on the west coast of Mexico. *Terrapene ornata* ranges over large sections of the midwestern United States and the Great Plains, from Texas north to southern South Dakota and eastward to Indiana. The most widely distributed species, *T. carolina,* is found from Canada to Mexico. Several studies document declines in *T. carolina* in various locations, but it is especially widespread and other populations may not be threatened.

Box turtles are long-lived, taking 10–20 years to reach sexual maturity, and loss of adults from a population can have a significant effect on the status of the population. The turtles have many causes of mortality, and development has increasingly fragmented their habitat. The sale of *T. carolina* and *T. ornata* is restricted in several States, but dealers still regularly advertise them for sale. It is reported that between 8,000 and 14,000 *T. carolina* are exported annually, but the exact number is not known. Trade in this species is reported to have increased since the ban on importation of Mediterranean tortoises into Europe.

The wood turtle (*Clemmys insculpta*) ranges from Nova Scotia west to Minnesota and Iowa, and south to Virginia. Next to tortoises, this is the most terrestrial of native turtles. Few attempts have been made to quantify wood turtle populations. They appear to be largely restricted to river and stream bottoms and associated shore-lines and floodplain habitats. Habitat loss and fragmentation are the most serious threats to this species. There are anecdotal reports that wood turtles are becoming scarce or are now extirpated in many places where stable populations once existed, but additional quantitative information is needed.

The species frequently appears on reptile dealer price lists, and prices for adult specimens vary from $35 to as much as $95 apiece. Wood turtles are reportedly desired by European terrarium hobbyists, but trade information is limited. The species is protected by State laws in several States within its range, and stronger enforcement in the United States seems appropriate. The Service solicits additional information on international trade and population status, in order to make its final decision on whether to propose the species for either Appendix.

5. Paddlefish (Polyodon spathula)

Region 6 of the U.S. Fish and Wildlife Service prepared a proposal for adding the paddlefish to appendix I of CITES. Paddlefish were historically abundant in most of the large rivers of the Mississippi River drainage; specifically noted were such rivers as the Missouri, the Ohio, the Tennessee, the Cumberland, the White, the Arkansas, and the Red. Paddlefish also were considered abundant in many of the Gulf slope river drainages in Texas, Louisiana, Mississippi, and Alabama. Around the turn of the century, relict populations occurred in Lake Erie and other of the Great Lakes, and paddlefish were known to exist in Ontario, Canada. They have been extirpated from Canada, the Great Lakes, and some of the peripheral range States such as New York, Pennsylvania, Maryland, and North Carolina. The peripheral range of the species has continued to decline since the turn of the century. Today, even though paddlefish still occur in 22 States, only remnant populations remain in many of the major river systems and their tributaries where the species once was considered to be abundant.

Paddlefish are highly mobile and live up to 30 years. Males reach sexual maturity at 7 to 9 years and females at 10 to 12 years of age. Cumulative impacts associated with alteration of habitats and contaminants, and overexploitation have had overall adverse effects on populations. Commercial exploitation also has been a major factor affecting its populations in several major river systems. At least nine States still allow commercial harvest of paddlefish, while it is fully protected (no sport or commercial fishing) in Texas (as endangered) Louisiana, Alabama, Minnesota, and Wisconsin (as threatened). Commercial harvest can rapidly deplete adult paddlefish stocks; the commercial catch has varied depending on the demand for roe and smoked flesh. Demand and price for roe (caviar) purportedly continued to increase during the 1980's. The current volume of roe entering trade internationally is unknown, in part because export forms are not required for fishery products, and because U.S. Customs reporting documentation does not require exporters to distinguish between roe from paddlefish and other fish species. The Service therefore, is considering proposing the paddlefish for appendix I or II, and seeks information on the effect of trade on this species, especially any data on the volume of its roe being exported.

6. Bluefin tuna (Thunnus thynnus)

The Service received a draft proposal from the National Audubon Society to list the bluefin tuna in appendix I of CITES. The species is found on both sides of the Atlantic Ocean and in the eastern Pacific Ocean. In the western Atlantic, it ranges from Labrador to Brazil. and in the eastern Atlantic, from the North Sea to western North Africa. In the eastern Pacific, it occurs from Shelikof Strait, Alaska to southern Baja California, Mexico. Bluefins attain sizes well over 1,000 pounds and live to 30 or more years. Western Atlantic bluefins spawn in the Gulf of Mexico, the Caribbean, and off the straits of Florida; eastern Atlantic bluefins spawn in the Mediterranean.

Since 1970, the western Atlantic population of this species has declined significantly. According to the proposal, the population index for 10–30 year-old breeding fish shows a decline of nearly 95 percent, while fishing pressure has purportedly intensified 2,200 percent. In 1986, Japan imported nearly 5,200 metric tons of bluefin tuna overall, including more than half of the U.S. catch.

Management of the Atlantic bluefin tuna falls under the responsibility of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The harvest quota for the western Atlantic population was set at 2,660 metric tons for 1991. The mean annual catch from the western Atlantic averaged about 9,190 metric tons in the early 1960's. The harvest quota for the western Atlantic population has been set at 2,660 metric tons since 1983. According to the proposal, catches in the eastern Atlantic averaged 20,900 metric tons between 1960 and 1962, and 5,400 in 1987 to 1989. In 1981, purse seining for bluefin tuna was generally banned in Canadian and U.S. waters. The National Marine Fisheries Service (NMFS) published a proposed rule (56 FR 10227; March 11, 1991) to limit harvest of bluefins especially in the Gulf of Mexico, to prevent the angling sector from exceeding its annual quota, thus ensuring that the United States fulfills its obligations under the ICCAT agreement. Since establishment of recent ICCAT quotas, there is some evidence that school fish and medium size fish may have increased in recent years.

The National Marine Fisheries Service reviewed the CITES proposal and recommended adding the western Atlantic population to appendix II, in part recognizing that a status review is being carried out by ICCAT. The U.S. Fish and Wildlife Service (Service) recognizes that CITES Article XIV limits the effectiveness of a listing in appendix II. Nevertheless, the Service perceives a benefit from the limited additional reporting and documentation requirements. The Service is considering submitting a proposal to list the entire species on appendix II, including the western Atlantic population due to its serious decline and listing the other populations for look-alike reasons. The Service, therefore, solicits any additional trade figures or statistics concerning this species.

7. Freshwater or Pearly Mussels (Family Unionidae)

At the Sixth Meeting of the Conference of the Parties in 1987, the Ten-Year Review Committee Chairman withdrew a proposal to remove several species of Unionidae from the CITES appendices, with the understanding that the United States would review the need for the listings. The Service contracted with the World Conservation Union (IUCN) Trade Specialist Group to assist in defining the geographical extent of harvest of the listed species (both under CITES and the Endangered Species Act) and in assessing the trade in these U.S. freshwater mussels.

The bivalve mollusc family Unionidae (pearly mussels or naiads) is one of the most diverse mollusc families in North America. Their geographic distribution is widespread; naiads are found in most of the major river drainages in the Southeast and Midwest, including the Upper Mississippi drainage system, and as far west as Oklahoma and Texas.

The Trade Specialist Group recommended that the Service propose listing the family Unionidae in appendix II, coupled with the transfer from appendix I to appendix II of the 26 taxa presently in appendix I. Of the 297 North American Unionid taxa currently recognized, 13 are believed to be extinct; 35 are listed as endangered under the Act with an additional 68 as candidates for listing, and 32 are included in the CITES appendices.

At the turn of the century, naiads were heavily harvested for the pearl button industry. The advent of plastic buttons resulted in a decline in this industry, but the development of pearl aquaculture by the Japanese in the 1950's again renewed commercial harvest. Numerous environmental changes (impoundments, channelization, siltation, and contamination) and extensive commercial exploitation have contributed to the gradual degradation of this valuable natural resource.

In April 1990, the IUCN Trade Specialist Group submitted an interim report on the trade in U.S. freshwater Unionid mussels to the Service. Currently about 5,000 metric tons of raw shells are being exported annually to Asian countries for the cultured pearl industry. This commercial trade may have a detrimental effect on the survival of some species, and there is the likelihood of taking protected species in the course of commercial harvesting. Dominant species recorded in the trade are: *Amblema plicata, Fusconaia ebena, Megalonaias neruosa, Pleurobema cordatum, Quadrula quadrula,* and *Q. pustulos*, none of which are listed in CITES or under the Endangered Species Act. Several listed species have been recorded in trade: *Conradilla caelata, Fusconaia cuneolus, Lampsilis brevicula,* and *Unio nicklineana*, and there is some indication that trade may shift to include other protected species. Due to the volume of trade, the likelihood of incidental take of listed species, the possibility of species being traded under incorrect names, and the general degradation of this resource, the Service is considering proposing all unionids for inclusion in CITES appendix II. Any additional information on status or trade is requested.

8. American mahogany (Swietenia spp.)

At the April 1991, fourth meeting of the CITES Plants Committee, the NRDC provided information on *Swietenia* species and the participants inquired whether the United States would consider proposing for appendix II those species of the genus that are not already in appendix II; TRAFFIC USA has also requested that the Service submit such a proposal. The three known species in the genus are native to the neotropics. *Swietenia humilis* (Pacific Coast mahogany) occurs in Mexico and Central American and is listed in appendix II, and no exclusion of parts has been proposed. The unlisted species are *S. macrophylla* (bigleaf mahogany), which occurs from South America to Mexico; and *S. mahagoni* (Caribbean mahogany), which occurs in the Caribbean, extending to southern Florida. Considered as natural hybrids are: in the Caribbean, *S. aubrevilleana* (seemingly *S. mahagoni* crossed with *S. macrophylla*), and in Costa Rica, *S. macrophylla* crossed with *S. humilis*. *Swietenia* species and hybrids also are in cultivation (and may be locally naturalized); some are grown ornamentally and/or for silviculture. *Swietenia macrophylla* and *S. mahagoni* are cultivated with limited success in plantations through the tropics both in the New and Old Worlds.

Demand for the timber and its products has been strong for many decades and this demand is not met from cultivated sources. Wood of *S. mahagoni* has been preferred, to the extent that its natural populations are considered to be severely genetically eroded, with the species existing mainly as only shrubs or small trees. Even in very remote areas (especially in South America), *S. macrophylla* is selectively sought and removed for commercial markets.

The United States recognizes that these are valuable species of timber trees that produce what is regarded as premier cabinet woods. Additional efforts are underway to obtain details from countries where the species are native. If the information continues to support a proposal to list the rest of the genus of appendix II, it probably would apply only to specimens (including natural hybrids) from the neotropics. For *S. macrophylla*, it probably would apply only to timber, lumber, and primary products (including logs, wood in the rough, sawn wood, veneer sheets, and plywood). However, for *S. mahagoni*, it appears necessary to regulate all timber,

lumber. and primary products, as well as wood that for the first time has been extensively worked into the secondary or final product.

9. Venus fly-trap (Dionaea muscipula)

At the recent meeting of the Plants Committee, participants from the United Kingdom in particular requested the United States to consider listing *Dionaea muscipula* in appendix II. The species occurs mostly in North Carolina, and also in South Carolina, and is extensively available through the nursery trade. Throughout the past decade especially, the species may have declined significantly. The State of North Carolina is presently conducting a thorough field survey, and TRAFFIC USA has initiated a study to determine the extent of the trade in specimens of wild origin compared with those that are artificially propagated. Sufficient status and trade data may become available before this October's deadline for submission of proposals to indicate whether a proposal should be submitted.

10. Ten-Year Review Species of Animals

At past CITES Animals Committee meetings, the chairman requested information from the Service on certain CITIES species occurring both in Mexico and the United States. The species of particular interest are as follows: (1) Harlequin or Montezuma quail (*Cyrtonyx montezumae montezumae* and *C. m. mearnsi*); (2) the San Diego horned lizard (*Phrynosoma coronatum blainvillii*); (3) pronghorns (*Antilocapra americana*); and (4) the Mexican bobcat (*Felis rufa escuinapae*). The Service was asked to determine the extent that these species enter trade and whether they continue to merit inclusion in the appendices, as well as to review the taxonomy of these species. The Service is in the process of determining whether a nomenclatural or geographical listing would provide the most appropriate listing for these species of concern. The Service has consulted with the Government of Mexico on several of these issues. The European countries are especially concerned that their port inspectors cannot correctly identify the various subspecies that are entering trade.

Harlequin quail (*Cyrtonyx montezumae*) are widespread, occurring throughout east and central Arizona, central New Mexico, west Texas and across the south-central uplands of Mexico from Guerrero to Veracruz. The ranges of the subspecies (*C. m. montezumae and C. m. mearnsi*) are somewhat demarcated on a north-south axis, with *mearnsi* north of the Sierra Madre Occidental and *montezumae* occupying the southern slopes in Jalisco, but extending to Atlantic drainages in Pueblo and Veracruz. There is a question as to whether they are valid subspecies, and also it appears that there is little documented trade in the species. The United States may submit a proposal to remove these two taxa from the CITES appendices. The Service would appreciate any comments on this issue.

There are five recognized subspecies of coastal horned lizards (*Phrynosoma coronatum*) occurring in California and Mexico, with only the San Diego horned lizard (*P. c. blainvillii*) being listed in appendix II of CITES. There has been no recorded trade in this subspecies since its listing in 1975, and the take of specimens of this species is prohibited under California law. The United States may propose either removing this subspecies from appendix II or listing the other subspecies on appendix II for look-alike reasons. The latter action would remove the burden of identifying the different subspecies by custom agents in importing countries, and place responsibility for proper identification of specimens and correct documentation by the issuance of export permits for all subspecies on the exporting country. The Service is not sure whether this added permit burden is warranted, and would appreciate comments.

At the Animals Committee meeting held in Australia (November 1990), it was recommended that the United States consider listing all pronghorns (*Antilocapra americana*) in the appendices since it is difficult to distinguish between the subspecies (*A. a. mexicana*, listed on appendix II; *A. a. peninsularis* and *A. a. sonoriensis*, both in appendix I, and the unlisted subspecies (*A. a. americana* and *A. a. oregona*). Both *A. a. peninsularis* and *A. a. sonoriensis* are protected under the U.S. Endangered Species Act, but the principal range of these endangered species is in Mexico. Although there is some possibility that the listed subspecies might enter trade, there is no evidence that they have been traded in the past; and the Service does not want to add the unnecessary burden of issuing permits for specimens of the nonthreatened, unlisted subspecies. Therefore, the United States may propose to remove the pronghorn populations in the United States from the appendices, and retain the more endangered populations in Mexico on appendix II or I.

Presently all subspecies of bobcats [*Felis*(= *Lynx*) *rufus*] are listed in appendix II of CITES as look-alikes, except for the Mexican bobcat (*Felis rufus escuinapae*) which is listed in appendix I. The number of subspecies of bobcats described to date comprise few realistically distinguishable taxa. Several subspecies of bobcats are recognized as existing in Mexico and their characters and ranges overlap with *escuinapae*. Based on present information, the United States intends to propose downlisting *escuinapae* from appendix I to II.

The National Marine Fisheries Service has requested the Fish and Wildlife Service (Service) to propose removing the northern elephant seal (*Mirounga angustirostis*) from appendix II. The northern elephant seal has reoccupied almost all of its historic breeding range and breed from Isla Naividad, Baja California, north to the Farallon Islands off San Francisco. Utilization is restricted to a very few specimens taken under scientific or display permits issued pursuant to the Marine Mammal Protection Act, and a few incidentally taken in fisheries. The species is also protected under recently adopted Mexican law. While parts and products of the northern elephant seal are difficult to distinguish between those of the southern elephant seal (*Mirounga leonina*), which would remain listed in appendix II, harvesting of the southern elephant seal ceased in 1961 and there is no known international trade in this species.

11. Turbinicarpus spp.

In 1983, the six recognized species of the Mexican cactus genus *Turbinicarpus* were transferred from appendix II to appendix I. Although the genus was mentioned in the proposal, the COP4 Annex listed the six species. Although it seems that the intent of the original proposal was to transfer the entire genus to appendix I, some might contend that newly described species are not included in the listing.

The Service is considering submitting a proposal to clarify the existing listing so that all species in the genus are clearly included in appendix I. Doing so will ease identification problems and so help to protect the six named species, and will include newly described taxa, which are rare, as well as those in the genus that may be discovered in the future.

The Service seeks additional status and trade information on all of the 10-year review species and comments on the other suggested proposals to change the appendices.

12. Proposals Related to the SPAW Protocol

Certain species are being considered for listing on CITES appendix II in order that obligations of the United States under the Protocol for Specially Protected Areas and Wildlife (SPAW) of the Cartagena Convention can be met. The Cartagena Convention was created through the impetus of the Regional Seas Programme of the United Nations Environment Programme. The Convention is a regional agreement for the protection and development of the marine environment. The SPAW Protocol area includes the marine environment of the Gulf of Mexico, the Caribbean Sea and the adjacent area of the Atlantic Ocean south of 30 degrees north latitude and north of the northern rim of South America, and such related terrestrial areas as each Party defines. Obligations to protect or manage species on the Annexes include the ability to regulate trade. The Parties at the SPAW Meeting of Plenipotentiaries in June 1991 agreed to regulate international trade through implementation of CITES. There are certain species included in the SPAW Annexes for which there exist adequate protection and management provisions in the United States, but for which trade involving the United States may exist but not be regulated.

In the **Federal Register** of March 21, 1991 (56 FR 12026), the Service issued a notice identifying plant and animal species proposed for protection or management under the SPAW Protocol. These species were included in the initial Annexes by the Parties at the SPAW Meeting of Plenipotentiaries. For these, international cooperation in regulating trade is expected.

The Service is considering a proposal to list the Queen conch (*Strombus gigas*), which is listed on Annex III of SPAW, to be added to appendix II of CITES. Currently, it is listed in *The IUCN Invertebrate Red Data Book* as a commercially threatened species. Although it is not threatened with extinction, most or all of its populations are threatened as a sustainable commercial resource, or may become so, unless their harvest is regulated.

The species is found in Bermuda, southeast Florida, throughout the Caribbean, and in the southern Gulf of Mexico, Panama, Belize, Colombia and Venezuela. Conch are found in sea-grass beds, usually preferring shallow water. The Queen conch is readily distinguished from the other five species of *Strombus* by its large size (over 2.5 kg) and the deep pink color of its aperture. Queen conches enter shallow waters to breed during the summer months and each female lays several spawn masses per season which may contain as many as 500,000 eggs.

Conch has long been an important part of the diet of Caribbean peoples. In all Caribbean countries, heavy fishing pressure for local use and the export market has severely depleted stocks in areas close to island population centers and fishing villages. In the lower Florida Keys, adult specimens are now rarely found. Conch mariculture projects are now underway in several countries. Some areas isolated from human settlement still contain healthy populations and do not appear to be overfished. Export consists of edible conch (fresh and dried) and whole shells. The Service is now soliciting comments on the proposed listing along with any trade and/or status information.

Guaiacum officinale (commoner lignum vitae) also has been listed in Annex III of the SPAW Protocol. The Service is considering proposing this species for inclusion in appendix II of CITES, in part so that the United States can meet its obligations under the SPAW Protocol to regulate trade. The species is native in the Bahamas, Greater Antilles and Lesser Antilles (including Puerto Rico and the U.S. Virgin Islands), and Venezuela and Colombia. The species is cultivated to a limited extent. This species is considered much depleted because of past exploitation. The Service seeks information to show whether there is now international trade either in its resinous wood or (for medicinal use) in its wood-extract. *Guaiacum sanctum* (holywood lignum vitae) is presently listed in appendix II of CITES.

13. Bred-In-Captivity

Pursuant to resolution Conf. 6.21, captive breeding operations seeking to register their facility for a appendix I species for commercial purposes for the first time must have the listing approved by a two-thirds majority vote of the CITES Parties. Subsequently, in resolution Conf. 7.10, the Parties recommended factors to be addressed in any proposal to register a facility in accordance with Conf. 6.21. The Service received a proposal for registration of Parrot Jungle and Gardens, Inc., and the Avicultural Breeding and Research Center, as commercial captive breeding operations for the scarlet (*Ara macao*).

The scarlet macaw has the widest distribution of any macaw, ranging from eastern Mexico, south through Central America to Colombia, and east of the Andes from the Guianas and Trinidad south to eastern Peru, Santa Cruz in Bolivia, and the northern Mato Grosso in Brazil. There are no accurate population estimates available, but according to some individuals large stable populations still exist in the Amazon region.

The scarlet macaw was listed in appendix I of CITES in 1985, but it is not listed under the Act or in the lists of threatened species established by the IUCN and International Council for Bird Preservation. *Ara macao* is widely kept and bred in captivity throughout the world, but most frequently in the United States.

The initial founder stock at Parrot Jungle and Gardens was imported in 1936, was first bred in 1945, and has been bred in the collection essentially to the F5 generation, although because of back breeding to wild caught specimens, few truly F2 generation captive bred birds have been produced. Of the 70 birds currently in the collection, at least 36 were captive born. Parrot Jungle has formed a breeding consortium with the Avicultural Breeding and Research Center. The current breeding stocks at these two sites include about 140 birds. Due to the large number of birds available in the United States for breeding stock (at least 176 pairs) and the large number in captivity (approximately 600), augmentation from the wild does not appear necessary at this time, and programs to minimize inbreeding can be developed.

It appears that the Parrot Jungle facility may qualify for registration as the first captive breeding operation for the scarlet macaw. The Service solicits any additional information on trade in the species, and other U.S. facilities that are breeding scarlet macaws in captivity.

Future Actions

The Service will consider all available information in deciding which proposals warrant consideration by the Parties. The U.S. proposals must be submitted to the CITES Secretariat by October 4, 1991, for consideration at the March 1992 meeting of the Conference of the Parties in Kyoto, Japan. After this date, the Service will publish a further **Federal Register** notice to announce its decisions on the potential proposals discussed above. Persons having current biological or trade information about the species being considered are invited to contact the Service's Office of Scientific Authority at the above address.

This notice was prepared by Drs. Richard M. Mitchell, Bruce MacBryde, and Charles W. Dane, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Treaties.

Dated: July 18, 1991.

Richard N. Smith,

Deputy Director.

[FR Doc. 91-17583 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 56, No. 142
Wednesday, July 24, 1991

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulations Model Rules Working Group Public Meetings

This notice of committee meetings is given pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463). Attendance at each meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after each meeting. Minutes of the meeting will be available on request.

Committee on Regulation

Date: Thursday, August 8, 1991.
Time: 2:00 p.m. to 5:00 p.m.
Location: Administrative Conference, 2120 L Street NW., suite 500, Washington, DC (Library, 5th floor).
Contact: David M. Pritzker, (202) 254–7020.
Agenda: The Committee will meet to continue discussion of possible recommendations on procedures in antidumping and countervailing duty cases, based on a study by Professors John H. Jackson, University of Michigan Law School, and William J. Davey, University of Illinois at Urbana-Champaign.

Committee on Regulation

Date: Friday, August 9, 1991.
Time: 9:30 a.m. to 12:30 p.m..
Location: Administrative Conference, 2120 L Street NW., suite 500, Washington, DC (Library, 5th floor).
Contact: David M. Pritzker, (202) 254–7020.
Agenda: The Committee will meet to discuss a draft report and possible recommendations concerning federal noise abatement regulation. The draft report was prepared for the Administrative Conference by Professor Sidney A. Shapiro, University of Kansas School of Law, and Dr. Alice Suter, Alice Suter and Associates, Cincinnati, Ohio.

Working Group on Model Rules

Date: Friday, September 6, 1991.
Time: 12 noon—2:00 p.m.
Location: Administrative Conference, 2120 L Street NW., suite 500, Washington, DC (Library, 5th floor).
Contact: Gary J. Edles, (202) 254–7020.
Agenda: The Committee will meet as part of an ongoing effort to develop model rules of practice and procedure which can be used by Federal agencies in formal adjudications.

Dated: July 19, 1991.

Michael W. Bowers,

Deputy Research Director.

[FR Doc. 91–17628 Filed 7–23–91; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 91–100]

Receipt of Permit Application for Release into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an application for a permit to release a genetically engineered organism into the environment is being reviewed by the Animal and Plant Health Inspection Service. The application has been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: A copy of the application referenced in this notice, with any confidential business information deleted, is available for public inspection in room 1141, South Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of this document by writing to the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Specialist, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6506 Belcrest Road, Hyattsville, MD 20782 (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plants Pests or Which There is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms are products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following application for a permit to release a genetically engineered organism into the environment:

Application No.	Applicant	Date Received	Organism	Field Test Location
91–168–01	Calgene, Incorporated	06–17–91	Rapeseed plants genetically engineered to express an oil modification gene and a kanamycin resistance gene.	Baker, Sumter, and Tift Counties, Georgia.

Done in Washington, DC, this 8th day of July 1991.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-17511 Filed 7-23-91; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Boulder Tony Timber Sale and Other Projects, Siuslaw National Forest, Tillamook County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) for a set of proposals to implement the Boulder Tony Timber Sale and other resource management projects on the Hebo District, Siuslaw National Forest. The purpose of the EIS will be to develop and evaluate a range of alternatives for timber harvest, development of associated road systems, and implementation of other related projects. Projects would be implemented in accordance with direction in the 1990 Siuslaw National Forest Land and Resource Management Plan (Forest Plan), which provides the overall guidance for management of the area. The proposed projects would be implemented during fiscal year 1994 on the Hebo Ranger District.

The proposed projects are located within a planning area located approximately five miles southeast of Beaver, Oregon, on the Hebo Ranger District, Siuslaw National Forest. A portion of this planning area is in the Hebo 1-A Roadless Area described in appendix C of the Forest Plan Final EIS. The Forest Service invites written comments and suggestions on the scope of the environmental analysis. In addition, the agency gives notice of the environmental analysis and decision-making process that will occur so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be submitted by October 1, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Ed Oram, District Ranger, Hebo Ranger District, P.O. Box 324, Hebo, Oregon, 97122.

FOR FURTHER INFORMATION: Direct questions about the proposed action and EIS to Scott Wells, Environmental Coordinator, Hebo Ranger District, P.O. Box 324, Hebo, Oregon, 97122; phone (503) 392-3161.

SUPPLEMENTARY INFORMATION: The purpose of the proposed actions is to implement management direction and projects identified in the Forest Plan. Therefore, the Boulder Tony EIS will be tiered to the Forest Plan which provides goals, objectives, standards and guidelines for the various land allocations on the national forest. The Forest Plan designated most of the lands in the project planning area as Management Area 15, which is primarily managed for timber production while maintaining or enhancing wildlife and fish habitat, soil and water resources and dispersed recreation. A small portion of the planning area is designated as Management Area 1, which is managed to protect and enhance Oregon silverspot butterfly habitat.

The proposed actions are derived from following two key elements in the Forest Plan:

1. Proposed Timber Sale and Associated Roads (Timber Sale Schedule, appendix A of the Forest Plan)

—The Boulder Tony Timber Sale would harvest approximately 9.9 million board feet (MMBF) from approximately 305 acres. Approximately 3.8 miles of road construction would be needed to access the timber. Skyline and other cable yarding systems would be used to harvest the timber. Stands proposed for harvest are located in Sections 1, 2, 3, 10, 11, and 12 in Township 4 South, Range 9 West, Williamette Meridian. The proposed Timber Sale is a composite of the Boulder Tony Timber Sale and a portion of the Boulder Rubble Timber Sale, both of which are listed in appendix A of the Forest Plan. The Environmental Assessments for those Timber Sales will be re-examined and the results documented in the draft EIS.

2. Wildlife and Fish Habitat Enhancement (Resource Schedule, appendix B of the Forest Plan)

—Stream habitat improvements for anadromous and resident fish.

—Meadow improvement projects for big game habitat enhancement.

The analysis will consider a range of alternatives. Along with the proposed actions, the analysis will consider a no-action alternative.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies and other individuals or organizations who may be interested in or affected by the proposed projects. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying major issues to be analyzed in depth.
3. Identifying issues which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives based on themes which will be derived from issues recognized during scoping activities.
5. Identifying potential environmental effects of this project and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.
7. Notifying interested publics of opportunities to participate through meetings, personal contacts, or written comment. Keeping the public informed through the media and/or written material (i.e. newsletters, correspondence, etc.).

Public involvement meetings will be held. Actual dates, times and place of meetings will be announced in the Tillamook Headlight-Herald and Corvallis Gazette-Times newspapers.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 1992. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon* v. *Hodel*, 803

F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in these proposed actions participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

The final EIS is scheduled to be completed by June 1993. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Forest Service is the lead agency. Wendy Herrett is the responsible official. As the responsible official, she will decide which, if any, of the proposed projects will be implemented. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR Part 217).

Dated: July 12, 1991.

Robert Gale,

Acting Forest Supervisor.

[FR Doc. 91–17579 Filed 7–23–91; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that an emergency briefing and planning meeting of the District of Columbia Advisory Committee to the Commission was convened at 10 a.m. and adjourned at 5 p.m., on Wednesday, May 15, 1991, at the Gavan Center, Shrine of the Sacred Heart, 16th and Park Road NW., Washington, DC 20009. The purpose of the emergency meeting was to obtain information from Hispanic community leaders, members of the public and government officials in connection with the recent incidents in the Mt. Pleasant area of Washington, DC. Participants were asked to address the questions: "Are civil rights complaints emerging from recent civil disturbances in Mt. Pleasant and neighboring areas. How should the District of Columbia Advisory Committee to the Commission and the Commission respond?"

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

Dated at Washington, DC, July 19, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–17570 Filed 7–23–91; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Public Meeting of the Illinois 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 Illinois Advisory Committee to the Commission will be held from 9 a.m. until 3 p.m. on Friday, August 16, 1991, at the Midland Hotel, 172 W. Adams St., Chicago, Illinois 60603. The purpose of this meeting is to discuss current issues, meet Midwestern Regional Staff and plan future activities.

Persons desiring additional information should contact Faye Lyon, Committee Chairperson at (815) 965–9595 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the schedule date of the meeting.

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

Dated at Washington, DC, July 19, 1991.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–17571 Filed 7–23–91; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Public Meeting of the Indiana 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 Indiana Advisory Committee to the Commission will be held from 9 a.m. until 5 p.m. on Thursday, August 8, 1991, at the Indiana Youth Institute, 333 N. Alabama, suite 300, Indianapolis, Indiana 46204. The purpose of this meeting is to gather information on the extent of hate crime in Indiana.

Persons desiring additional information should contact Committee Chairperson, Hollis E. Hughes, at (219) 293–9305 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, July 19, 1991.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–17572 Filed 7–23–91; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Public Meeting of the Indiana Advisory Committee

Pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, notice is hereby given that the meeting of the Indiana Advisory Committee to the Commission, previously announced in the **Federal Register** on July 19, 1991 (56 FR 33245), FR Doc. 91–17143, to convene at 6 p.m. until 9 p.m. on Wednesday, August 7, 1991, at the Indiana University School of Law/Indianapolis, 735 W. New York, has been relocated to the Indiana Youth Institute, 333 N. Alabama, suite 300, Indianapolis, Indiana 46204. The purpose of this meeting is to meet Regional staff, orient members, plan future activities, and refresh SAC members of the hate crime project.

Persons desiring additional information should contact Committee Chairperson, Hollis E. Hughes, at (219) 293–9305 or Constance Davis, Director of the Midwestern Regional Office, at (312) 353–8311. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, July 19, 1991.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–17573 Filed 7–23–91; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-812]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: July 24, 1991.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2613.

Initiation

The Petition

On June 28, 1991, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States Industry producing steel wire rope. In accordance with 19 CFR 353.12, the petitioner alleges that imports of steel wire rope from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, the U.S. industry. Petitioner amended its petition on July 11, 15, and 16, 1991.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the U.S. industry producing steel wire rope. If any interested party, as described in 19 CFR 353.2(k) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

Petitioner based its calculation of United States Price (USP) for Wire Rope Industries Ltd. (WRI) on price quotes from a Minnesota-based distributor of WRI products. Deductions were made for the estimated distributor's markup, foreign and U.S. inland freight, and U.S. customs duty and merchandise processing fee. Petitioner based its calculation of USP for Wrignts Canadian Ropes Ltd. (Wrights) on Wrights' price quotes. and price list to distributors in California and Oregon. Deductions were made for estimated foreign and U.S. customs duty and merchandise processing fee. Petitioner added to the U.S. selling price of both companies the amount of the Canadian federal sales tax that would have been collected if the merchandise had not been exported.

Petitioner based Foreign Market Value on the Western Canadian price list (applicable west of Ontario) of WRI and Wrights. Deductions from list price were made for discounts the petitioner believes are granted to western Canada distributors and for freight charges. An addition was made for the amount of Canadian federal sales tax that was added to each U.S. selling price.

Based on the above comparisons, petitioner calculated margins ranging from 2.69 to 90.96 percent.

Initiation of Investigation

Under 19 CFR 353.13(a), the Department must determine, within 20 days after the petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel wire rope from Canada and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Canada are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The product covered in this investigation is carbon steel wire rope. "Steel wire rope" encompasses ropes, cables and cordage of iron or carbon steel (i.e., other than stainless steel), other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass plated wire. The three types of steel wire rope covered by this petition include bright, galvanized, and coated (textile, plastic) steel wire rope. Swaged (compacted) wire rope is also included within the scope of this investigation. Steel wire rope is currently classified under subheading 7312.10.9030, 7312.10.9060 and 7312.10.9090 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Determination by ITC

The ITC will determine by August 12, 1991, whether there is a reasonable indication that imports of steel wire rope from Canada are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before December 5, 1991, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: July 18, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-17586 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-423-077]

Sugar from Belgium; Determination Not To Revoke Antidumping Duty Finding

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

ACTION: Notice of determination not to revoke antidumping duty finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty finding on sugar from Belgium.

EFFECTIVE DATE: July 24, 1991.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On June 6, 1991 the Department of Commerce ("the Department") published in the **Federal Register** (56 FR 26052) its intent to revoke the antidumping duty finding on sugar from Belgium (44 FR 33878, June 13, 1979). The Department may revoke a finding if the Secretary concludes that the finding is no longer of interest parties. We had not received a

request for an administrative review of this finding for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4).

On June 27, 1991, the petitioner, Florida Sugar Marketing and Terminal Association, Inc. objected to our intent to revoke the finding. On June 28, 1991, the U.S. Beet Sugar Association and the U.S. Cane Sugar Refiners' Association, interested parties, also objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: July 15, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-17587 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-078]

Sugar From France; Determination Not To Revoke Antidumping Duty Finding

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

ACTION: Notice of determination not to revoke antidumping duty finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty finding on sugar from France.

EFFECTIVE DATE: July 24, 1991.

For further information contact Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On June 6, 1991 the Department of Commerce ("the Department") published in the **Federal Register** (56 FR 26052) its intent to revoke the antidumping duty finding on sugar from France (44 FR 33878, June 13, 1979). The Department may revoke a finding if the Secretary concludes that the finding is no longer of interest to parties. We had not received a request for an administrative review of this finding for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4).

On June 27, 1991, the petitioner Florida Sugar Marketing Association, Inc. objected to our intent to revoke the finding. On June 28, 1991, the U.S. Beet Sugar Association and the U.S. Cane Sugar Refiners' Association, interested parties, also objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: July 15, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-17588 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-082]

Sugar From Germany; Determination Not To Revoke Antidumping Duty Finding

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

ACTION: Notice of determination not to revoke antidumping duty finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty finding on sugar from Germany.

EFFECTIVE DATE: July 24, 1991.

For further information contact Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On June 6, 1991 the Department of Commerce ("The Department") published in the **Federal Register** (56 FR 26053) its intent to revoke the antidumping duty finding on sugar from Germany (44 FR 33878, June 13, 1979). The Department may revoke a finding if the Secretary concludes that the finding is no longer of interest to the parties. We had not received a request for an administrative review of this finding for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4).

June 27, 1991, the petitioner Florida Sugar Marketing Association, Inc. objected to our intent to revoke the finding. On June 28, 1991, the U.S. Beet Sugar Association and the U.S. Cane Sugar Refiners' Association, interested parties, also objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: July 15, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91-17589 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-331-601]

Certain Fresh Cut Flowers From Ecuador; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On June 6, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain fresh cut flowers from Ecuador. We have now completed that review and determine the total bounty or grant to be zero for five companies and 1.12 percent *ad valorem* for all other companies during the period January 1, 1989 through December 31, 1989.

EFFECTIVE DATE: July 24, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth Levy or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 26062) the preliminary results of its administrative review of the countervailing duty order on certain fresh cut flowers from Ecuador (52 FR 1361; January 13, 1987). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Ecuadorian fresh cut miniature (spray) carnations, standard carnations, standard chrysanthemums and pompon chrysanthemums. This merchandise is currently classifiable under items 0603.10.30, 0603.10.70 and 0603.10.80 of the Harmonized Tariff Schedule (HTS). Daisies are excluded from the scope of the countervailing duty order. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1989 through December 31, 1989 and nine programs: (1) Short-term FOPEX export credit; (2) long-term FOPEX export credit; (3) Fund for the Development of Exportable Production;

(4) short-term FDEP loans; (5) tax deductions for new investment; (6) tax holidays; (7) tax exemptions for transfer of real estate; (8) sales and income tax exemptions; and (9) government refinancing of private debt.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be zero for Flores Del Ecuador, S.A.; Flores La Antonia, S.A.; Floricola, S.A.; Quito Flores, S.A.; and Victor Guala Salazar; and 1.12 percent *ad valorem* for all other companies during the period January 1, 1989 through December 31, 1989.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from Flores Del Ecuador, S.A., Flores La Antonia, S.A., Floricola, S.A., Quito Flores, S.A., and Victor Guala Salazar and to assess countervailing duties of 1.12 percent of the f.o.b. invoice price on shipments of this merchandise from all other firms entered, or withdrawn from warehouse, for consumption on or after January 1, 1989 and exported on or before December 31, 1989.

The Department will also instruct the Customs Service to waive cash deposits of estimated countervailing duties on shipments of this merchandise from Flores Del Ecuador, S.A., Flores La Antonia, S.A., Floricola, S.A., Quito Flores, S.A., and Victor Guala Salazar, and to collect a cash deposit of 1.12 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 18, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-17590 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DS-M

Technology Administration

Patent Licensing Regulations Revision; Meetings

Time and Date: July 31, 1991 at 2 p.m.

Place: Herbert C. Hoover Building, 14th and Constitution Avenues, NW., Washington, DC, room 4830.

Status: Open to the public.

Matters to be Considered: The revision of the government-wide patent licensing regulations in 37 CFR part 404, the licensing of foreign patents owned by the Government in 37 CFR part 102, foreign protection of Government inventions in 37 CFR part 101, and domestic rights in Government employee inventions in 37 CFR part 501.

Contact Person for More Information: Joseph P. Allen, Director of the Office of Technology Commercialization, 202-377-8100.

Deborah L. Wince-Smith,

Assistant Secretary for Technology Policy.

[FR Doc. 91-17593 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-18-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

July 18, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: July 25, 1991.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6496. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 347/348 and 647/648 are being reduced to account for carryforward used in 1990.

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 55 FR 50756, published on December 10, 1990). Also see 55 FR 49675, published on November 30, 1990.

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 18, 1991.

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 26, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on July 25, 1991, you are directed to amend further the directive dated November 26, 1990 to decrease the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Malaysia:

Category	Adjusted twelve-month limit [1]
347/348	285,917 dozen.
647/648	1,102,270 dozen of which not more than 794,371 dozen shall be in Category 647-K [2] and not more than 794,371 dozen shall be in Category 648-K [3].

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

[2] Category 647-K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.20.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.0044.

[3] Category 648-K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0052 and 6117.90.0046.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–17532 Filed 7–23–91; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

July 18, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 25, 1991.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–8791. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward used.

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 55 FR 50756, published on December 10, 1990). Also see 55 FR 50862, published on December 11, 1990.

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 18, 1991.

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 December 5, 1990, 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 Taiwan and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on July 25, 1991, you are directed to amend the directive dated December 5, 1990 to adjust the limits for the following categories, as provided under the terms of the bilateral agreement, effected by exchange of notes dated August 21, 1990 and September 28, 1990:

Category	Adjusted twelve-month limit [1]
Sublevels in Group I	
225/317/326	33,764,738 square meters.
314	24,917,821 square meters.
361	1,234,698 numbers.
611	2,540,117 square meters.
Sublevels in Group II	
336	121,436 dozen.
338/339	776,274 dozen.
340	1,222,221 dozen.
342	244,853 dozen.
347/348	1,288,567 dozen.
359–C/659–C [2]	1,534,104 kilograms.
359–H/659–H [3]	4,770,279 kilograms.
433	13,654 dozen.
435	19,773 dozen.
442	38,565 dozen.
443	46,414 numbers.
444	116,825 numbers.
447/448	18,812 dozen.
633/634/635	1,594,154 dozen of which not more than 959,317 dozen shall be in Categories 633/634 and not more than 809,791 dozen shall be in Category 635.
636	335,045 dozen.
638/639	6,851,155 dozen.
640	2,085,180 dozen of which not more than 1,361,080 dozen shall be in Category 640–Y [4].
642	699,237 dozen.
644	1,134,906 numbers.
647/648	5,544,935 dozen.
659–S [5]	1,902,708 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[4] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[5] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–17533 Filed 7–23–91; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in Uruguay

July 18, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: July 25, 1991.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

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).

In exchange of notes dated June 20 and July 3, 1991, the Governments of the United States and Uruguay agreed to extend their current bilateral agreement to extend through June 30, 1992.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the period July 1, 1991 through June 30, 1992.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State (202) 647–3889.

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 55 FR 50756, published on December 10, 1990).

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 18, 1991.

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 July 31, 1986; pursuant to the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, as amended and extended, between the Governments of the United States and Uruguay; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 25, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on July 1, 1991 and extending through June 30, 1992, in excess of the following levels of restraint:

Category	Twelve-month restraint limit [1]
334	98,259 dozen.
335	84,586 dozen.
410	2,686,740 square meters of which not more than 1,535,281 square meters shall be in Category 410-A [2] and not more than 2,473,507 square meters shall be in Category 410-B [3]
433	16,043 dozen.
434	23,934 dozen.
435	48,337 dozen.
442	34,193 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1991.

[2] Category 410-A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[3] Category 410-B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

Monitoring data for the aforementioned categories shall be retained and charged to the limits set forth in this directive.

Imports charged to these category limits for the period July 1, 1990 through June 30, 1991 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Uruguay.

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,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-17531 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DR-F

Overshipment and Transshipment Charges for Cotton Towels Produced and Manufactured in Pakistan

July 19, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging imports of overshipments and transshipments.

EFFECTIVE DATE: July 26, 1991.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to an agreement, effected by exchange of letters dated October 6 and 7, 1988, between the Governments of the United States and Pakistan, the United States Government is charging 159,867 kilograms to the current limit for cotton towels in Category 369-S. These are overshipment charges for 1989 and 1990 and combined overshipment and transshipment charges for 1991.

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 55 FR 50756, published on December 10, 1990). Also see 53 FR 18331, published on May 23, 1988; and 55 FR 53322, published on December 28, 1990.

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 19, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, as amended, between the Governments of the United States and Pakistan, and pursuant to the exchange of notes dated October 6 and October 7, 1988 concerning the charging of overshipments and transshipments, I request that, effective on July 26, 1991, you charge 159,867 kilograms to the current limit established in the directive dated December 24, 1990 for cotton textile products in Category 369-S [1], produced or manufactured in Pakistan.

This letter will be published in the **Federal Register**.

Sincerely,

Auggie D. Tantillo

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-17584 Filed 7-23-91; 8:45 am]

BILLING CODE 3510-DR-F

[1] Category 369-S: only HTS number 6307.10.2005.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[FAR Case 91-32]

Corrections to OMB Clearance Requests

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Corrections to OMB notices.

1. At 56 FR 31391, July 10, 1991, a request to review and approve a new information collection requirement concerning Superseding Part Numbers and Superseding Parts was published. In the third column, under **SUPPLEMENTARY INFORMATION**, the Purpose is corrected to read as set forth below:

A. Purpose

The Federal Acquisition Regulation (FAR), section 10.004, permits the use of purchase descriptions, subject to certain limitations, when authorized by FAR 10.006 or when no applicable specification exists. When acquiring items identified only by manufacturer's name and part number, it is necessary to (a) Provide a means for offerors to identify part numbers that are obsolete or otherwise incorrect and (b) describe the documentation an offeror must submit to support the change. The information provided by offerors enables the Government to validate the part number change and update the requirements data and solicitation accordingly.

2. At 56 FR 31392, July 10, 1991, a request to review and approve a new information collection requirement concerning Brand Name or Equal purchase descriptions was published. In the first column, the first line should read (FAR Case 91-32), and under **SUPPLEMENTARY INFORMATION**, the Purpose is corrected to read as set forth below:

A. Purpose

The Federal Acquisition Regulation (FAR), section 10.004, (a) permits the use of "brand name or equal" purchase descriptions when an adequate specification or more detailed description cannot feasibly be made available by any means other than inspection and analysis in time for the acquisition under consideration, and (b) states that agencies should provide detailed guidance and necessary clauses for use by contracting activities when using this technique. To provide a means for firms to offer "equal" products, the provision identifies the information that must be furnished with the offer to enable the Government to determine that the "equal" product is acceptable. The provision requires this information provided by offerors enables the Government to determine whether the "equal" product is acceptable.

Dated: July 17, 1991.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 91-17548 Filed 7-23-91; 8:45 am]

BILLING CODE 6820-34-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44. Chapter 35)

Title, Applicable form, and Applicable Control Number: DOD FAR Supplement, part 227, Patents, Data and Copyrights; No form; Control Number 0704-0240.

Type of Request: Expedited Submission—Approved date Requested: August 15, 1991.

Average Burden Hours/Minutes per Response: 79.471 Hours.

Responses Per Respondent: 1.

Number of Respondents: 16,560.

Annual Burden Hours: 2,307,240.

Annual Responses: 16,560.

Needs and Uses: This request concerns information collection and recordkeepking requirements related to Technical Data, Software Copyrights and Contracts.

Affected Public: Businesses or other for-profit and Small Businesses.

Frequency: On Occasion.

Respondents Obligation: Required to obtain or retain a benefit.

Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Davis Highway, suite 1204, Arlington, Virginia, 22202-4302.

Dated: July 19, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-17544 Filed 7-23-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Environmental Response Task Force; Opportunity to Comment

AGENCY: Office of the Assistant Secretary of Defense (Production and Logistics), DOD.

ACTION: Notice of Opportunity to Comment.

SUMMARY: Notice is hereby given that the Defense Environmental Response Task Force will leave its record open for written public comment until July 31, 1991. The purpose of the Task Force is to consider issues related to the improvement of interagency coordination of environmental response actions at military installations scheduled for closure pursuant to Public Law 100-526. The Task Force is also considering consolidation and streamlining of current practices with respect to such actions and consider recommendations regarding changes to existing laws, regulations, and administrative policies.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, Task Force Executive Director, Office of the Deputy Assistant Secretary of Defense (Environment), room 206, 400 Army Navy Drive, Arlington, Virginia, 22202-2884; telephone (703) 695-7007.

Dated: July 19, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 91-17545 Filed 7-23-91; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers; Department of The Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Construction of Variable Width Levee Setbacks and/or Other Measures To Control Sediment and Flooding in the Ablaca Creek Watershed, Leflore County, MI

AGENCY: U.S. Army Corps of Engineers, Vicksburg District, DOD.

ACTION: Notice of intent.

SUMMARY: The purpose of the proposed action is to reduce flooding and severe sedimentation problems in lands adjacent to the Abiaca Creek and the Mathews Brake National Wildlife Refuge into which the creek flows.

FOR FURTHER INFORMATION CONTACT: Mr. Wendell L. King, Vicksburg District Corps of Engineers, ATTN: CELMK-PD-Q, 3513 I-20 Frontage Road, Vicksburg, Mississippi 39180-5191.

EFFECTIVE DATE: July 24, 1991.

SUPPLEMENTARY INFORMATION: 1. The proposed Abiaca Creek sediment and flood control measures are components of the Demonstration Erosion Control Project, which were initially authorized by Public Law 98-8, "The Emergency Jobs Appropriation Act of 1983." Public Law 98-50, "The Energy and Water Development Appropriation Act for Fiscal Year 1984," directed joint effort by the U.S. Army Corps of Engineers and the U.S. Department of Agriculture, Soil Conservation Service, for the foothill areas of the Yazoo Basin.

2. A range of alternatives to include, but not limited to, the following will be considered: No action; control of gravel mine operations in the hills; construction of a leveed floodway; and construction of a hill line dam.

3. a. A scoping meeting is tentatively scheduled to be held at 7 p.m. on 31 July 1991 in the city of Greenwood, Mississippi, at the Youth Center. Public notices will be published to inform the general public.

b. Significant issues tentatively identified include bottom-land hardwoods/wetlands, waterfowl, fisheries, water quality, endangered species, cultural resources, socioeconomic conditions, etc. Additional environmental requirements may be identified during the scoping process.

c. The Soil Conservation Service, Environmental Protection Agency, U.S. Fish and Wildlife Service, and the Mississippi Department of Wildlife, Fisheries, and Parks will be invited to participate as cooperating agencies.

4. A DEIS will be available for review by the public during FY 92.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-17489 Filed 7-23-91; 8:45 am]

BILLING CODE 3710-PO-M

DEPARTMENT OF EDUCATION

[CFDA No. 246A and 246B]

Rehabilitation Training: Rehabilitation Short-Term Training; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1991

Purpose of Program: This program is designed for the support of special seminars, institutes, workshops, and other short-term courses in technical matters relating to the delivery of vocational, medical, social, and psychological rehabilitation services.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including institutions of higher education, are eligible for assistance under the Rehabilitation Short-Term Training Program.

Deadline for Transmittal of Applications: August 23, 1991.

Deadline for Intergovernmental Review: September 2, 1991.

Applications Available: July 24, 1991.

Available Funds: $400,000.

Estimated Average Size of Awards: $200,000.

Specific information regarding the estimated range of awards and number of awards appears on the chart in this notice.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 390.

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priorities as published in the **Federal Register** on May 13, 1991 (56 FR 22084) and as amended in response to public comments, because the Department's authority to obligate these funds will expire on September 30, 1991.

In response to the Secretary's notice of proposed priorities, 20 parties submitted comments. The following is a summary of the changes that are expected to be made in the final priorities based upon public comments.

Priority 1—Rehabilitation Short-Term Training—Implementation of the Americans With Disabilities Act (ADA)

One commenter suggested that the training include a focus on the legislative and philosophic history of the independent living and civil rights movement for people with disabilities. Other commenters suggested that the training include a focus on the independent living philosophy and the attitudinal variables that prompted the passage of the ADA.

The Secretary agrees that it is important for the training to include a focus on the legislative and philosophic history of the independent living and civil rights movement for people with disabilities. This will provide background regarding the impetus for the ADA. A change is expected in the final priority to require that the training include information on the legislative and philosophic history of the independent living and civil rights movement for people with disabilities.

A commenter suggested the the priority include the requirement that persons with disabilities be involved in the development of this training. The Secretary agrees that the involvement of persons with disabilities in the development and provision of this training is an important factor. A change is expected in the final priority to require that individuals with disabilities be involved in the development and delivery of training under this priority.

One commenter suggested that it is confusing to require that the training address the legal and professional liabilities of vocational rehabilitation and independent living professionals in the provision of services and information regarding compliance with the requirements of the ADA. The Secretary agrees that this requirement may be confusing and misinterpreted. The intent was to provide training on the limits imposed by the ADA regarding the disclosure of information to a potential employer about an individual's disability. This information can be provided under the general training regarding the ADA and its implementing regulations. It is expected that this requirement will be eliminated in the final priority.

Three commenters suggested that the audience for this training be expanded to include employers and trainers of employer personnel, and that the training address employers' skills in hiring, accommodating, and supervising employees with disabilities. Another commenter suggested that the intended audience include personnel from independent living centers. Other comments were received relating to the inclusion of personnel from rehabilitation facilities in the training audience.

Rehabilitation Short-Term Training funds can only be used to train personnel that provide vocational,

medical, social, and psychological rehabilitation services. The U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) are required to train and provide technical assistance to employers on the employment-related and public accommodation provisions of the ADA. In addition, the National Institute on Disability and Rehabilitation Research (NIDRR) is planning training for employers on the ADA. This priority requires that the short-term training be coordinated with the ADA-related training to be funded by NIDRR. The training audience includes personnel from independent living centers, rehabilitation facilities, and other community-based rehabilitation programs. No changes are expected in the final priority based upon these comments.

One commenter suggested that the training be conducted in a specific State since out-of-State travel may not be possible. Another commenter suggested that the training include a "network" approach so that national organizations can replicate the training for State chapters. A third commenter suggested that the project include a specific dissemination plan for the course material and outline. One commenter disagreed with the "train-the-trainer" approach and suggested that the priority include training of direct service providers and individuals with disabilities. The same commenters suggested that the training be competency-based and that participants be required to demonstrate their mastery in all training areas.

The intent of the priority is a "train-the-trainer" approach so that the training can be replicated at the State and local levels. The Secretary believes that this approach is the most effective mechanism given the limited amount of funds available for this project. While the training may be conducted in one central location, training materials must be made available for dissemination to undergraduate and graduate rehabilitation education programs and in-service and post-employment training programs funded under the Rehabilitation Act (Act) of 1973, as amended, for replication. A specific dissemination plan is not needed as the Department will disseminate the course material and outline to State vocational rehabilitation in-service programs, regional rehabilitation continuing education programs, and certain long-term training projects funded under section 304 of the Act. While no changes are expected to be made to the priority concerning competency-based training, all projects under the priority will be required to submit an evaluation plan to assess the effectiveness of their training. In addition, it is expected that the final priority will be revised to more clearly state that the project must produce a course outline and sample course materials for replication purposess.

A commenter suggested that the training on skills needed to assist employers in complying with the ADA include information on the use of rehabilitation technology and that the training focus on the capacities of individuals with disabilities. The Secretary agrees that the training can be enhanced by the inclusion of information or rehabilitation technology and the assessment of the capabilities of individuals with disabilities. Two changes are expected in the final priority. First, it is expected that the training must provide rehabilitation professionals with skills in the use of rehabilitation technology to assist employers in complying with the provisions of the ADA. Secondly, the training will be expected to provide vocational rehabilitation and independent living professionals with skills to assess the capacities, as well as the functional limitations, of individuals with disabilities in order to better assist employers to comply with the ADA.

One commenter suggested that the training provide information on the application of the ADA to specific disability groups. The training is intended to be national in scope. The inclusion of a focus on a specific disability group or groups would limit the applicability of this training at the national level. No changes are expected in the final priority in response to these comments.

A commenter suggested that the priority include the requirement that the project develop and disseminate a listing of resources for trainees and others to utilize in the provision of technical assistance on the ADA. Both the EEOC and the DOJ are required to produce technical assistance manuals and other resource materials under section 506 of the ADA. The Department is working with both of these Federal agencies in the development of the resource materials that will become available to the public shortly after the publication of final regulations implementing the ADA. Including the development of resource listings in this priority would be a duplication of the requirement under the ADA. No changes are expected in the final priority in response to this comment.

Priority 2—Rehabilitation Short-Term Training—Improving the Competency of Vocational Rehabilitation Counselors in Marketing of Vocational Rehabilitation Services, Providing Job Placement, and Assessing a Client's Job Skills That May Be Transferred to Other Occupational Opportunities

One commenter suggested the elimination of this priority. Another commenter suggested that this priority be replaced with one that focuses on rehabilitation technology. The 1989 National Survey of Personnel Shortages and Training Needs in Vocational Rehabilitation by Pelavin Associates substantiates the need for this type of training for vocational rehabilitation counselors. In addition, several other comments received on the proposed priority noted the need for this type of training. The Secretary funds other long-term training projects that provide training at both the pre-service and post-employment levels regarding rehabilitation engineering and technology services. No change is expected in this priority based upon these comments.

Several commenters suggested increasing the emphasis on marketing and encouraging employers to hire people with disabilities. One commenter suggested that the training include outreach to business and industry, the development of brochures and videos, and efforts to improve the placement skills of vocational rehabilitation counselors. The Secretary believes that the priority includes sufficient emphasis on the use of marketing strategies to increase competitive employment opportunities for individuals with disabilities. The priority is sufficiently broad to allow a project to address the areas suggested regarding outreach, materials development, and placement skills. No changes are expected in the final priority in response to these comments.

One commenter suggested that the priority conflcts with the intent of the ADA by supporting training to match an individual's skills with employer demands. The Secretary believes that matching an individual's skills with employer demands is consistent with a marketing approach to job development and job placement and does not conflict with the tenets of the ADA. As stated in the priority, marketing strategies have proven to be quite successful in assisting individuals with disabilities to access competitive employment opportunities. No change is expected in the final priority in response to this comment.

One commenter suggested a regional-oriented training focus. Other commenters suggested revisions in the intended training audience to include rehabilitation facility personnel and upper management personnel. The priority does not specify the geographic focus of the training. Projects can address national, regional, State, or local areas. However, the priority requires that a manual and training protocol be developed so that the training can be replicated in other locations. The training is intended for vocational rehabilitation counselors and other rehabilitation professionals. This intended training audience is broad enough to include facility personnel and upper management personnel. No changes are expected in the final priority in response to these comments.

Two commenters have suggested that the proposed training is too ambitious and cannot be addressed in a short-term training format. On the other hand, several other commenters supported the short-term training approach. The Secretary believes that the short-term training approach is appropriate to upgrade the skills of vocational rehabilitation counselors and other personnel involved in the placement of individuals with disabilities into competitive employment. The Secretary also funds long-term training projects that provide more intensive skill development in the areas of job development and job placement services for individuals with disabilities. No changes are expected in the final priorities based upon these comments.

One commenter suggested that the training provide information that is tailored to the special needs of certain disability groups. The Secretary does not support focusing on a specific disability group or groups for this training. Marketing strategies and the assessment of job skills are generic in nature and should not be limited to a specific disability group or groups. No change is expected in the final priority in response to this comment.

A commenter suggested that the Department develop innovative projects grants for replication of model programs that incorporate a marketing strategy. The Rehabilitation Short-Term Training program cannot be used to fund projects that provide direct services. The Secretary funds other categories of grants that provide direct services to individuals with disabilities. The Department has also identified exemplary programs and projects that increase competitive employment opportunities for individuals with disabilities and has disseminated information on these exemplary programs to encourage replication in other locations. No change is expected in the final priority in response to this comment.

Applicants should base their applications on the proposed priorities, with the expected changes noted above. If additional changes are made in the final priorities, applicants will be given the opportunity to revise or resubmit their applications.

For Applications or Information Contact: Bruce Rose, U.S. Department of Education, 400 Maryland Avenue SW., room 3332, Switzer Building, Washington, DC 20202–2649. To request an application, call (202) 732–1351; to receive further information, call (202) 732–1325; deaf and hearing impaired individuals may call the Federal Dual Party Relay Service on 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 29 U.S.C. 774.

Dated: July 22, 1991

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

CFDA No.	Priority areas	Estimated range of awards	Estimated No. of awards
84.246A	Implementation of the Americans with Disabilities Act	$175,000–$200,000	1
84.246B	Improving the Competency of VR Counselors in Marketing of VR Services, Providing Job Placement, and Assessing a Client's Job Skills That May be Transferred to Other Occupational Opportunities.	$175,000–$200,000	1

[FR Doc. 91–17710 Filed 7–23–91; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Determination of Noncompetitive Financial Assistance

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.14(f), it proposes to make a Financial Assistance Award based on an unsolicited application under Financial Assistance Award No. DE–FG05–91DF70060 to Virginia Polytechnic Institute and State University, Blacksburg, Virginia, to provide research and development of tools, methods and rules for managing cooperation for continuous performance improvement in government program offices. The period of performance for the initial award will be for one year with an estimated value of $2,000,000 and the total estimated project cost will be $12,500,000 over a five year period. The Financial Assistance Award is sponsored by the Office of Management Support, Defense Programs.

PROJECT SCOPE: The grantee will expand the body of organizational and management systems knowledge through comprehensive study of a model government program office. The thesis of this research program is that through the theory of the control loop, the application of the rules and methods of the hypothesized structured management process to the organizational units to be studied will yield an understanding of a set of tools and methods for avoiding the unexpected interruptions to orderly work flow. The research program proposed will contribute to the body of organizational and management systems knowledge available to the public to enhance the effectiveness and competitiveness of both public and private organization. Virginia Polytechnic Institute and State University has developed and exclusive capability for dealing with the improvement of organizational and management effectiveness both through its prior experience and through tools and methods developed under prior similar efforts. This project represents a unique idea for which a competitive solicitation would be inappropriate. Eligibility for a proposed noncompetitive award is, therefore, restricted to Virginia Polytechnic Institute and State University.

FOR FURTHER INFORMATION CONTACT: William C. Heard, Director, Training and Staff Development Division, Defense Programs, DP–543 Washington, DC 20585, (301) 353–3612.

Issued in Oak Ridge, TN, on July 16, 1991.

Peter D. Dayton,

Director, Procurement and Contracts Division, USDOE Field Office, Oak Ridge (OR).

[FR Doc. 91-17578 Filed 7-23-91; 8:45 am]

BILLING CODE 6450-01-M

DOE Response to Recommendation 91-3 of the Defense Nuclear Facilities Safety Board Concerning the Operational Readiness Review of the Waste Isolation Pilot Plant (WIPP).

AGENCY: Department of Energy.

ACTION: Notice of request for public comment.

SUMMARY: Pursuant to section 312(d) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286(d), the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 91-3 of the Defense Nuclear Facilities Safety Board, published in the **Federal Register** on May 1, 1991, concerning the need for an independent and comprehensive readiness review prior to initiation of the Test Phase at the Waste Isolation Pilot Plant (WIPP).

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before August 23, 1991.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Thomas Elsasser, Team Leader, at the WIPP site on 505-885-7275 or at DOE Headquarters on 202-586-2979.

Dated: July 18, 1991.

Paul Grimm,

Deputy Director, Office of Environmental Restoration and Waste Management.

The Honorable John T. Conway, Chairman
Defense Nuclear Facilities Safety Board, suite 700, 625 Indiana Avenue NW.,
Washington, DC 20004

June 5, 1991.

Dear Mr. Conway: This responds to your April 26, 1991, letter in which you issued Recommendation 91-3 regarding the need for the Department of Energy (DOE) to conduct a comprehensive and independent readiness review of the Waste Isolation Pilot Plant (WIPP) prior to initiation of the test phase.

As you know from the briefing by Mr. Leo P. Duffy to the Board on May 1, 1991, the Department, through its Office of Environmental Restoration and Waste Management (EM), is aggressively pursuing a comprehensive and independent Operational Readiness Review (EM-ORR) at WIPP. The review team began work on-site on May 6, 1991.

The Department accepts the Board's comments and recommendations and is taking action to comply with the Board's direction as part of ongoing readiness review activities. The EM-ORR will be performed after completion of the contractor's readiness review, except for integrated readiness testing of bin handling. This testing by the contractor has not been completed because certain bin system auxiliary equipment is still arriving on-site. Once installed, this equipment will be tested and the contractor's readiness review can be completed. Since this activity is a limiting item for the beginning of the test phase, the EM-ORR will overlap portions of the contractor's review; however, the EM-ORR will not be completed until after the contractor's readiness review is finished.

As stated in the Final Safety Analysis Report (FSAR), the WIPP facility does not have any systems that meet the definition of "Safety Systems" as required by DOE Order 6430.1A. There are, however, certain systems that are important to safe waste handling operations, some of which have Operational Safety Requirements (OSRs) and Limiting Conditions for Operations (LCOs) associated with them. The EM-ORR team proposes to perform examination of records and verification of as-built drawings for these systems that are important to safe waste handling operations.

I appreciate the time you have devoted to this effort, which included a May 20, 1991, presentation on the status of the EM-ORR effort, and your comments on a preliminary draft of our Implementation Plan. Our next opportunity to brief the Board on the status of the EM-ORR should occur shortly after I issue Revision 8 to my draft Decision Plan for the WIPP, which I expect to do on or about June 10, 1991.

Sincerely,

James D. Watkins,

Admiral, U.S. Navy (Retired).

[FR Doc. 91-17577 Filed 7-23-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER91-307-000, et al.]

Tampa Electric Co., et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

July 17, 1991.

Take notice that the following filings have been made with the Commission:

1. Tampa Electric Co.

[Docket No. ER91-307-000]

Take notice that on July 9, 1991, Tampa Electric Company (Tampa Electric) tendered for filing an amended Service Schedule B (Scheduled/Short-Term Firm Interchange Service) under the existing contract for interchange service between Tampa Electric and the City of Tallahassee, Florida (Tallahassee). Tampa Electric states that the amended service schedule supersedes the Service Schedule B tendered initially in this docket.

Tampa Electric proposes an effective date of September 1, 1990, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Tallahassee and the Florida Public Service Commission.

Comment date: August 1, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Chambers Congeneration Limited Partnership

[Docket No. QF87-433-001]

On June 28, 1991, Chambers Congeneration Limited Partnership (Applicant) of 7475 Wisconsin Avenue, suite 1000, Bethesda, Maryland 20814-3422, submitted for filing an application for recertification of a facility as a qualifying congeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed 253.79 MW topping-cycle congeneration facility will be located at the E.I. du Pont de Nemours & Company, Inc. plant in Carneys Point, New Jersey. The facility will consist of two conventional boilers and an extraction/condensing steam turbine generator. The original certification was issued August 31, 1987, Bechtel Development Company, 40 FERC ¶ 62,256. The instant recertification is requested due to changes in the design and ownership of the facility.

Comment date: August 23, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Washington Water Power Co.

[Docket No. ER91-538-000]

Take notice that on July 10, 1991, Washington Water Power Company (WWP) tendered for filing Amendatory Agreement No. 3 executed by the parties as of August 1, 1991, to the Pacific Northwest Coordination Agreement dated September 15, 1964.

WWP states that Amendatory Agreement No. 3 modifies the primary agreement to change the contract year from a July 1 through June 30 year to an August 1 through July 31 year.

Comment date: August 1, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. West Texas Utilities Co.

[Docket No. ER91-539-000]

Take notice that on July 10, 1991, West Texas Utilities Company (WTU) tendered for filing an Agreement between WTU and Texas Utilities Electric Company for the Construction and Interconnection of Transmission Facilities. The agreement amends the long-standing Interconnection Agreement between WTU and TUEC in order to provide for the construction and operation of an additional transmission connection, a 138 kV line betwen WTU's Barilla Switching Station and TUEC's Permian Basin Generating Station. Each party will pay the costs of construction and maintenance for its respective portion of the new transmission line.

WTU requests an effective date of March 1, 1992 and, accordingly, seeks waiver of the Commission's notice requirements to permit waiver of the Commission's notice requirements to permit filing more than 120 days before the requested effective date. Copies of the filing were served upon TUEC and the Public Utility Commission of Texas.

Comment date: August 1, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. United Illuminating Co.

Docket Nos. ER91-265-000 and ER91-266-000]

Take notice that on July 10, 1991, United Illuminating Company (UI) tendered for filing additional support information for UI's rate filing in the above-referenced dockets.

Comment date: July 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Central Hudson Gas & Electric

[Docket No. ER91-541-000]

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson) on July 5, 1991, tendered for filing as a rate schedule an executed agreement dated May 31, 1991 between Central Hudson and the Dutchess County Utility Service Agency (Agency). The Rate Schedule provides for the distribution of Hydroelectric Energy purchased from the New York Power Authority by the Agency to certain electric customers located within the service territory of Central Hudson within the boundaries of County of Dutchess New York. Because the Rate Schedule has an effective date prior to the expiration of the 60 day notice period under 18 CFR § 35.31(a), Central Hudson accordingly requests that such 60 day notice requirement be waived and that the Rate schedule become effective on July 1, 1991.

Copies of the filing were mailed to the Agency and the Public Service Commission of the State of New York.

Comment Date: August 1, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Montclair Cogeneration Project Associates Limited Partnership

[Docket No. QF91-182-000]

On July 10, 1991, Montclair Cogeneration Project Associates Limited Partnership of 255 Main St., Hartford, Connecticut 06106, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Upper Montclair, New Jersey. The facility will consist of a combustion turbine generator and a supplementary fired heat recovery boiler (HRB). Steam recovered from the HRB will be utilized on the campus of Montclair State College. The net electric power production capacity of the facility will be approximately 4 MW. The combustion turbine fuel will be natural gas.

Comment date: August 23, 1991, 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. 91-17502 File 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF91-67-000, et al.]

Zond Victory Garden Phase IV, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Zond Victory Garden Phase IV Development Corp. and ESI VG Limited Partnership

[Docket No. QF91-67-000]

July 15, 1991.

On July 11, 1991, Victory Garden Phase IV Development Corporation and ESI VG Limited Partnership tendered for filing an amendment to their filing in this docket.

The amendment provides additional information relating to ownership of the facility.

Comment date: August 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Zond Sky River Development Corp. and ESI Sky River Limited Partnership

[Docket No. QF91-59-000]

July 15, 1991.

On July 11, 1991, Zond Sky River Wind Development Corporation and ESI Sky River Limited Partnership tendered for filing an amendment to their filing in this docket.

The amendment provides additional information relating to ownership of the facility.

Comment date: August 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Boston Edison Co.

[Docket No. ER91-525-000]

July 16, 1991.

Take notice that on July 1, 1991, Boston Edison Company (Edison) tendered for filing a supplemental exhibit A to a Service Agreement for Cambridge Electric Light Company (Cambridge), under its FERC Electric Tariff, Original volume No. IV, Non-Firm Transmission Service (the Tariff). The exhibit A specifies the amount and duration of transmission service required by Cambridge under the Tariff.

Edison requests waiver of the Commission's notice requirements to permit the exhibit A to become effective as of the commencement date of the transaction to which it relates, May 1, 1991.

Edison states that it has served the filing on Cambridge and the Massachusetts Department of Public Utilities.

Comment date: July 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Power Co.

[Docket No. ER91-527-000]

July 16, 1991.

Take notice that on June 17, 1991, Duke Power Company (Duke) tendered for filing a Contract for Short Term Power Transactions between Cajun Electric Power Cooperative, Inc. and Duke Power Company (Agreement). Duke asks that the sixty (60) day notice requirement be waived so that the Agreement may be permitted to become effective on June 6, 1991.

Comment date: July 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No ER91-522-000]

July 16, 1991.

Take notice that on July 1, 1991, Arizona Public Service Company tendered for filing amendments to rate schedule exhibits affecting estimating, contract, or maximum demands in the following FPC/FERC Rate Schedules:

FPC/ FERC No.	Customer	Exhibit Name
52	Papago Tribal Utility Authority.	Exhibit I.
58	Wellton-Mohawk Irrigation and Drainage District.	Exhibit B.
59	Arizona Power Authority	Exhibit "B".
65	Colorado River Indian Irrigation Project.	Exhibit A.
66	San Carlos Indian Irrigation Project.	Exhibit A.
120	Southern California Edison Company.	Exhibit B.
126	Electrical District No. 6	Exhibit "II".
128	Electrical District No. 7	Exhibit "II".
140	Electrical District No. 8	Exhibit "II".
141	Aguila Irrigation District	Exhibit "II".
142	McMullen Valley Water Conservation and Drainage District.	Exhibit "II".
143	Tonopah Irrigation District.	Exhibit "II".
149	Citizens Utilities Company.	Exhibit B.
153	Harquahala Valley Power District.	Exhibit "II".
155	Buckeye Water Conservation and Drainage District.	Exhibit "II".
158	Roosevelt Drainage District.	Exhibit "II".
161	Papago Tribal Utility Authority.	Exhibit B.
168	Maricopa County Municipal Water Conservation District No. 1.	Exhibit "II".

No changes from the currently effective Wholesale Power or Transmission rate levels are proposed herein. No new facilities are required to provide these services.

A copy of this filing has been served on the above customers, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: July 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Cambridge Electric Light Co.

[Docket No. ER91-507-000]

July 16, 1991.

Take notice that on June 27, 1991, Cambridge Electric Light Company (Cambridge) tendered for filing a fully-executed Service Agreement between itself and the Town of Belmont, Massachusetts embodying the terms of the settlement agreement approved by the Commission in a letter order dated December 6, 1990.

Comment date: July 30, 1991, 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. 91-17504 Filed 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7802-005]

Natural Energy Resources Co.; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meetings

July 18, 1991

The staff of the Federal Energy Regulatory Commission (staff) has determined that issuance of a license for the construction and operation of the proposed Rocky Point Pumped Storage Hydroelectric Project, FERC No. 7802-005, on the Taylor River in Gunnison and Chaffee Counties, Colorado, would constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the proposed project in accordance with the National Environmental Policy Act. The staff's EIS will consider both site specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

The scoping process will provide public forums to determine the scope and the significant issues that should be analyzed in depth in the EIS. The times and locations of these scoping meetings and public hearings will be announced in a subsequent public notice.

For further information, please contact the FERC EIS Coordinator, Kathleen Sherman at (202) 219-2834.

Lois D. Cashell,

Secretary.

[FR Doc. 91-17553 Filed 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2448-000, et al.]

Florida Gas Transmission Co., et al.; Natural Gas Certificate Filings

July 17, 1991.

Take notice that the following filings have been made with the Commission:

1. Florida Gas Transmission Co.

[Docket No. CP91-2448-000]

Take notice that on July 15, 1991, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP91-2448-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) requesting abandonment authority and a certificate of public convenience and necessity necessary for FGT to implement changes and to reflect a major restructuring of services on FGT's system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Because of the interrelationship between the changes in rates sought in Docket No. RP91-187-000,[1] FGT requests that the Commission consolidate this certificate filing in Docket No. CP91-2448-000 with Docket No. RP91-187-000. FGT states that it submitted these two filings, in part, to make FGT's transportation and sales services comparable in a manner consistent with FGT's role as both a merchant and open access transporter

[1] Notice by publication in the Federal Register on July 11, 1991 (56 FR 31634).

and to more fully comport with the Commission's stated objectives in the Commission's Rate Design Policy Statement.[2]

In Docket No. CP91–2448–000, FGT requests the necessary authorizations to implement the following changes on its system:

(1) To make available, on a not unduly discriminatory basis and as an extension of its current pipeline system, FGT's firm capacity on third-party pipelines by amending FGT's blanket certificate of public convenience and necessity issued under Subpart G of Part 284 of the Commission's Regulations;

(2) To permit (a) temporary relinquishments by firm sales and transportation customers of their capacity to any other customers each month pursuant to Section 13 of the General Terms and Conditions, effective the following month (with receipt of a credit equal to 75 percent of applicable demand charges) and (b) the permanent relinquishment of firm services for any other firm service;

(3) To require (a) nomination and scheduling of firm, preferred, and interruptible sales services, including a requirement that FGT nominate and schedule receipts of system supplies on a daily basis, and (b) assessment of penalties for deliveries below and/or in excess of four (4) percent of daily scheduled quantities;

(4) To implement a new Rate Schedule OPF–1 to provide off peak firm transportation services into the state of Florida during the months of November through March in order to complement services under existing Rate Schedule WPPS during the same months;

(5) To permit allocation of preferred, primary, and interruptible services through use of an experimental bidding program that allocates, each month, the available interruptible capacity between preferred, primary, and interruptible services based on rate bids for such services prior to the beginning of each month;

(6) To implement experimental procedures to share the savings and/or additional costs that FGT may occur over the three (3) years by adjusting automatically FGT's firm sales and transportation rates to reflect changes in certain specified indices and provide a "variance based incentive mechanism" for regular capital additions to sustain and maintain its system;

(7) To permit (a) the implementation of a new in-line transfer point at Compressor Station No. 8, (b) the collection of a two-cent administrative fee from all upstream interruptible transporters using the in-line transfer points in lieu of the applicable rate under Rate Schedule ITS–1, and the collection of transportation rate under Rate Schedules FTS–1 and PTS–1, as well as, any applicable fuel charges from downstream transporters utilizing any in-line transfer points, (c) the utilization by downstream firm transporters of in-line transfer points without surrendering firm receipt point capacity, (d) the continuation of the proportional access methodology, and (e) the scheduling of transportation services delivering gas to an in-line transfer point based on the priority of the transportation service agreement taking delivery;

(8) To implement an Account No. 858 cost tracker; and

(9) To recover producer demand charges on an "as billed" basis through the granting of a permanent waiver of § 154.305(b)(1) of the Commission's Regulations.

Comment date: July 29, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. U–T Offshore System

[Docket No. CP91–2468–000]

Take notice that on July 12, 1991, U–T Offshore System (U–TOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91–2468–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Williams Gas Marketing Company, a marketer, under the blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89–99–000, 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.

U–TOS states that, pursuant to an agreement dated April 1, 1991, under its Rate Schedule IT, it proposes to transport up to 50,000 Mcf per day of natural gas. U–TOS indicates that the gas would be transported from Offshore Louisiana, and would be redelivered in Louisiana. U–TOS further indicates that it would transport 50,000 Mcf on an average day and 18,250,000 Mcf annually.

U–TOS advises that service under § 284.223(a) commenced May 17, 1991, as reported in Docket No. ST91–8336–000.

Comment date: September 3, 1991, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in 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

[2] See Interstate Natural Gas Pipeline Rate Design, 47 FERC ¶ 61,295 *order on reh'g*, 48 FERC ¶ 61,122.

be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-17501 Filed 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2415-000, et al.]

United Gas Pipe Line Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Co.

[Docket No. CP91-2415-000]

July 15, 1991.

Take notice that on July 8, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-2415-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to construct and operate a 1-inch sales tap and related facilities in Rankin County, Mississippi, under United's blanket certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully detailed in the application which is on file with the Commission and open to public inspection.

United proposes to install the tap and related facilities for the sale of natural gas to Willmut Gas and Oil Company (Willmut) for commercial use. It is stated that United was authorized in Docket No. G-478 to provide all of Willmut's natural gas requirements for residential and commercial use in its East Jackson billing area, pursuant to the terms of United's Rate Schedule G. It is explained that deliveries to Willmut through the proposed tap would total 38 Mcf on a peak day and 6,000 Mcf on an annual basis and that such deliveries would be within Willmut's current entitlement from United.

It is explained that the construction and operation of the tap can be accomplished without detriment to United's other customers. It is stated that United would be reimbursed for the cost of installing the facilities by Willmut.

Comment date: August 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Tennessee Gas Pipeline Co.

[Docket Nos. CP91-2430-000, CP91-2431-000, CP91-2432-000]

July 15, 1991.

Take notice that on July 10, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP87-115-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Tennessee and is summarized in the attached appendix.

Comment date: August 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Dth	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2430-000 (7-10-91)	Pennzoil Gas Marketing Company (Marketer).	35,000 35,000 12,775,000	OLA, LA, TX	MS, AL, WV, KY	1-21-88,[2] IT, Interruptible.	ST91-9375-000, 6-25-91.
CP91-2431-000 (7-10-91)	Endevco Marketing Company (Marketer).	10,000 10,000 3,650,000	OLA, LA, PA, TX, NY, MS.	PA, WV, NY, OH	7-14-88,[2] IT, Interruptible.	ST91-9407-000, 6-25-91.
CP91-2432-000 (7-10-91)	Transamerican Natural Gas Corporation (Producer).	50,000 50,000 18,250,000	LA, TX, MS	Various	8-25-87,[2] IT, Interruptible.	ST91-9408-000, 7-1-91.

[1] Offshore Louisiana is shown as OLA.
[2] As amended.

3. Texas Gas Transmission Corp., et al

Docket Nos. CP91-2440-000, CP91-2441-000, CP91-2442-000, CP91-2443-000, CP91-2444-000, CP91-2445-000, CP91-2446-000

July 15, 1991.

Take notice that on July 10, 1991, Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301, and United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP88-686-000 and Docket No. CP88-6-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: August 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2440-000 (7-10-91)	PPG Industries, Inc.	800 528 124,800	Various	IN	1-28-91, IT, Interruptible.	ST91-9128-000 6-18-91
CP91-2441-000 (7-10-91)	North Canadian Marketing Corp.	100,000 100,000 36,500,000	Various	OH, KY	5-8-91, IT, Interruptible.	ST91-9129-000 6-15-91
CP91-2442-000 (7-10-91)	Transco Energy Marketing Co.	50,000 10,000 3,650,000	OLA	OLA	4-25-91, IT, Interruptible.	ST91-9127-000 6-14-91
CP91-2443-000 (7-10-91)	Hadson Gas Systems, Inc.	100,000 100,000 36,500,000	Various	LA	5-30-91, IT, Interruptible.	ST91-9024-000 6-2-91
CP91-2444-000 (7-10-91)	Red River Gas Co. (Marketer).	1,030 1,030 375,950	TX, LA	LA	3-8-91, ITS, Interruptible.	ST91-9057-000 6-1-91
CP91-2445-000 (7-10-91)	Unocal Exploration Corp. (Producer).	25,750 25,750 9,398,750	TX	OTX	7-16-90, ITS, Interruptible.	ST91-9060-000 6-1-91
CP91-2446-000 (7-10-91)	Production Gathering Co. (Marketer).	10,300 10,300 3,759,500	LA, TX, MS	LA, TX, MS	5-23-91, ITS, Interruptible.	ST91-9059-000 6-1-91

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

4. Transcontinental Gas Pipe Line Corp.

[Docket No. CP91-2419-000]

July 15, 1991.

Take notice that on July 8, 1991, Transcontinental Gas Pipe Line Corporation, (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP91-2419-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations for authorization to expand an existing delivery point in order to accommodate natural gas deliveries to Public Service Electric and Gas Company (PSE&G), an existing sales, transportation and storage customer, under Transco's blanket certificate issued in Docket No. CP82-426-000 pursuant to section 7 of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco states that PSE&G has requested that Transco expand its delivery point at Piles Creek, Union County, New Jersey (Piles Creek M&R), so that PSE&G may receive all authorized services at this point. It is stated that the Piles Creek M&R was constructed and placed in service on October 3, 1985, for 80,000 Mcf per day pursuant to section 311 of the Natural Gas Policy Act (NGPA). It is stated that since that time, deliveries at Piles Creek M&R increased to 142,705 Mcf per day. Transco states that it requested authorization in its application filed in Docket No. CP90-687 to render service at the Piles Creek M&R pursuant to NGA section 7(c) and that such service was certificated by the Commission on June 11, 1991.

Transco states that PSE&G now desires that Transco expand the Piles Creek M&R so that it would have a capacity of 362,250 Dth per day of natural gas. Transco requests the removal of any restrictions that limit the permissible service for any part of the capacity at such delivery point to NGPA section 311 service.

Transco states that it has agreed to replace three existing eight-inch meter tubes and two existing eight-inch regulators with four ten-inch meter tubes and two 16-inch regulators. It is indicated that the proposed expansion of the Piles Creek M&R would be used by PSE&G to receive up to 350,000 Mcf per day of gas from Transco through a combination of services and that such services would be provided in accordance with Transco's Delivery Point Entitlement Settlement filed on March 4, 1991, in Docket No. CP89-484.

Transco states that PSE&G's total transportation and sales service entitlement would not be altered from its current level of 417,749 Mcf per day. Transco states that it would have sufficient system delivery flexibility to accomplish deliveries at the Piles Creek M&R without detriment or disadvantage to Transco's other existing customers. It is indicated that PSE&G would require service at the Piles Creek M&R by November of 1991.

Comment date: August 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Iroquois Gas Transmission System, L.P.

[Docket No. CP91-2417-000]

July 15, 1991.

Take notice that on July 8, 1991, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, suite 606, Shelton, Connecticut 06484, filed in Docket No. CP91-2417-000 a request pursuant to §§ 157.205 and 284.211 of the Commission's Regulations for authorization to construct five sales taps on portions of its pipeline, under its blanket certificates issued in Docket Nos. CP89-634-000 and CP89-634-001 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.

Specifically, Iroquois has stated that the taps have been requested by St. Lawrence Gas Company, Inc. (St. Lawrence), L&J Energy Systems, Inc. (L&J), Northeast Utilities (NU) and Long Island Lighting Company (LILCO), collectively referred to as shippers and those parties would bear the initial expense of the taps. Iroquois has noted that LILCO has executed a transportation agreement with Iroquois and that L&J has executed a precedent agreement to a gas transportation contract. It is also noted that although St. Lawrence and NU have not yet executed transportation contracts with Iroquois, they anticipate doing so in the near future.

Comment date: August 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Co.

[Docket No. CP91-2416-000]

July 15, 1991.

Take notice that on July 8, 1991, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Taxas 77251-1642, filed in Docket No. CP91-2416-000 a request pursuant to §§ 157.205 and 157.212 of the

Commission's Regulations for authorization to add an existing delivery point to the sales service agreement between Panhandle and Citizens Gas Fuel Company (Citizens) under Panhandle's blanket certificate issued in Docket No. CP83–83–000 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.

Panhandle requests authorization to add the existing Michon—River Rouge delivery meter to the sales service agreement with Citizens dated June 27, 1991. It is stated that the sales service to Citizens is provided pursuant to Panhandle's Rate Schedule G–1. Panhandle does not propose to increase the volumes delivered pursuant to this agreement or to construct any facilities. Panhandle states that at no time would the volumes delivered at all of the delivery points in this agreement exceed 15,420 Mcf per day.

Comment date: August 29, 1991, in acordance with Standard Paragraph G at the end of this notice.

7. High Island Offshore System

[Docket No. CP91–2457–000]

July 16, 1991.

Take notice that on July 11, 1991, High Island Offshore System (HIOS), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91–2457–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Williams Gas Marketing Company, a marketer, under the blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89–82–000, 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.

HIOS states that, pursuant to an agreement dated March 1, 1991, under its Rate Schedule IT, it proposes to transport up to 50,000 Mcf per day of natural gas. HIOS indicates that the gas would be transported from Offshore Louisiana, and Offshore Texas, and would be redelivered in Offshore Louisiana, and Offshore Texas. HIOS further indicates that it would transport 50,000 Mcf on an average day and 18,250,000 Mcf annually.

HIOS advises that service under § 284.223(a) commenced May 17, 1991, as reported in Docket No. ST91–8794–000.

Comment date: August 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

8. Eastern Shore Natural Gas Co.

[Docket No. CP91–2454–000]

July 16, 1991.

Take notice that on July 11, 1991, Eastern Shore Natural Gas Company (Eastern Shore), Post Office Box 615, Dover, Delaware, 19903, filed in Docket No. CP91–2454–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to add a new delivery point to Chesapeake Utilities Corporation Chesapeake), an existing customer, under its blanket certificate issued in Docket No. CP83–40–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request for authorization on file with the Commission and open for public inspection.

Eastern Shore states that it proposes to construct and operate a sales tap in Kent County, Delaware, to serve Delaware Division of Chesapeake Utilities Corporation (Delaware Division), a local distribution Company. The estimated daily peak and annual quantities would be 68 MMBtu and 4,522 MMBtu, respectively.

Comment date: August 30, 1991, in accordance with Standard Paragraph G at the end of this notice.

9. Granite State Gas Transmission, Inc.

[Docket No. CP91–2373–000]

July 16, 1991.

Take notice that on July 1, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581 filed an application pursuant to section 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations, for a certificate of public convenience and necessity authorizing an incremental increase in the certificated amount of its firm daily sales for resale to its two affiliated distribution company customers, Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities), all as more fully set forth in the application on file with the Commission and open to public inspection.

According to Granite State, it currently purchases its firm natural gas supplies from Tennessee, Algonquin, Boundary Gas, Inc., and Shell Canada Limited. With these supplies, Granite State is currently authorized to provide firm daily sales for resale deliveries of 103,145 Dth to Bay State and 24,818 Dth to Northern Utilities.

In this application, Granite State requests authority to increase its firm daily sales for resale deliveries to Bay State by 5,231 Dth (a total of 108,376 Dth) and to Northern Utilities by 805 Dth (a total of 25,623 Dth). Granite State states that it has recently concluded negotiating a Gas Sales Agreement with Direct Energy Marketing, Inc. (Direct Energy), a producer-marketer of Canadian natural gas, for the purchase of up to 6,036 MMBtu per day of Canadian natural gas on a firm basis for a fifteen (15) year period. The Direct Energy purchases will become an added increment to Granite State's system supply.

Granite State states that the natural gas underlying the Gas Sales Agreement will be produced in the Province of Alberta, Canada, and that Direct Energy has made the necesasry transportation arrangements in Canada for the transportation of the gas from Alberta to a delivery point to Granite State on the U.S.-Canadian border near Highwater, Quebec. Granite State further states that the deliveries of the gas at the border will be received into an 18-inch pipeline that it has leased and converted to natural gas service pursuant to the certificate issued to it in Docket No. CP87–39–000 (the Portland Pipeline Project.) [3] The leased pipeline extends from the border to a connection with Granite State's owned pipeline near Portland, Maine.

Granite State says that Direct Energy will bill Granite State on a demand and commodity basis for the gas delivered at the border. The demand charge to be paid by Granite State is equal to the demand charges incurred by Direct Energy for the firm transportation services on Nova, TransCanada, CMI and SCLQ for the delivery of the gas to the Highwater delivery point to Granite State. The commodity charge to be paid by Granite State is the aggregate of the cost of the gas (the energy charge), the commodity charges incurred by Direct Energy for the transportation services, plus 10 cents in Canadian currency. Granite State says that the 10 cent portion of the commodity charge is the charge approved by the NEB which is payable with respect to gas transported on TransCanada to amortize certain obligations similar to the take-or-pay settlements common in the domestic natural gas.

Granite State notes that if deliveries of gas under the Gas Sales Agreement were made in April 1991, the demand charge would have been $1.104 U.S. per MMBtu and the commodity charge would have been $1.484 U.S. per MMBtu. The 100% load factor price for the gas

[3] 40 FERC ¶ 61,165 (1987).

delivered at the border would have been $2.588 per MMBtu.

Granite State states that it will passthrough the purchase price of the gas through its Purchased Gas Cost Adjustment procedures, established in Article 19 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. After the issuance of the certificate requested in this application, Granite State states that it intends to request permission to revise the proposed rates to reflect the effect of the new supply on throughput and billing determinants. Granite State states that the demand charge for the purchases from Direct Energy will be subject to the reclassification procedure mandated by Opinion Nos. 256 and 256–A. Granite State states that it is currently complying with the reclassification procedures in connection with its purchases of Canadian gas through the medium of Boundary Gas, Inc., and the purchases directly from Shell.

Granite State states that no additional facilities are required to accept delivery of the gas from Direct Energy at the border or to transport it and deliver the increase in daily contract demands to Bay State and Northern Illinois.

Granite State further states that Direct Energy has aggregated the gas supply underlying the Gas Sales Agreement for export and sale to another purchaser and the National Energy Board (NEB) issued Direct Energy License No. GL–132 authorizing the export. Granite State states that Direct Energy intends to commence deliveries under a short term export license from the NEB and apply to the NEB for redesignation of the export point at Highwater, Quebec, under License No. GL–132. Granite State states that it intends to apply to the Department of Energy, Office of Fossil Fuels for approval to import the gas under section 3 of the Natural Gas Act. Pending approval of the purchase on a long-term basis, Granite State states that it has authority under a blanket authorization to commence receiving deliveries.

Comment date: August 6, 1991, in accordance with Standard Paragraph F at the end of this notice.

10. United Gas Pipe Line Co., Northern Natural Gas Co.

[Docket Nos. CP91–2459–000, CP91–2460–000, CP91–2461–000, CP91–2462–000, CP91–2463–000, CP91–2464–000]

July 16, 1991.

Take notice that on July 12, 1991, United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251–1478, and Northern Natural Gas Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP88–6–000 and Docket No. CP86–435–000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket number of the 120-day transactions under Section 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: August 30, 1991, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91–2459–000 (7–12–91)	Sonat Marketing Company (Marketer).	25,750 25,750 9,398,750	LA, MS	LA, MS	2–27–86,[2] Interruptible.	ST91–8890–000, 5–23–91.
CP91–2460–000 (7–12–91)	The Polaris Pipeline Corporation (Marketer).	51,500 51,500 18,797,500	LA, TX	LA	12–9–87,[2] ITS, Interruptible.	ST91–9383–000, 6–17–91.
CP91–2461–000 (7–12–91)	The Polaris Pipeline Corporation (Marketer).	25,750 25,750 9,398,750	LA, TX	TX, LA	10–1–87,[2] Interruptible.	ST91–9386–000, 6–17–91.
CP91–2462–000 (7–12–91)	Brooklyn Interstate Natural Gas Corp. (Marketer).	88,457 66,343 [3]32,286,805	OTX, OLA	OLA	6–1–91, IT–1, Interruptible.	ST91–9229–000, 6–1–91.
CP91–2463–000 (7–12–91)	NGC Transportation, Inc. (Marketer).	88,457 66,343 [3]32,286,805	OTX, OLA	OLA, LA	6–1–91, IT–1, Interruptible.	ST91–9229–000, 6–1–91.
CP91–2464–000 (7–12–91)	Cibola Corporation (Marketer).	50,000 37,500 18,250,000	Various	TX	6–1–91, T–1, Interruptible.	ST91–9233–000, 6–1–91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] As amended.
[3] These quantities are in Mcf.

11. Transcontinental Gas PIpe Line Corp.

[Docket No. CP91-2429-000]

July 16, 1991.

Take notice that on July 10, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, pursuant to section 7 of the Natural Gas Act (NGA), requested authority to operate certain facilities which were constructed under section 311 of the Natural Gas Policy Act of 1978 (Section 311), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that in 1987, Transco constructed two facilities in order to provide firm transportation service of up to 100,000 Mcf per day (Mcfd) of natural gas for delivery to Alabama Gas Corporation (Alagasco). These facilities consist of:

(1) A 42-inch diameter pipeline loop extending 15.27 miles along Transco's existing mainline in Alabama (Mainline Loop). The Mainline Loop begins near Butler, Alabama and runs east, all within Choctaw County, Alabama.

(2) A compressor consisting of one 3,700 horsepower centrifugal compressor unit at Transco's Compressor Station No. 90 (Mainline Compressor), all in Marengo County, Alabama. The Mainline Compressor is located at the termination point of the Mainline Loop.

Transco states that it constructed the Mainline Loop and Mainline Compressor pursuant to Section 311 on behalf of Alagasco. In a Show Cause Order issued July 28, 1989, in Docket No. IN89-1-001, the Commission questioned whether the facilities were validly constructed pursuant to Section 311 and whether Transco's continued operation of the facilities violated Section 311. Transco states that the issues were resolved by a Stipulation and Agreement (S&A) executed on May 29, 1991 by Transco and the Enforcement Staff of the Commission in Docket No. RP88-68-000, et al., IN89-1-000 and IN89-1-001. Transco states that the S&A required it to file this application within 30 days of a final Commission order.

Transco states that the sole purpose of the facilities was, and is, to provide firm transportation of gas through a limited portion of Transco's mainline system for the benefit of Alagasco, which is a local distribution company serving markets in Alabama. Transco asserts that all of its mainline is subject to call under firm arrangements and that the Mainline Loop and Mainline Compressor created capacity needed to make firm deliveries to Alagasco.

Accordingly, Transco states that it is filing this application pursuant to the requirements of the S&A to convert the subject facilities to operation under section 7(c) of the NGA. Transco asserts that conversion of these facilities will serve the public interest by (1) dispelling any uncertainty concerning the regulatory status of the facilities, and (2) authorizing the firm mainline capacity provided by the facilities to be available for utilization by shippers for the transportation of all gas and thus not be limited to section 311 transportation restrictions.

Comment date: August 6, 1991, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraph

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, NW., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules and 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 of its designee on this filing if no motion to intervene is filed with 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 285.214) a motion to intervene or notice of intervention and Pusuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-17503 Filed 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD91-07917T, Oklahoma-9]

State of Oklahoma; Determination Designating Tight Formation

July 17, 1991.

Take notice that on July 15, 1991, the Oklahoma Corporation Commission for the State of Oklahoma (Oklahoma) submitted the above—referenced notice of determination to the Commission, pursuant to § 271.703(c)(3) of the Commission's regulations, that the Atoka Formation, located in portions of Latimer and LeFlore Counties, Oklahoma, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice of determination covers the following areas: All of T.4N. and T.5N., R.21E. through R.27E. (inclusive); all of T.6N., R.25E. through R.27E. (inclusive); and all of sections 19-36 in T.6N., R.23E. and R.24E., located in Latimer and LeFlore Counties, Oklahoma. The notice of determination also contains Oklahoma's findings that the referenced portions of the Atoka Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR, §§ 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91-17492 Filed 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD91-07894T, Texas-3 Addition 8]

State of Texas; Determination Designating Tight Formation

July 17, 1991.

Take notice that on July 11, 1991, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination to the Commission, pursuant to § 271.703(c)(3) of the Commission's regulations, that the Cisco-Canyon Formation underlying the Sugg Ranch (Canyon) and Horwood (Canyon) Fields, in Sterling County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice of determination covers approximately 19,720 acres located in the western part of Sterling County, and consists of the following surveys: Moses Herrin Survey #6, AbST. 87; S.T. Stone Survey #2; W.A. Keenan Survey #1; H & TC RR. Co., Blk 7, sections 1–4, 13–16, 18, 20–23, 26–29, and 36–39; and Ann Morrison Survey #8, AbST. 695. The notice of determination also contains Texas' findings that the referenced portion of the Cisco-Canyon Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR, §§ 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17493 Filed 7–23–91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD91-07895T, West Virginia-7]

State of West Virginia; Determination Designating Tight Formation

July 17, 1991.

Take notice that on July 11, 1991, the Oil and Gas Section of the Division of Energy, within the Department of Commerce, Labor and Environmental Resources, for the State of West Virginia (West Virginia), submitted the above-referenced notice of determination to the Commission, pursuant to § 271.703(c)(3) of the Commission's regulations, that the Maxton (or Maxon) Sandstone in portions of Fayette, Mercer, Raleigh, and Summers Counties, West Virginia, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The Maxton Sandstone consists of three successive sandstone bundles, the Upper and Middle Maxton Sands within the Hinton Formation, and the Lower Maxton Sand within the Bluefield Formation. Geographically, the notice of determination covers a roughly rectangular area in the southern part of West Virginia, consisting of the following eight quadrangles: Athens, Beckley, Crab Orchard, Flat Top, Matoaka, Odd, Prince, and Shady Springs (minus certain excluded areas). The notice of determinaton also contains West Virginia's findings that the referenced portion of the Maxton Sandstone meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR, §§ 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17494 Filed 7–23–91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-3-28-002]

Panhandle Eastern Pipe Line Co; Proposed Changes in FERC Gas Tariff

July 17, 1991.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on July 10, 1991 tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1. The proposed effective date of these tariff sheets is June 1, 1991.

Panhandle states that on May 31, 1991, the Federal Energy Regulatory Commission issued a Letter Order accepting Alternate Tariff Sheets referenced in appendix B of the Quarterly PGA filing to be effective June 1, 1991. The proposed tariff sheets reflect changes to correct the pagination of the alternate tariff sheets referenced in appendix B of the Quarterly PGA filing.

Copies of this letter and enclosure are being served on all parties to this proceeding and interested state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 24, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17495 Filed 7–23–91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-2154-000, et al. (Phrase I/Rates)]

Texas Eastern Transmission Corp.; Informal Settlement Conference

July 17, 1991.

Take notice that, at the request of Texas Eastern Transmission Corporation, a conference will be convened in this proceeding on July 25, 1991, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Dennis H. Melvin (202) 208–0042 or Arnold H. Meltz (202) 208–0737.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17499 Filed 7–23–91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-910-003]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

July 17, 1991.

Take notice that on July 10, 1991, United Gas Pipeline Company ("United"), Post Office Box 1478, Houston, Texas 77251–1478, tendered for filing the following tariff sheet as part of its FERC Gas Tariff, to be effective on November 1, 1989:

Original Volume No. 2

First Revised Sheet No. 1459

United states that the proposed tariff sheet reflects the cancellation of Rate Schedule X–122 in United's existing FERC Gas Tariff Volume No. 2. United states further that it filed to abandon the exchange related transportation of natural gas for Tennessee Gas Pipeline Company in Docket No. CP90–910–000 on March 5, 1990, and the abandonment was approved by a Commission order issued on October 29, 1990.

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 N. Capitol Street, NE., Washington, DC 20426, on or before July 24, 1991, and in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Any person desiring to become a party must petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17496 Filed 7–23–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–910–004]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

July 17, 1991.

Take notice that on July 10, 1991, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251–1478, tendered for filing the following tariff sheet as part of its FERC Gas Tariff, to be effective on November 1, 1990:

Original Volume No. 2

First Revised Sheet No. 1372

United states that the proposed tariff sheet reflects the cancellation of Rate Schedule X–117 in United's existing FERC Gas Tariff Volume No. 2. United states further that it filed to abandon the exchange related transportation of natural gas for Tennessee Gas Pipeline Company in Docket No. CP90–910–000 on March 5, 1990, and the abandonment was approved by a Commission order issued on October 29, 1990.

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 N. Capitol Street, NE., Washington, DC 20426, on or before July 24, 1991, and in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Any person desiring to become a party must petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17497 Filed 7–23–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–910–005]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

July 17, 1991.

Take notice that on July 10, 1991, United Gas Pipeline Company ("United"), Post Office Box 1478, Houston, Texas 77251–1478, tendered for filing the following tariff sheet as part of its FERC Gas Tariff, to be effective on April 1, 1990:

Original Volume No. 2

Third Revised Sheet No. 540

United states that the proposed tariff sheet reflects the cancellation of Rate Schedule X–60 in United's existing FERC Gas Tariff Volume No. 2. United states further that it filed to abandon the exchange related transportation of natural gas for Tennessee Gas Pipeline Company in Docket No. CP90–910–000 on March 5, 1990, and the abandonment was approved by a Commission order issued on October 29, 1990.

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 N. Capitol Street, NE., Washington, DC 20426, on or before July 24, 1991, and in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Any person desiring to become a party must petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–17497 Filed 7–23–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP91–2466–000]

Windward Energy & Marketing Co. v. Pacific Gas Transmission and Pacific Gas & Electric Co.; Complaint and Request for Cease and Desist Order

July 16, 1991.

Take notice that on July 12, 1991, Windward Energy & Marketing Company (Windward), 1214 East 33rd Street, Tulsa, Oklahoma 74105, filed in Docket No. CP91–2466–000 a complaint against Pacific Gas Transmission Company (PGT) and Pacific Gas & Electric Company (PG&E) and a request for a Commission order requiring PGT and PG&E to cease and desist from performing interstate transportation and the brokering of interstate transportation capacity until they have received Commission authorization to do so under section 7 of the Natural Gas Act, all as more fully set forth in the complaint and request for a cease and desist order which is on file with the Commission and open for public inspection.

Windward states that PGT has sought Commission authorization in Docket No. CP90–1031–001 for approval of a transportation assignment program or capacity brokering program for its firm transportation customers. It is indicated that to date the Commission has not approved the program. Windward also states that PG&E has entered into a settlement agreement dated March 22, 1991, on file with the Public Utilities Commission of the State of California (CPUC) addressing, among other things, capacity-brokering issues. It is indicated that to date the CPUC has not approved this settlement.

Windward indicates that PG&E has apparently recognized that requisite CPUC and Commission action may not occur so that Commission-sanctioned capacity brokering can occur on the PGT system in the near future. Windward alleges that PG&E has initiated its own plan, its "Customer-Identified Gas Program" (program), to broker its interstate pipeline capacity on PGT and its other pipeline supplier to be become effective on August 1, 1991, and would be effectuated without Commission authorization and on terms established and controlled by PG&E without regard for the Commission's policies or pronouncements as to capacity brokering. Windward argues that the new program is a sham intended for the purpose of circumventing Commission jurisdiction and policies. It is indicated that the plan is not available to producers or marketers that desire to move gas into PG&E's market area utilizing PGT.

Windward alleges that the PG&E program is facially unlawful as an unauthorized, unregulated capacity-brokering scheme and is inconsistent with the Commission's established principles for capacity brokering. It is also argued that it permits PG&E to use priority access to interstate sales service on PGT to its own advantage with respect to its intrastate markets. In addition, it is argued that the plan is a

market segmentation program undertaken in substantial part to provide take-or-pay relief for an affiliate and involves an improper utilization of PGT-s PGA mechanism. Windward concludes that the plan is contrary to the requirements of section 4 of the Natural Gas Act and the Commission should prohibits its implementation.

Windward argues that the Commission should issue an interim cease and desist order in advance of August 1, 1991, and that after having received the answers of PGT and PG&E, it permanently prohibits them from engaging in the alleged unlawful conduct until such time as the Commission has issued a capacity-brokering order and PGT and PG&E have agreed to follow its terms.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 15, 1991, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Answers to the complaint shall be due on or before August 15, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 91-17500 Filed 7-23-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the implementation of procedures for the disbursement of $8,907,350.36 (plus accrued interest) obtained by the DOE from Seneca Oil Company (Case No. LEF-0025), West Texas Marketing Corporation (Case No. LEF-0026), Grace Petroleum Corporation (Case No. LEF-0027) and Thums Long Beach Company (Case No. LEF-0028). The DOE has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Applications for Refund submitted pursuant to this Decision must be filed in duplicate, postmarked no later than June 30, 1992, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Any party that has previously submitted a refund application in crude oil proceedings should not file another application; that application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $8,907,350.36 plus interest obtained from Seneca Oil Company, West Texas Marketing Corporation, Grace Petroleum Corporation and Thums Long Beach Company. The funds are being held in interest-bearing escrow accounts pending distribution by the DOE.

The DOE has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, the federal government, and injured purchasers of refined products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

As the Decision and Order indicates, Applications for Refund must be filed in duplicate by June 30, 1992, and should be sent to the address set forth at the beginning of this notice. The information which claimants should include in their applications is explained in the Decision, which immediately follows. Any claimant which has already filed a crude oil refund application need not fi' again.

Dated: July 17, 1991.

George B. Breznay

Director, Office of Hearings and Appeals.

Names of Firms: Seneca Oil Company, West Texas Marketing Corporation, Grace Petroleum Corporation, Thums Long Beach Company

Date of Filing: March 5, 1991

Case Numbers: LEF-0025, LEF-0026, LEF-0027, LEF-0028

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

On March 5, 1991, the ERA filed Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from Seneca Oil Company (Seneca) (Case No. LEF-0025), West Texas Marketing Corporation (West Texas) (Case No. LEF-0026), Grace Petroleum Corporation (Grace) (Case No. LEF-0027) and Thums Long Beach Company (Thums) (Case No. LEF-0028). These four firms remitted a total of $8,907,350.36 to the DOE,[1] which deposited the funds in interest-bearing accounts maintained at the Department of the Treasury. The funds paid by Seneca, West Texas and Grace were in settlement of enforcement proceedings brought by the ERA which alleged that the firms had violated the DOE regulations regarding the production or resale of crude oil. The funds received from Thums represent revenues that exceeded recoupable allowed expenses for projects qualifying under the Tertiary Incentive Program, 10 CFR 212.78.[2] An additional $518,120.68 has accrued in interest on these four escrow accounts as of June 28, 1991.[3] This Decision and Order establishes the OHA's procedures for distributing those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have

[1] Seneca, a crude oil producer, remitted $1,943,945.36 (Consent Order No. 999C90019W). West Texas, a crude oil reseller, remitted $5,000,000 (Consent Order No. 650X90314W). Grace, a crude oil producer, remitted $269,098 (Consent Order No. T00T00006W). Thums, a crude oil producer, remitted $1,694,307 (Consent Order No. T00T00005W).

[2] These funds represent restitution for crude oil sales made at higher prices than would otherwise have been permissible if the projects had not qualified under § 212.78. Since the effect of those higher prices was spread throughout the country, it is appropriate to combine these funds with crude oil overcharge funds.

[3] As of June 28, 1991, accrued interest on each of the escrow accounts is as follows: Seneca, $69,031.09; West Texas, $268,519.76; Grace, $19,386.93; Thums, $161,182.90.

been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Office of Enforcement, 9 DOE ¶ 82,508 (1981), and Office of Enforcement, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement Subpart V procedures with respect to the monies received from these four firms and have determined that such procedures are appropriate.

I. Background

On July 23, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in In re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and the federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all Subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil moneys under the Subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988) (*NYP*); Shell Oil Co., 17 DOE ¶ 85,204 (1988), Ernest A. Allerkamp, 17 DOE ¶ 85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case In re: The Department of Energy Stripper Well Exemption Litigation, various states filed a Motion with the United States District Court for the District of Kansas, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. In re: The Department of Energy Stripper Well Exemption Litigation, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F.2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Decision and Order

On April 26, 1991, the OHA issued a Proposed Decision and Order (PD&O) establishing tentative procedures to distribute the alleged crude oil violation amounts obtained from Seneca, West Texas, Grace and Thums. 56 FR 20221 (May 2, 1991). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially twenty percent of the crude oil violation funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining eighty percent of the funds would be distributed to the states and the federal government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the states and the federal government. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PD&O, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PD&O stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PD&O provided a period for 30 days from the date of its publication in the **Federal Register** in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received comments from only one party concerning the proposed procedures for the distribution of the Seneca, West Texas, Grace and Thums funds.

III. Discussion of the Comments Received

A. The 20 Percent Reserve

In response to the PD&O, the OHA received comments from Philip P. Kalodner as counsel for six electric utilities, 14 foreign-flag shipping companies, and four pulp and paper manufacturers. Mr. Kalodner's clients have all filed Applications for Refund in the Subpart V crude oil proceeding. In his comments, Kalodner contends that the 20 percent reserve for claimants will be insufficient "to enable OHA to distribute the 'volumetric' which it has determined is due." Kalodner comments at 3. Kalodner further asserts that the "OHA should either reverse its adoption of the 20% limitation, or if it believes it cannot do [sic] without the approval of Judge Theis, it should seek such approval." *Id.* at 5.

Kalodner has advanced similar arguments on numerous previous occasions, both before the OHA and the courts, and has been rebuffed at each juncture. Both the OHA and the courts have indicated that the Stripper Well Agreement permits the OHA to reserve no more than 20 percent of alleged crude oil violation amounts for direct refunds to injured claimants. See e.g., *Getty Oil* v. *Department of Energy* (*Getty II*), 117 F.R.D. 540 (D. Del. 1988), reprinted in 3 Fed. Energy Guidelines ¶ 26,611; A. Tarricone, Inc., 15 DOE ¶ 85,495 at 88,893 (1987) (*Tarricone*); NYP, 18 DOE at 88,701. Moreover, the OHA has noted that "there is absolutely no evidence to support Kalodner's assertion that the 20 percent reserve will be insufficient to pay claimants." Amorient Petroleum Co., 18 DOE ¶ 85,595 at 88,977 (1989). We also have rejected Kalodner's contention that the DOE gave assurances as to the precise level of restitution that would be afforded to claimants from the crude oil overcharge funds. *Id.* at 88,976.

Kalodner and representatives of other applicants were permitted to file briefs with the United States District Court for the District of Delaware as *amici curiae* in Getty II. In their submissions to the court, *amici* raised the same contentions concerning the claims reserve as Kalodner has advanced in this proceeding. The district court rejected these contentions in all regards, stating:

> Rewriting the Stripper Well Agreement, as amici suggest, to provide an unlimited portion of the fund for an individual claims process would harm the true victim of the overcharges, the consuming public. Immediate indirect restitution of 80% of the funds would assure that the bulk of the money would presently benefit all citizens in an equitable manner. . . . At this late date, all parties would best be served by the equitable compromise of paying 80% of the fund out immediately while retaining the remaining 20% for individual claimants. This remedy avoids further administrative delay, costs, and confusion.

Getty II, reprinted in 3 Fed. Energy Guidelines at 26,693 (citation omitted). We agree with the district court and once again reject Kalodner's claims to the contrary.

B. The $.0008 Per Gallon Volumetric

Kalodner also asserts that, in light of the OHA's refusal to reserve more than 20% of the crude oil monies for direct reserve more than 20% of the crude oil monies for direct restitution, "any determination to make awards to late filing claimants * * * will reduce the amounts available for distribution to first pool claimants such as these commenters." Kalodner comments at 5. Accordingly, Kalodner objects to the OHA's policy of paying claimants who file Subpart V crude oil refund applications before June 30, 1992 at the rate of $.0008 per gallon. Kalodner refers to a number of deadlines established by the OHA for various crude oil refund "pools" and argues that an applicant "meeting a pool deadline is entitled to recover from subsequent pools without filing an additional application, but of course

necessarily not from preceding pools, since any such retroactive recovery would make meaningless the pool deadline concept." *Id.* at 6. Therefore, Kalodner argues that only those applicants who filed before October 31, 1989 should receive a volumetric refund of $.0008 per gallon and that applicants filing after that date should receive refunds based on mere fractions of that volumetric. Kalodner claims that "OHA is encouraging the filing by those who ignored three prior deadlines . . . and [should] revert to its pool claim deadline concept which has been the essential principle of the claims process for almost five years." *Id.* at 10–11.

We decline to follow Mr. Kalodner's recommendations. The essential principle of the Subpart V crude oil proceeding is not, as Kalodner argues, the "pool claim deadline concept," but rather the principle of restitution. All purchasers of covered products during the crude oil price control period were affected in equal measure by the overcharges. Therefore, we believe that it would be inequitable to preclude any applicants who file before the June 30, 1992 deadline from receiving the $.0008 per gallon volumetric. We also believe that Kalodner is adopting an unduly harsh position when he characterizes later filing applicants as "ignoring" deadlines. Many of these applicants are schools, hospitals and small businesses which did not learn of the existence of this proceeding until recently. The OHA does not wish to penalize these equally eligible applicants for lacking the resources or knowledge that large applicants, such as those represented by Kalodner, possess; the OHA's Subpart V crude oil proceeding is equitable in nature.

IV. The Refund Procedures

A. Refund Claims

The OHA has concluded that the $8,907,350.36 remitted by Seneca, West Texas, Grace and Thums, plus the interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $1,781,470.07 plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in Subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g.*, Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986) (Mountain Fuel). As in non-crude oil cases, applicants will be required to document their purchase volumes and prove that they were injured as a result of the alleged violations. Following Subpart V precedent, reasonable estimates of purchase volumes may be submitted. E.g., Greater Richmond Transit Co., 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g.*, Tarricone, 15 DOE at 88,893–96. However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. E.g., Berry Holding Co., 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. E.g., NYP, 18 DOE at 88,701–03. The United States District Court for the District of Kansas recently upheld the OHA's position that generalized evidence does not suffice to rebut the end-user presumption. If an interested party wishes to rebut the end-user presumption, it must present evidence relevant to the specific factual situation of the applicant. In re: The Department of Energy Stripper Well Exemption Litigation, 746 F. Supp. 1446 (D. Kan. 1990).

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, reprinted in 6 Feb. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under Subpart V. *Mid-America Dairymen, Inc.* v. *Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App. 1989); accord, Boise Cascade Corp., 18 DOE ¶ 85,970(1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($8,907,350.36) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Mountain Fuel, 14 DOE at 88,868. This yields a volumetric refund amount of $0.0000044 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. E.g., Allerkamp, 17 DOE at 88,176. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The deadline for filing an Application for Refund for crude oil implementation orders issued since January 18, 1991 is June 30, 1992. Quintana Energy Corp., 21 DOE ¶ 85,032 (1991). It is the policy of the DOE to pay all crude oil refund claims filed before June 30, 1992 at the rate of $.0008 per gallon. However, while we anticipate that applicants which filed their claims by June 30, 1988 will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. To apply for a refund, a claimant should submit an Application for Refund. Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Each crude oil Application for Refund should contain the type of information specified by the OHA in past decisions. See Texaco Inc., 19 DOE ¶ 85,200 at 88,374, corrected, 19 DOE ¶ 85,236 (1989); Hood Goldsberry, 18 DOE ¶ 85,902 at 89,477–78 (1989); Wickett Refining Co., 18 DOE ¶ 85,659 at 89,081–82 (1989).

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $7,125,880.28, plus interest, should be disbursed in equal shares to the states and the federal government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $7,125,880.28, plus interest, available for disbursement to the states and the federal government and transfer one-half of that amount, or $3,562,940.14, plus interest, into an interest-bearing subaccount for the states, and one-half, or $3,562,940.14, plus interest, to an interest bearing subaccount for the federal government. At an appropriate time in the future, we will issue a Decision and Order directing the DOE's Office of the Controller to make the appropriate disbursements to the individual states. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It Is Therefore Ordered That:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by Seneca Oil Company, West Texas Marketing Corporation, Grace Petroleum Corporation and Thums Long Beach Company may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than June 30, 1992.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $8,907,350.36 (plus interest) from the Seneca Oil Company, West Texas Marketing Corporation, Grace Petroleum Corporation

and Thums Long Beach Company subaccounts, Account Numbers 999C90019W, 650X90314W, T00T00006W and T00T00005W, pursuant to Paragraphs (4), (5), and (6) of this decision.

(4) The Director of Special Accounts and Payroll shall transfer $3,562,940.14 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking—States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $3,562,940.14 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking—Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $1,781,470.07 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking—Claimants 4," Number 999DOE0010Z.

Dated: July 17, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-17575 Filed 7-23-91; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $305,000, plus accrued interest, that Reinauer Petroleum Co. remitted to the DOE pursuant to a Consent Order executed on April 26, 1988. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATES AND ADDRESSES: Applications for Refund from the Reinauer escrow fund must be filed in duplicate and must be received by January 31, 1992. All applications for Refund from this escrow fund should display a conspicuous reference to Case Number KEF-0110, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Richard T. Tedrow, Deputy Director, Marc H. Favreau, Staff Analyst, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8018 (Tedrow), (202) 586-6602 (Favreau).

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the procedures that the DOE has formulated to distribute monies that have been remitted by Reinauer Petroleum Co. to the DOE to settle alleged pricing violations with respect to the firm's sales of motor gasoline. The DOE is currently holding $305,000 in an interest-bearing escrow account pending distribution.

Applications for Refund will now be accepted provided they are filed in duplicate and received no later than January 31, 1992, and should be sent to the address set forth at the beginning of this notice. All applications received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: July 17, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

Name of Firm: Reinauer Petroleum Co.
Date of Filing: June 20, 1988
Case Number: KEF-0110

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the Mandatory Petroleum Price and Allocation Regulations. See 10 CFR part 205, subpart V. On June 20, 1988, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Reinauer Petroleum Co. (Reinauer).

I. Background

Reinauer was a "reseller" of motor gasoline as that term was defined in 10 CFR 212.31, located in Hackensack, New Jersey. A DOE audit of Reinauer's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR part 212, subpart F. Specifically, the audit revealed that between April 1, 1979 and September 30, 1979, Reinauer may have violated the DOE's pricing regulations with respect to its sales of motor gasoline.

In order to resolve its potential civil liabilities arising from the ERA's audit, Reinauer entered into a Consent Order with the DOE on April 26, 1988. The Consent Order refers to ERA's allegations of overcharges, but does not find that any violations occurred. In addition, the Consent Order states that Reinauer does not admit any such violations. Under the terms of the Consent Order, Reinauer was required to deposit $305,000 into an escrow account for ultimate distribution by the DOE. On May 4, 1988, Reinauer made a full payment of $305,000. This Decision and Order concerns the procedures for the distribution of the funds in the Reinauer escrow account.

On November 19, 1990, the OHA issued a Proposed Decision and Order (PD&O) setting forth tentative procedures under which firms and individuals who purchased Reinauer refined petroleum products during the consent order period could apply for refunds from the Reinauer consent order fund. In order to give notice to all affected parties, a copy of the PD&O was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. 55 FR 49113 (November 26, 1990). We received no comments concerning the proposed refund procedures for Reinauer. Therefore, we will adopt the procedures in the PD&O as final procedures for the distribution of the Reinauer escrow account.

II. Final Refund Procedures

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. In order to determine the potential refunds for these purchasers, we will adopt the presumption that the alleged overcharges were dispersed equally in all of Reinauer's sales of refined petroleum products during the consent order period. In accordance with this presumption, refunds are made on a pro-rata or volumetric basis. In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

The volumetric refund presumption is rebuttable. The impact on an individual claimant may have been greater than its potential refund calculated using the volumetric methodology. Accordingly, a claimant may submit evidence detailing the specific alleged overcharge that it incurred in order to be eligible for a larger refund. See Standard Oil Co. (Indiana)/Army and Air Force Exchange Service, 12 DOE ¶ 85,015 (1984).

Under the volumetric approach, an eligible claimant will receive a refund equal to the number of gallons of motor gasoline that it purchased from Reinauer during the period April 1, 1979 through September 30, 1979, multiplied by a volumetric factor of $0.03584 per gallon.[1] In addition, each successful claimant will receive a pro-rata portion of the interest that has accrued on the Reinauer funds since the date of remittance.

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. See, *e.g.*, Mobil Oil Corp., 13 DOE ¶ 85,339 (1985); see also 10 CFR § 205.286(b). If an applicant's potential refund is calculated using the volumetric methodology, it must have purchased at least

[1] We computed the volumetric factor by dividing the $305,000 received from Reinauer by the total volume of covered products sold by the firm during the consent order period (8,509,229 gallons).

405 gallons of Reinauer motor gasoline in order for its claim to be considered.

B. Presumptions Concerning Injury

Our experience indicates that the use of certain presumptions concerning injury permits claimants to participate in the refund process without incurring inordinate expense, and ensures that refund claims are evaluated in the most efficient manner possible See, *e.g.*, Marathon Petroleum Company, 14 DOE ¶ 85,269 (1986 (Marathon). Presumptions in refund cases are specifically authorized by the applicable DOE procedural regulations at 10 CFR 205.282(e). Accordingly, we will adopt the presumptions set forth below.

1. End Users

First, in accordance with prior Subpart V proceedings, we will presume that end users, *i.e.*, ultimate consumers of Reinauer motor gasoline whose businesses are unrelated to the petroleum industry, were injured by the firm's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges this group would be beyond the scope of a special refund proceeding. See Marion Corp, 12 DOE ¶85,014 (1984) and cases cited therein. Therefore, end users need only document their purchase volumes of Reinauer motor gasoline to demonstrate that they were injured by the alleged overcharges.

2. Regulated Firms and Cooperatives

Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms routinely would have passed through price increases to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. See, e.g., Office of Special Counsel, 9 DOE ¶82,538 (1982); Office of Special Council, 9 DOE ¶82,545 at 85,244 (1982). Such firms applying for refunds should certify that they will pass through any refund receiving to their customers and should explain how they will alert the appropriate regulatory body or membership group to monies received. Purchases by cooperatives that were subsequently resold to nonmembers will not be covered by this presumption.

3. Reseller and Retailer Small Claims

Third, we will presume that a reseller or a retailer seeking a refund of $10,000 or less, excluding accrued interest, was injured by Reinauer's pricing practices. In many prior cases we have established a small claims threshold of $5,000. In the present case, however, in order to minimize the burden upon individual applicants and this Office, we have established the small claims threshold at $10,000. This determination is based on a number of considerations. In this proceeding, the volumetric factor is significantly higher than the amount in most other proceedings. As a result, the allocable share of many small retailers and resellers who would typically qualify for a refund at or below the small claims threshold will be well above $5,000. If we were to keep the small claims threshold at $5,000 in this case, it would significantly increase the number of firms, especially very small firms, that would be faced with the burden of making a detailed showing of injury in order to receive their allocable share. It would also very significantly increase the burden on this Office because of the need to analyze many more detailed injury showings and would thus slow down the evaluation of claims. Therefore, in order to minimize these burdens we have established a greater small claims threshold of $10,000. See Texaco Inc., 20 DOE ¶85,147 (1990). Retailer and reseller claimants whose allocable share is $10,000 or less will be presumed injured and therefore need not provide a further demonstration of injury in order to receive their full allocable share. Therefore, a small claimant must only document the volumes of motor gasoline it purchased from Reinauer in order to demonstrate injury. See Texas Oil & Gas Corp., 12 DOE ¶ 85,069 at 88,210 (1984).

4. Spot Purchasers

Fourth, resellers and retailers that were spot purchasers of Reinauer motor gasoline, *i.e.*, firms that made only sporadic, discretionary purchases, are presumed not to have been injured, and consequently, generally will be ineligible for refunds. The basis for this presumption is that a spot purchaser tended to have considerable discretion as to where and when to make a purchase, and therefore,would not have made a purchase unless it was able to recover the full amount of its purchase price from its customers, including any alleged overcharges included in its costs. See Vickers at 85,396–7. A spot purchaser can rebut this presumption by demonstrating that its base period supply obligation limited its discretion in making the purchases and that it resold the product at a loss that was not subsequently recouped. See e.g., Saber Energy, Inc./Mobil Oil Corp., 14 DOE ¶ 85,170 (1986).

5. Consignees

Finally, we will presume that consignees of Reinauer motor gasoline were not injured by the firm's alleged pricing violations. See e.g., Jay Oil Co., 16 DOE ¶ 85,147 (1987). A consignee agent is an entity that sold products pursuant to an agreement whereby its supplier established the prices to be charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products that it sold. A consignee may rebut the presumption of non-injury by demonstrating that its sales volumes and corresponding commission revenues declined due to the alleged uncompetitiveness of Reinauer's pricing practices. See Gulf Oil Corp/C.F. Canter Oil Co., 13 DOE ¶ 85,388 at 88,962 (1986).

C. Allocation Claims

We may also receive claims based upon Reinauer's alleged failure to furnish petroleum products that it was obliged to supply under that DOE allocation regulations. See 10 CFR part 211. Any such applications will be evaluated with reference to the standards set forth in cases such as Standard Oil Company (Indiana), 10 DOE ¶ 85,048, and OKC Corp./Town & Country Markets, Inc., 12 DOE ¶ 85,094 (1984). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the consent order firm and the likelihood that the consent order firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

D. Non-Presumption Demonstrations of Injury

A reseller or retailer that claims a refund in excess of $10,000 will be required to demonstrate its injury. There are two aspects to such a demonstration. First, a firm is required to provide a monthly schedule of its banks of unrecouped increased products costs for each grade of motor gasoline that it purchased from Reinauer. Cost banks should cover the period April 1, 1979, through September 30, 1979. If a firm no longer has records of contemporaneously calculated cost banks for a particular grade of motor gasoline, it may approximate those banks by submitting the following information regarding its purchases of that product from all of its suppliers.

(1) The weighted average gross profit margin that the firm received for the product on May 15, 1973.

(2) A monthly schedule of the weighted average gross profit margins that it received for the product during the period, April 1, 1979, through September 30, 1979; and

(3) A monthly schedule of the firm's purchase or sales volumes of the products during the period, April 1, 1979, through September 30, 1979.

The existence of banks of unrecovered increased product costs that exceed an applicant's potential refund is only the first part of an injury demonstration. A firm must also show that market conditions forced it to absorb the alleged overcharges. Generally, we will infer this to be true if the prices the applicant paid Reinauer were higher than average market prices for the same level of distribution. Accordingly, a claimant attempting to demonstrate injury should submit a monthly schedule of the weighted average prices that it paid Reinauere for each grade of motor gasoline during the period April 1, 1979 through September 30,1979.

If a reseller or retailer that is eligible for a refund in excess of $10,000 does not submit cost bank and purchase price information described above, it can still apply for a refund of $10,000 plus accrued interest, using the small claims presumption. If, however, a firm provides the above-mentioned data and we subsequently conclude that the firm should receive a refund of less than the $10,000 small claims threshold, the firm cannot opt for a full $10,000 refund.

E. Distribution of Remaining Funds

In the event that money remains after all meritorious refund applicants have been

processed, the funds in the Reinauer escrow account will be disbursed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA). 15 U.S.C.A. 4501–4507 (West Supp. 1989).

III. General Refund Application Requirements

Pursuant to 10 CFR 205.283, we will now accept Applications for Refund from individuals and firms that purchased refined petroleum products from Reinauer between April 1, 1979 and September 30, 1979. No "class claims" on behalf of groups of applicants will be permitted. There is no specific application form that must be used. All Applications for Refund should include the following information:

(1) A conspicuous reference to Case Number KEF–0110 and the name and address of the applicant during the period for which the claim is filed, as well as the name to whom the refund check should be made out and the address to which the check should be sent;

(2) The name, title, address and telephone number of a person who may be contacted by OHA for additional information concerning the Application;

(3) The manner in which the applicant used the Reinauer petroleum products, *i.e.*, whether it was a reseller, retailer, consignee, end-user, etc.;

(4) For each refined covered product, a monthly schedule of the number of gallons that the applicant purchased from Reinauer during the April 1, 1979, through September 30, 1979 refund period. If the claimant elects to rely on the DOE's records of his purchases, it need not submit a monthly schedule of purchases. If a claimant was an indirect purchaser of Reinauer refined covered products, it must also submit the name of its immediate supplier.

(5) All relevant material necessary to support its claim in accordance with the injury presumptions and requirements outlined above;

(6) If the applicant was or is in any way affiliated with Reinauer, an explanation of the nature of that affiliation.

(7) The form of business, whether it was a corporation, a partnership or a sole proprietorship.

(8) The dates of ownership including the month and year. The applicant must also submit a statement as to whether there has been a change in ownership of the applicant's firm during or since the refund period. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any change in status while its Application for Refund is pending. See 10 CFR 205.9(d);

(9) A statement as to whether the applicant is or has been involved in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded, the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must inform OHA of any change in status while its Application for Refund is pending. See 10 CFR 205.9(d);

(10) A statement as to whether the applicant or a related firm has filed any other Application for Refund in the Reinauer proceeding;

(11) A statement as to whether the claimant or a related firm has authorized any other individual(s) to file an Application for Refund on the claimant's behalf in the Reinauer proceeding; and

(12) The following statement signed by the applicant or a responsible official of the business or organization claiming the refund: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal Government may be subject to a fine, a jail sentence, or both, pursuant to 18 U.S.C. 1001."

Applications for Refund should be sent to: Reinauer Refund Proceeding, Case No. KEF–0110, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

All applications must be filed in duplicate and must be postmarked by January 31, 1992. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant that believes that its application contains confidential information must submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why the information is confidential.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Reinauer Petroleum Company pursuant to the Consent Order finalized on April 26, 1988, may now be filed.

(2) All applications must be postmarked by January 31, 1992.

(3) This is a final order of the Department of Energy.

Dated: July 17, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91–17576 Filed 7–23–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

Acid Rain Advisory Committee; Subcommittee on NO_X; Open Meeting

SUMMARY: In August of 1990, the U.S. Environmental Protection Agency gave notice of the establishment of an Acid Rain Advisory Committee (ARAC) which would provide advice to the Agency on issues related to the development and implementation of the requirements of the acid deposition control title of the Clean Air Act Amendments of 1990.

Four ARAC subcommittees (Allowance Trading and Tracking, Permits and Technology, Emissions Monitoring, and Energy Conservation and Renewables) were created at the first ARAC meeting to help address related issues.

At its July 15–16 meeting, ARAC established a Subcommittee on NO_X to provide advice on issues related to the development of regulations for reducing NO_X emissions from certain types of existing coal-fired boilers at electric power plants. Specifically, this subcommittee will focus on issues related to NO_X emissions from tangentially-fired boilers and dry bottom wall-fired boilers affected in Phase I of Title IV of the Clean Air Act Amendments of 1990.

OPEN MEETING DATES AND ADDITIONAL INFORMATION: Notice is hereby given that the ARAC Subcommittee on NO_X will hold its first open meeting from 9 a.m. to 5 p.m. on July 31 and August 1 and from 9 a.m. to 12 noon on August 2 at the Ramada Renaissance Hotel, Washington, Dulles, 13869 Park Center Road, Herndon, VA 22071 (703) 478–2900. The meeting is being called on short notice because of the recent ARAC approval of the establishment of the NO_X Subcommittee and the need to expeditiously address related issues. The meeting agenda is likely to include a discussion of general requirements of the Act, definitions of low NO_X burner technology, emission rates specified in the legislation, procedures for emissions averaging of affected units, procedures and conditions for extension applications, and alternate emission limitation procedures.

INSPECTION OF COMMITTEE DOCUMENTS: All documents for this meeting including a more detailed meeting agenda will be publicly available in limited numbers at the meeting. Thereafter, these documents will be available in EPA Air Docket Number A–90 in room 1500 of EPA headquarters, 401 M Street SW., Washington, DC. Hours of inspection are 8:30 a.m. to 12 noon and 1:30 to 3:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Concerning the Subcommittee on NO_X or its activities, contact Doris Price, at (202) 475–9400; fax (202) (252–0892), or by mail at USEPA, Acid Rain Division (ANR 445), Office of Air and Radiation, Washington, DC 20460.

Dated: July 19, 1991.

Brian J. McLean,

Acting Director, Office of Atmospheric and Indoor Air Programs, Office of Air and Radiation.

[FR Doc. 91–17594 Filed 7–23–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL-3977-7]

Public Meeting; Chesapeake Executive Council August 6, 1991.

Location: Governor's Residence, 2035 North Front Street, Harrisburg, Pennsylvania 17102, 11:30 a.m.: Public Meeting.

Presentation of Advisory Committee Reports: Scientific and Technical Committee, Dr. Joseph Mihursky, Chair; Citizen Advisory Committee, Ms. Mary Roe Walkup, Chair; and Local Government Advisory Committee, Ms. Anna Long, Chair.

Recognition Awards

Keynote Remarks: William K. Reilly, Administrator, EPA, Chairman, Chesapeake Executive Council; Review of Progress and Announcement of New Themes.

Signing Ceremony

Remarks From Other Executive Council Members: Delegate W. Tayloe Murphy, Chair, Chesapeake Bay Commission; Governor William Donald Schaefer, Maryland; Governor Lawrence Douglas Wilder, Virginia; Mayor Sharon Pratt Dixon, Washington, DC; and Governor Robert P. Casey, Pennsylvania.

1:00 p.m.: Concluding Remarks.
1:05 p.m.: Press Availability.
1:30 p.m.: Conclusion of Press Availability.

For further information about the public meeting, contact Gail Tindal, Chesapeake Bay Public Affairs, at 215-597-6911.

Jon Capacasa,

Acting Director, Chesapeake Bay Program.

[FR Doc. 91-17598 Filed 7-23-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3977-5]

Administrative Order on Consent Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; Spiegelberg Site

AGENCY: United States Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: In accordance with the requirements of section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), notice is hereby given of a proposed Administrative Order on Consent under section 122(h) concerning the Spiegelberg Site in Livingston County, Michigan. The proposed Consent Agreement requires the transporter, Alfred E. Pearson, to pay $60,000 of the past costs incurred by U.S. EPA at the Spiegelberg Site. U.S. EPA will attempt to negotiate the settlement of the unrecovered costs with the remaining responsible parties.

DATES: Comments must be received on or before August 23, 1991.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, and should refer to: In the Matter of the Spiegelberg Site.

FOR FURTHER INFORMATION CONTACT: Mary McAuliffe (5-CS-TUB-3), Office of Regional Counsel, U.S. EPA, Region V, 230 Dearborn Street, Chicago, Illinois 60604, (312) 886-6237.

Notice of section 122(h) Administrative Settlement: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, notice is hereby given that on or about May 3, 1991, a proposed administrative settlement was agreed to by Alfred E. Pearson. The proposed settlement requires Alfred Pearson to pay the United States $60,000 toward its past costs related to the Spiegelberg Site.

U.S. EPA is entering into this agreement under the authority of section 122(h) and 107 of CERCLA. Section 122(h) authorizes administrative settlement of a claim under section 107. Where total response costs incurred by the United States for the facility concerned exceed $500,000 (excluding interest), the Attorney General of the United States must also approve the settlement. As response costs incurred in this case exceed $500,000, the Attorney General has approved this settlement.

Under the terms of the settlement, Alfred E. Pearson will pay the full amount within 30 days of the effective date of the agreement. In return, the U.S. EPA covenants not to sue Alfred E. Pearson regarding claims available to the United States under section 107 of CERCLA relating to the Spiegelberg Site.

A copy of the proposed Administrative Agreement may be obtained in person or by mail from the Office of Regional Counsel, United States Environmental Protection Agency, Region V, (5CS-TUB-3), 230 South Dearborn Street, Chicago, Illinois 60604.

Authority: The Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601-9675.

Dated: July 11, 1991.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 91-17561 Filed 7-23-91; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44573; FRL 3936-5]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on methyl ethyl ketoxime (MEKO) (CAS No. 96-29-7), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for MEKO were submitted by Industrial Health Foundation, Inc., pursuant to a test rule at 40 CFR 799.2700. They were received by EPA on July 3, 1991. The submission describes a subchronic neurotoxicity study in rats. Health effects testing is required by this test rule. This chemical is sold primarily as a nonreactive antiskinning agent in alkyd surface coating and paints. It is also used as a blocking agent for isocyanates and siloxanes. EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44573). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket

Office, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: July 15, 1991.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 91–17597 Filed 7–23–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted To Office of Management and Budget for Review

July 19, 1991.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036, (202) 452–1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB number: 3060–0073

Title: Application for and Certification of Overtime Service Involving Inspection of Ship Radio Equipment

Form number: FCC Form 808

Action: Extension

Respondents: Businesses or other for-profit (including small businesses)

Frequency of response: On occasion

Estimated annual burden: 200 responses; .084 hours average burden per response; 17 hours total annual burden.

Needs and uses: The FCC Form 808 is used to request an overtime inspection of compulsory shipboard radio equipment pursuant to 47 CFR 80.59(e). The information requested certifies that the overtime service was requested and performed. If this form is not completed, the U.S. Government will not be reimbursed the overtime monies that was paid to the employee. The affected public are businesses whose vessels require inspection of radio equipment outside normal business hours.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91–17601 Filed 7–23–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Pacific Maritime Association Assessment; Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice that on July 12, 1991, the following agreement was filed with the Commission pursuant to section 5(d) of the Shipping Act of 1984 and was considered effective that date to the extent that it constitutes an assessment agreement as described in section 3(3) of the Shipping Act of 1984.

Agreement No: 224–000084–003.

Title: Pacific Maritime Association Assessment Agreement.

Parties: Members of the Pacific Maritime Association.

Synopsis: The Agreement amends the basic agreement concerning assessments paid to the International Longshoremen's and Warehousemen's Union and Pacific Maritime Association employee benefit costs. The Agreement defines the term "man-hours" as used in the basic agreement.

Dated: July 18, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–17486 Filed 7–23–91; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed; Port Authority of New York and New Jersey/Zim American Israeli Shipping Co., Inc. Terminal Agreement

The Federal Maritime Commission hereby givens notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200549.

Title: Port Authority of New York and New Jersey/Zim American Israeli Shipping Co., Inc. Terminal Agreement.

Parties: Port Authority of New York and New Jersey (Port) Zim American Israeli Shipping Co., Inc. (Zim).

Synopsis: The Agreement, filed July 12, 1991, provides for: the Port to pay Zim $25 per import and $50 per export container with cargo loaded/unloaded from a vessel at the Port and shipped by rail to or from points more than 260 miles from the Port, subject to rail freight bills or waybills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

Agreement No.: 224–200546.

Title: Port Authority of New York and New Jersey/American President Lines, Ltd. Terminal Agreement.

Parties: Port Authority of New York and New Jersey (Port) American President Ltd. (APL)

Synopsis: The Agreement, filed July 12, 1991, provides for: the Port to pay APL $25 per import and $50 per export container with cargo loaded/unloaded from a vessel at the Port and shipped by rail to or from points more than 260 miles from the Port, subject to rail freight bills or waybills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

Agreement No.: 224–200547.

Title: Port Authority of New York and New Jersey/Empresa Naviera Santa Marine Terminal Agreement

Parties: Port Authority of New York and New Jersey (Port) Empresa Naviera Santa (ENS)

Synopsis: The Agreement, filed July 12, 1991, provides for: the Port to pay ENS $25 per import and $50 per export container with cargo loaded/unloaded from a vessel at the Port and shipped by rail to or from points more than 260 miles from the Port, subject to rail freights bills or waybills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

By Order of the Federal Maritime Commission.

Dated: July 18, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–17488 Filed 7–23–91; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed; Tampa Port Authority, Apollo Stevedoring Co., Inc., Manine Terminal Agreement

The Federal Maritime Commisson hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §§ 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224–200548.

Title: Tampa Port Authority/Apollo Stevedoring Co., Inc. Marine Terminal Agreement.

Parties: Tampa Port Authority (Authority) Apollo Stevedoring Co., Inc. (Apollo).

Filing party: Mr. Harold E. Welch, Director of Traffic, Tampa Port Authority, P.O. Box 2192, 811 Wynkoop Road, Tampa, Florida 33601

Synopsis: The Agreement, filed july 12, 1991, provides for Apollo to lease from the Authority approximately 2,200 sq. ft. of land a Hookers Point, located in Hillsborough County, Florida. The term of the lease shall be month-to-month and monthly rental shall be $300.00. The Authority will provide two or three offices located in the southern end of Building No. 1, which Apollo is securing necessary permits for the modular office to be placed on the leased premises.

By Order of the Federal Maritime Commission.

Dated: July 18, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–17487 Filed 7–23–91; 8:45 am]

BILLING CODE 6730–01–M

Wilhelmsen Lines AS, et al; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 203–011222–002.

Title: Wilhelmsen/Lief Hoegh Discussion Agreement.

Parties: Wilhelmsen Lines AS, Lief Hoegh & Co., A/S.

Synopsis: The proposed amendment would (1) permit any ocean common carrier serving the trade to become a party to the Agreement; (2) add Waterman Steamship Corporation as a party to the Agreement; (3) change the name of the Agreement to Wilhelmsen/Lief Hoegh/Waterman Discussion Agreement and (4) make other nonsubstantive changes. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: July 19,1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–17534 Filed 7–23–91; 8:45 am]

BILLING CODE 6730–01–M

Organization and Functions; Domestic Regulation Bureau, C.O. 1, Amdt. No. 15

The following delegations of authority are made to the Director, Bureau of Domestic Regulation, by amending Commission Order 1, section 9, as revised, Specific Authorities Delegated to the Director, Bureau of Domestic Regulation by adding subsections 9.13 and 9.14 to read as follows:

9.13 Authority contained in 46 CFR parts 580 and 583 to cancel the tariffs of NVOCCs who fail to file a surety bond or, if required, designate an agent for receipt of process, or whose surety bond or agent designation is cancelled.

9.14 Authority contained in 46 CFR part 582 to cancel the tariff of any common carrier who fails to file an anti-rebate certification.

Dated: July 18, 1991.

Chistopher L. Koch,

Chairman.

[FR Doc. 91 17591 Filed 7–23–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 14, 1991

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on May 14, 1991.[1] The Directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting provides mixed signals regarding the course of economic activity, which had weakened appreciably further earlier in the year. Following sharp decreases in previous months, total nonfarm payroll employment fell somewhat further in April; the civilian unemployment rate edged down to 6.6 percent. Industrial output changed little in April after declining markedly in earlier months. Retail sales were about unchanged in April and are now indicated to have risen somewhat in March. Advance indicators continue to point to weakness in business fixed investment in coming months. Housing starts were down in March, partly offsetting a sizable advance in February, but sales of new and existing homes continued to rise. The nominal U.S. merchandise trade deficit declined in February and its January-February rate was considerably below the average rate in the fourth quarter. Producer and consumer prices were little changed over March and April, partly reflecting further reductions in energy prices.

Short-term interest rates have declined since the Committee meeting on March 26, while bond yields have changed little. The Board of Governors approved a reduction in the discount rate from 6 to 5-1/2 percent on April 30. The trade-weighted value of the dollar in terms of the other G-10 currencies showed little change on balance over the intermeeting period.

Growth of M2 and M3 weakened in April; for the year thus far, expansion of M2 has been at the midpoint of the Committee's range, while growth of M3 has been in the upper half of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will

[1] Copies of the Record of policy actions of the Committee for the meeting of May 14, 1991, are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

foster price stability, promote a resumption of sustainable growth in output, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in February established ranges for growth of M2 and M3 of 2-1/2 to 6-1/2 percent and 1 to 5 percent, respectively, measured from the fourth quarter of 1990 to the fourth quarter of 1991. The monitoring range for growth of total domestic nonfinancial debt was set at 4-1/2 to 8-1/2 percent for the year. With regard to M3, the Committee anticipated that the ongoing restructuring of thrift depository institutions would continue to depress its growth relative to spending and total credit. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Depending upon progress toward price stability, trends in economic activity, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, somewhat greater reserve restraint or somewhat lesser reserve restraint might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from March through June at annual rates of about 4 and 2 percent, respectively.

By order of the Federal Open Market Committee, July 17, 1991.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 91-17530 Filed 7-23-91; 8:45 am]

BILLING CODE 6210-01-F

Bank Management Group, Ltd., 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 August 13, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Bank Management Group, Ltd., Manchester, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First Winthrop Bancorporation, Inc., Winthrop, Iowa, and thereby indirectly acquire Peoples State Bank, Winthrop, Iowa.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Timberline Bancshares, Inc., Yreka, California; to become a bank holding company by acquiring 100 percent of the voting shares of Timberline Community Bank, Yreka, California.

Board of Governors of the Federal Reserve System, July 19, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-17620 Filed 7-23-91; 8:45 am]

BILLING CODE 6210-01-F

Oren L. Benton; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than August 13, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Oren L. Benton, Aurora, Colorado; to acquire 90 percent of the voting shares of The Professional Bank, Englewood, Colorado.

Board of Governors of the Federal Reserve System, July 19, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-17621 Filed 7-23-91; 8:45 am]

BILLING CODE 6210-01-F

Magna Group, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 13, 1991.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Magna Group, Inc., Belleville, Illinois, and Magna Acquisition Corporation, St. Louis, Missouri; to acquire 100 percent of the voting shares of Landmark Bancshares Corporation, St. Louis, Missouri, and thereby indirectly acquire Landmark Bank, Clayton, Missouri; Landmark Bank of Kansas City, Kansas City, Missouri; Landmark KCI Bank, Kansas City, Missouri; Landmark Bank of St. Charles County, St. Charles, Missouri; Landmark Bank of Southwest Missouri, Ozark, Missouri; Landmark Bank of Carbondale, Carbondale, Illinois; Landmark Bank of Illinois, Fairview Heights, Illinois; Landmark Bank of Madison County, Highland, Illinois; Landmark Bank of Madison County, Highland, Illinois; Landmark Bank of Washington County, N.A., Nashville, Illinois; and Landmark Bank of Randolph County, Sparta, Illinois. In connection with this acquisition, Magna Acquisition Corporation has applied to become a bank holding company.

In connection with this application, Magna Group, Inc., Belleville, Illinois, proposes to acquire Landmark BVI Limited, St. Louis, Missouri, and thereby engage in credit insurance sales and underwriting, all of which will be directly related to extensions of credit by Applicant or any of its subsidiaries, and will be limited to assuring repayment of the outstanding balance due on such extensions of credit in the event of the death, disability or involuntary unemployment of the repsective debtor pursuant to § 225.25(b)(8); and Landmark Trust Company, Fairview Heights, Illinois, and thereby engage in performing fiduciary, agency and custodial functions and activities that may be performed by a trust company pursuant to § 225.25(b)(3) of the Board's Regulation Y

Board of Governors of the Federal Reserve System, July 19, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-17622 Filed 7-23-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 891 0088]

Nippon Sheet Glass Company, Ltd., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the respondents, suppliers of polished wired glass, for a period of ten years, to obtain prior Commission approval before engaging any other entity in North America in any joint marketing or distribution agreement that would involve selling to customers in the United States.

DATES: Comments must be received on or before September 23, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James Egan, Jr. or Robert Doyle, Jr., FTC/S–2308, Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules and Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

[File No. 891–0088]

In the matter of Nippon Sheet Glass Co., Ltd., a corporation, NSG Holding USA, Inc., a corporation, Pilkington PLC, a corporation, and Libbey-Owens-Ford Co., a corporation.

The Federal Trade Commission (the "Commission"), having initiated an investigation of the acquisition of certain stock or voting securities of Libbey-Owens-Ford Co. ("LOF"), a subsidiary of Pilkington plc ("Pilkington"), by NSG Holding USA, Inc. ("NSG–USA"), a subsidiary of Nippon Sheet Glass Company, Ltd. ("Nippon"), pursuant to a Common Stock Purchase Agreement, and proposed respondents having been furnished with a copy of a draft complaint that, if issued by the Commission, would charge proposed respondents with violations of the Federal Trade Commission Act and the Clayton Act, and it now appearing that Nippon, NSG–USA, Pilkington and LOF are willing to enter into an agreement containing an order to cease and desist from certain acts:

It is hereby agreed by and between Nippon, NSG–USA, Pilkington and LOF, by their duly authorized officers and their attorneys, and counsel for the Commission that:

1. Proposed respondent Nippon is a corporation organized under the laws of Japan, with its executive offices at 5–11, Doshomacho 3-chome, Chuo-Ku, Osaka, Japan.

2. Proposed respondent NSG–USA, a wholly owned subsidiary of proposed respondent Nippon, is a corporation organized and existing under the laws of Delaware, with its principal place of business at 1209 Orange Street, Wilmington, Delaware 19801.

3. Proposed respondent Pilkington is a corporation organized under the laws of England, with its executive offices at Prescot Road, St. Helens, Merseyside, England WA10 3TT.

4. Proposed respondent LOF, a subsidiary of proposed respondent Pilkington, is a corporation organized and existing under the laws of Delaware, with its principal place of business at 811 Madison Avenue, Toledo, Ohio 43695.

5. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

6. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

7. This agreement shall not become a part of the public record unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either

withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

8. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to the proposed respondents, (1) Issue a complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents or to their counsel shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

10. Proposed respondents have read the order contemplated hereby. Proposed respondents understant that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

11. For purposes of securing compliance with the order contemplated hereby, each respondent agrees to designate an agent in the United States to accept service and that delivery by the U.S. Postal Service to it or such designated agent shall constitute service. By this agreement, each respondent agrees that its undersigned counsel is designated and shall serve as such agent for such service until the respondent notifies the Commission of a new designated agent.

Order

For purposes of this Order the following definitions shall apply:

1. "Nippon" means respondent Nippon Sheet Glass Company, Ltd., as well as its officers, employees, agents, divisions, subsidiaries (including but not limited to NSG–USA), successors, assigns, and the officers, employees, and agents of Nippon's divisions, subsidiaries, successors and assigns. LOF shall not be treated as a subsidiary of Nippon for purposes of this Order.

2. "NSG–USA" means respondent NSG Holding USA, Inc., as well as its officers, employees, agents, divisions, subsidiaries, sucessors, assigns, and the officers, employees, and agents of NSG–USA's divisions, subsidiaries, successors and assigns.

3. "Pilkington" means respondent Pilkington plc, as well as its officers, employees, agents, divisions, subsidiaries (including but not limited to LOF), successors, assigns, and the officers, employees and agents of Pilkington's divisions, subsidiaries, successors and assigns.

4. "LOF" means respondent Libbey-Owens-Ford Co., as well as its officers, employees, agents, divisions, subsidiaries, successors, assigns, and the officers, employees and agents of LOF's divisions, subsidiaries, successors and assigns.

5. "Wired glass" means any flat glass containing wire netting.

I

It is ordered that for a period of ten (10) years from the date this Order becomes final, respondent Nippon and respondent Pilkington, directly or indirectly, or through any corporate or other device including respondent LOF, shall cease and desist, without the prior approval of the Federal Trade Commission, from engaging together in North America in any marketing or manufacturing joint venture, corporate or non-corporate, or joint distribution agreement, to sell wired glass, directly or indirectly, to customers located in the United States.

II

It is further ordered that within ten (10) days after the date this Order becomes final, respondent Nippon and respondent Pilkington shall each distribute a copy of this Order to its current directors and corporate officers at the level of the parent company, and to the directors and officers of each subsidiary involved in the manufacture or sale of wired glass.

III

It is further ordered that within thirty (30) days after the date this Order becomes final, and at such other times as the Commission or its staff may require, each respondent shall submit to the Commission a verified report setting forth in detail the manner and form in which it has complied with this Order.

IV

It is further ordered that for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request by the Commission or its staff and on reasonable notice to any respondent made to its principal office, such respondent shall permit duly authorized representatives of the Commission:

A. Reasonable access during respondent's office hours, in the presence of counsel, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of respondent relating to any matters contained in this Order, for inspection and copying; and

B. An opportunity, subject to respondent's reasonable convenience, to interview, in the presence of counsel, officers or employees of respondent regarding such matters.

V

It is further ordered that each respondent shall notify the Commission at least thirty (30) days prior to any change in respondent which may affect compliance with the obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Nippon Sheet Glass Company, Ltd. ("Nippon"), Nippon's wholly owned subsidiary NSG Holding USA, Inc. ("NSG–USA"), Pilkington plc ("Pilkington"), and Libbey-Ownes-Ford Co. ("LOF"), now jointly owned by Pilkington and Nippon.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by

interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that Nippon's acquisition of 20% of the voting securities of LOF, which allowed both Nippon and Pilkington to distribute polished wired glass in North America through LOF, violates section 5 of the Federal Trade Commission Act and section 7 of the Clayton Act.

The proposed consent order requires, for a period of ten years, prior Commission approval before Nippon and Pilkington may engage in North America in any joint marketing or distribution agreement that would involve selling directly or indirectly to customers in the United States. Thus, under the terms of the proposed consent order, Nippon and Pilkington will remain independent suppliers of polished wired glass to the United States.

The proposed order requires that within thirty (30) days of the date the order becomes final respondents submit a report to the Commission verifying their compliance with the provisions of the order, and provides that additional compliance reports may be required.

The Commission anticipates that the effect of the proposed order will be to maintain the opportunity for unrestrained trade in the market for polished wired glass in the United States.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 91-17521 Filed 7-23-91; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (42 FR 61318, December 2, 1977, as amended most recently at 55 FR 29272, July 18, 1990), is amended to reflect the establishment of an Office of Women's Health (HAW) within the Office of the Assistant Secretary for Health. The new office is being established to support the work of a PHS Coordinating Committee on Women's Health Issues and to provide a focus for carrying out activities associated with the Committee and women's health issues.

Office of the Assistant Secretary for Health

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, Section HA-10, Organization, following the title *National Vaccine Program Office (HA2),* add *20. Office on Women's Health (HAW).*

Under Section HA-20, Functions, following the title and statement for the *Division of PHS Budget (HAU44),* add the following title and statement:

Office on Women's Health (HAW). The Executive Director and staff provide support to the PHS Coordinating Committee on Women's Health Issues which has responsibility to: (1) Serve as a focal point within PHS to coordinate the continuing implementation of recommendations of the report of the PHS Task Force on Women's Health Issues in the context of the health objectives for the year 2000; (2) serve as a locus with the PHS to identify changing needs, recommend new studies, and to assess new challenges to the health of women; (3) coordinate the programmatic aspects of the PHS agencies in regard to issues related to women's health; (4) assure liaison with relevant offices in the OASH including the Office of Minority Health; and (5) assess the opportunities for women in assuming leadership positions in the Public Health Service.

Dated: July 17, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-17599 Filed 7-23-91; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

Advisory Committee; 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 Administraion (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.

MEETING: The following advisory committee meeting is announced:

Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. August 16, 1991, 8 a.m., First Floor Conference Rm., Piccard Bldg., 1390 Piccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 10 a.m.; closed presentation of data, 10 a.m. to 10:40 a.m.; open committee discussion, 10:40 a.m. to 11:40 a.m.; closed presentation of data, 11:40 a.m. to 11:50 a.m.; open committee discussion, 1:30 p.m. to 2:30 p.m.; closed presentation of data, 2:30 p.m. to 2:40 p.m.; Marie A. Schroeder, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1036.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

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 August 9, 1991, 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. The committee will discuss premarket approval applications for an uncemented porous metal-coated unicompartmental knee prosthesis, a bone void filler device, and an anterior cruciate ligament augmentation prosthesis.

Closed presentation of data. The committee may discuss trade secret or confidential commercial information regarding materials, design, and/or manufacturing information for the above premarket approval applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above 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. The dates and times reserved for the separate 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.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after 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.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clincal test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative session to formulate advice and recommendations to the agency on matters that do not independently justify closing.

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: July 17, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-17522 Filed 7-23-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-050-4712-12]

Recreation Area; Yuma Rules of Conduct and Supplementary Rules of Yuma District, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of developed recreation area and establishment of supplementary rules.

SUMMARY: The following area is designated a developed recreation site for the purpose of applying the rules of conduct contained in 43 CFR 8365.2:

District	Area	Type	Approximate Size	Location
Yuma	Paradise Cove Boat Ramp	Boat Launching/Picnic	35 acres	Sec. 28, lots 2, 5, and 6, portion of S½S½, T. 16 S., R. 22 E. SBM, Arizona

In addition to the regulations contained in 43 CFR 8365.2, the following supplementary rules will apply to the developed recreation site listed above:

a. Discharge, use, or possession of fireworks is prohibited.

b. Consumption of alcoholic beverages is prohibited.

c. Motor vehicles and operators must be licensed for highway use.

d. Glass containers are prohibited.

e. Overnight camping is prohibited.

f. Area is closed except for boat launching from 9:00 p.m. to 6:00 a.m.

g. Maximum speed limit of 5 miles per hour.

h. Ground fires are prohibited.

i. Discharge of weapons is prohibited.

EFFECTIVE DATE: August 1, 1991.

FOR FURTHER INFORMATION CONTACT: Walt Tegge, Outdoor Recreation Planner, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, 602-726-6300.

SUPPLEMENTARY INFORMATION: This area has been developed to provide for boat launching on the lower end of the Colorado River. This site was selected using criteria developed during the management planning process and an environmental assessment was completed for the site location. The area is also a popular picnic and swimming area.

The supplementary rules are designed to provide for public safety and welfare and to protect natural resources

The authority for establishing supplementary rules is contained in CFR title 43, chapter II 8365.1–6. These rules will be available in each local office having jurisdiction over the lands, sites, or facilities affected. Violations of supplementary rules are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: July 15, 1991.

Herman L. Kast,

District Manager.

[FR Doc. 91–17551 Filed 7–23–91; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Land Management

[G–010–4332–10/G1–0112]

Rio Puerco Resource Area, NM; Revised Environmental Assessment for the Chain of Craters Wilderness Study Area

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Revised Environmental Assessment for the Chain of Craters Wilderness Study Area.

SUMMARY: In accordance with section 501 of Public Law 100–255, the Bureau of Land Management has prepared a Revised Environmental Assessment (EA) for the Chain of Craters Wilderness Study (WSA).

DATES: Written comments should be directed to the Bureau of Land Management, Area Manager, Rio Puerco Resource Area, 435 Montano NE., Albuquerque, New Mexico, 87107. Written comments must be received by close of business on September 18, 1991.

ADDRESS: Copies of the Revised EA are available upon request from the Area Manager, Bureau of Land Management, Rio Puerco Resource Area, 435 Montano NE., Albuquerque, New Mexico, 87107.

FOR FURTHER INFORMATION CONTACT: Katherine Walter, Outdoor Recreation Planner, Rio Puerco Resource Area, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 761–8704.

SUPPLEMENTARY INFORMATION: The purpose of this assessment is to conclude the wilderness study process for the Chain of Craters, and to determine the suitability or nonsuitability of this WSA for recommended inclusion in the National Wilderness Preservation System. Alternatives evaluated include a no wilderness alternative (proposed action) and an all wilderness alternative. The Chain of Craters Revised EA should be used in conjunction with the Draft and Final El Malpais National Conservation Area General Management Plans. A limited number of copies of both plans are still available from the Bureau of Land Management at the above address. Following completion of the public participation process, public comments and a Chain of Craters Wilderness Study Report will be submitted to the Secretary of the Interior and reported to the President. The recommendation is scheduled to be sent to the President by December 1991.

Correction: A correction to **Federal Register** Notice, Vol. 56, No. 41, Friday, March 1, 1991. The correction should read: a Revised EA will be prepared for the Chain of Craters Wilderness Study Area which is contained in the El Malpais National Conservation Area.

Patricia McLean,

Associate District Manager.

[FR Doc. 91–17725 Filed 7–23–91; 8:45 am]

BILLING CODE 4310–FB–M

[CA–060–01–5101–09–B016]

Cajon Pipeline, Proposed Heated Crude Oil Pipeline, San Bernardino County and Los Angeles County, CA; Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, California Desert District, will be co-directing the preparation of a joint Federal-State Environmental Impact Statement/Environmental Impact Report (EIS/R) with the City of Adelanto, to be prepared by a third party contractor, on the impacts of a proposed crude oil pipeline and appurtenant facilities, the Cajon Pipeline Project. This proposed Project will traverse public and private lands in San Bernardino and Los Angeles Counties in southern California.

DATES: Written comments will be accepted until August 20, 1991. In addition, public scoping meetings will be held at:

August 13, 1991	7 p.m.	City of Pomona, Council Chambers, 505 S. Gary, Pomona, CA.
August 14, 1991	7 p.m.	Carson Community Center, Multi-purpose Room 111, 801 E. Carson Ave, Carson, CA.
August 15, 1991	7 p.m.	Adelanto City Hall, 11600 Airbase Rd., Adelanto, CA,

ADDRESSES: Comments should be sent to the District Manager, Bureau of Land Management, 6221 Box Springs Blvd., Riverside, CA 92507–0714 attn: Cajon Pipeline Project.

FOR FURTHER INFORMATION CONTACT: Stephen L. Johnson, Special Projects Manager, California Desert District Office, 6221 Box Springs Blvd, Riverside CA 92507–0714; phone (714) 653–2363.

SUPPLEMENTARY INFORMATION: Discoveries in the Santa Barbara Channel, off the coast of California along the Outer Continental Shelf (OCS), and on-shore through thermal enhanced oil recovery in the San Joaquin Valley (SJV), have yielded significant new reserves of heavy, high sulphur crude oil. As a result of these discoveries and the desire of producers to transport this heavy crude to the Los Angeles Basin refineries, a heated pipeline system capable of handling this crude in its "neat" state is needed. Currently heavy crude transportation to the Los Angeles Basin is by marine tanker, unit train of by proprietary pipelines. Even if the OCS and SJV heavy crude crude oils did not require heating, there is not sufficient existing pipeline capacity to handle all of the required volumes. However, heavy crude does require the addition of heat to allow it to be efficiently pumped through pipelines, and no heated common carrier pipeline exists today into the Los Angeles Basin.

In order to alleviate the transportation problems, the Cajon Pipeline Company (Cajon), has filed an application with Bureau of Land Management, proposing to construct a new a 126-mile, twenty (20) inch diameter insulated pipeline to transport heavy crude oil from the San Joaquin Valley and the Santa Barbara County area to the Los Angeles Basin. This pipeline will originate at the All American Pipeline's 12-Gauge Heater Station, which is approximately 27 miles west of Barstow, California, and terminate at the GATX crude oil terminal in Carson, California. The pipeline is being designed to transport 150,000 barrels per day (BPD) of heavy crude oil to the GATX terminal which is presently connected to 13 refineries in the Los Angeles Basin that are currently equipped to process heavy crude.

The Bureau of Land Management's scoping process for the EIS will include: (1) Identification of issues to be addressed; (2) identification of viable alternatives; and (3) notifying interested groups, individuals and agencies so that additional information concerning these issues can be obtained. The scoping process will consist of a news release

announcing the start of the EIS process and letters of invitation to participate in the scoping process. Potential issues include, but are not limited to, air quality, land use, wildlife, seismology and hydrology.

Dated: July 17, 1991.

Gerald E. Hillier,

District Manager.

[FR Doc. 91-17517 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-40-M

[CA-010-01-4311-10]

Management Framework Plan Amendment Nevada County, CA

AGENCY: Bureau of Land Management, Bakersfield District Office, Interior.

ACTION: Notice of Sierra Management Framework Plan amendment by the Folsom Resource Area, California.

SUMMARY: The Bureau of Land Management proposes designating 1,388 acres of public land on the North San Juan Ridge, Nevada County, California, as an Area of Critical Environmental Concern (ACEC), pursuant to the authority in the Federal Land Policy and Management Act of 1976 (sec. 202).

SUPPLEMENTARY INFORMATION: These public lands, known as the Inimim Forest, are managed under a cooperative stewardship program agreement between the Yuba Watershed Institute, the Timber Framers Guild of North America, and the Bureau of Land Management. The Yuba Watershed Institute submitted a community-generated proposal and request to the Bureau of Land Management to provide increased management attention and protection for the historic, cultural, botanical, fish and wildlife values of the area through ACEC designation. Analysis by the Bureau of Land Management confirms the importance and relevance of the environmental resources of the area, and supports designation of the Inimim Forest as an ACEC.

DATES: Comments and recommendations will be received for a period of 30 days from publication of this notice in the **Federal Register.** Interested parties may request a copy of the environmental assessment on or before 45 days from the date of this notice. Comments on the environmental assessment should be submitted within 105 days from publication of this notice.

FOR COMMENTS AND FURTHER INFORMATION CONTACT: District Manager c/o Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, California 95630.

Dated: July 16, 1991.

D.K. Swickard,

Area Manager.

[FR Doc. 91-17549 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-84-M

[CA-010-01-4212-13, CACA 28113]

Realty Action: Acquisition of Land by Exchange; 25-Year Renewable Lease to the State of California Wildlife Conservation Board, CA

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The following described land is being considered for acquisition, through exchange, and lease under sections 206 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716, 43 U.S.C. 1732)

Offered Private Land

A parcel of land located in Section 21, Township 5 North, Range 5 East, Mount Diablo Meridian, Sacramento County, California, more particularly described as follows:

From the Northeast corner of Section 21, Township 5 North, Range 5 East, Mount Diablo Meridian, South 43°41'05" West 4895.57 feet to the Point of Beginning; thence from the Point of Beginning South 80°53'34" East 464.34 feet to a point; thence South 23°50'42" East 196.04 feet to a point; thence South 22°47'24" West 88.29 feet to a point; thence South 36°56'31" West 113.48 feet to a point; then South 05°53'17" West 116.31 feet to a point; thence South 02°37'42" East 161.60 feet to a point; thence North 49°24'11" West 685.07 feet to a point; thence North 19°13'38" East 271.35 feet to the Point of Beginning.

The parcel of land to which this description applies contains 5.63 acres, more or less.

The above described parcel would be acquired from the Nature Conservancy (TNC) to provide the site for a Visitors Center at the Consumnes River Preserve, a cooperative conservation effort between Bureau of Land Mangement (BLM), Ducks Unlimited and TNC, dedicated to the preservation and restoration of the native communities found along the river corridor, including valley oak and wetland habitats. The Visitors Center would be jointly funded and developed by the BLM, TNC, and the State of California Wildlife Conservation Board (WCB).

Following transfer of title to the United States, the 5.63-acrea site would be leased to WCB to administratively enable the appropriation of available funds from WCB for construction of the facility. Operation and maintenance of the center would meet the terms of the lease and the center would be managed according to the Consumnes River Preserve Management Plan.

SUPPLEMENTARY INFORMATION: Acquisition and lease of the subject 5.63-acre parcel would make it possible to construct a visitor center on the periphery of the preserve using funds available for the WCB. The center would serve as the main visitor gathering place, providing parking, picnic tables, restrooms, drinking fountain, interpretive displays and brochures, a canoe-launch area, trailhead access, a docent center, and staff offices. The building site would be located off Franklin Road on an existing pad, providing excellent access and visibility. While there would be expansive views of the preserve from the center, it is removed from the primary roosting areas to avoid unnecessary disturbance to sensitive species.

Acquisition of the parcel would be at fair market value under the "TNC/BLM Statewide Exchange Pooling Agreement." The public lands conveyed to TNC to balance the Pooling Agreement accounts have been or will be identified in Notices of Realty Action published in the Federal Register as required by 43 CFR 2201.1

FOR ADDITIONAL INFORMATION: Contact Dean Decker, (916) 985-4474 or at the address below.

ADDRESSES: For a period of 45 days from publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, c/o Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

Dated: July 15, 1991.

D.K. Swickard,

Area Manager.

[FR Doc. 91-17552 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-40-M

[ID-943-5700; IDI-28437]

Issuance of Disclaimer of Interest to Lands; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of disclaimer of interest in lands in Idaho.

SUMMARY: The United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), proposes to disclaim and release all interest to James F. Matheson, the owner of record, for the following described property, to wit:

Boise Meridian

T. 51 N., R. 5 W.,

All land south and westerly of lot 7, sec. 6, and that portion fronting the SE¼SW¼ of sec. 6, where the meander line of lot 1, sec. 7, intersects the line between secs. 6 and 7, between the original meander line as shown on the plat of survey approved July 23, 1881, by the Bureau of Land Management and the mean high water line of Hauser Lake.

The official records and the original public land survey of the Bureau of Land Management show that the land described above lies between the original surveyed meander line and the mean high water line of Hauser Lake. There has been no gross error or fraud found in the original survey. The land, therefore, is not public land; and the application by James F. Matheson, the adjoining landowner, for a disclaimer by the United States as to this land will be approved if no valid objections are received. This action will clear a cloud on the title of the applicant's land.

DATES: Comments or protests to this action should be received by October 22, 1991.

ADDRESSES: Comments or protests must be filed with: State Director (943), Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, at the above address, or (208) 384–3163, or Scott Forssell, 1808 North Third Street, Coeur d'Alene, Idaho 83814, or (208) 769–5000.

Dated: July 15, 1991

Jerry L. Kidd,

Deputy State Director for Operations.

[FR Doc. 91–17550 Filed 7–23–91; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–942–01–4730–12]

Arizona State Office; Filing of Plats of Survey

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat, (in 5 sheets), representing a dependent resurvey of a portion of the east boundary, (Fifth Guide Meridian West), the south, west and north boundaries, a portion of the subdivisional lines and certain mineral surveys, and the subdivision of selected sections and metes-and-bounds surveys in Township 19 North, Range 19 West, Gila and Salt River Meridian, Arizona, was accepted March 28, 1991, and was officially filed April 1, 1991.

A plat, representing the subdivision of a portion of Parcel A, and an informative traverse within the San Ignacio del Babocomarie Private Land Grant through Townships 20 and 21 South, Ranges 18 and 19 East, Gila and Salt River Meridian, Arizona, was accepted June 20, 1991, and was officially filed June 25, 1991.

These plats were prepared at the request of the Bureau of Land Management, Phoenix District Office.

A plat, representing a dependent resurvey of a portion of the north boundary, and subdivisional lines, and a survey of subdivisions in section 4, Township 14 North, Range 5 East, Gila and Salt River Meridian, Arizona, was accepted April 1, 1991, and was officially filed April 8, 1991.

This plat was prepared at the request of the Forest Service, Coconino National Forest.

A plat, (in two sheets), representing a dependent resurvey of portions of the San Rafael Del Valle Land Grant, a portion of the north boundary, a portion of the east boundary, and subdivisional lines, and the subdivision of selected sections in Township 22 South, Range 21 East, Gila and Salt River Meridian, Arizona, was accepted May 9, 1991, and was officially filed May 16, 1991.

A plat, (in two sheets), representing a dependent resurvey of portions of Camp Goodwin Military Reservation, (abandoned), of the north boundary, of the subdivisional lines, the east boundary of the San Carlos Indian Reservation, and the subdivision of selected section in Townships 5 South, Range 22 East, Gila and Salt River Meridian, Arizona, was accepted June 11, 1991, and was officially filed June 20, 1991.

A plat, representing the dependent resurvey of the south boundary, Fort Thomas Military Reservation, (abandoned), portions of the west boundary and subdivisional lines in Township 4 South, Range 23 East, Gila and Salt River Meridian, Arizona, was accepted June 11, 1991, and was officially filed June 20, 1991.

A plat, (in two sheets), representing a dependent resurvey of portions of Camp Goodwin Military Reservation, (abandoned), of the west boundary, of the north boundary, of the subdivisional lines, and the subdivisions of selected sections in Township 5 South, Range 23 East, Gila and Salt River Meridian, Arizona, was accepted June 11, 1991, and was officially filed June 20, 1991.

These plats were prepared at the request of the Bureau of Land Management, Safford District Office.

A supplemental plat, showing a subdivision of original lots 4 and 7, section 21, Township 8 North, Range 29 East, Gila and Salt River Meridian, Arizona, was accepted May 13, 1991, and was officially filed May 23, 1991.

A plat, (in three sheets), representing a dependent resurvey of a portion of the Arizona-New Mexico State Line, the dependent resurvey of portions of the north and south boundaries and subdivisional lines, and a survey of subdivisions in section 2, 21, 22, and 27, Township 7 North, Range 31 East, Gila and Salt River Meridian, Arizona, was accpeted June 6, 1991, and was officially filed June 13, 1991.

These plats were prepared at the request of the Forest Service Regional Office, Albuquerque, New Mexico.

A plat, representing a metes-and-bounds survey of lot 2, in partially surveyed section 14, Township 12 North, Range 10 East, Gila and Salt River Meridian, Arizona, was accepted June 7, 1991, and was officially filed June 13, 1991.

This plat was prepared at the request of the Forest Service, Tonto National Forest and by the Federal Land Exchange, Inc.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelly,

Chief, Branch of Cadastral Survey.

[FR Doc. 91–17489 Filed 7–23–91; 8:45 am]

BILLING CODE 4310–32–M

National Park Service

Concession Contract Negotiations; Dune Climb Refreshment Stand

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession permit with Dune Climb Refreshment Stand authorizing it to continue to provide refreshments, handcrafts, merchandise, and souvenirs facilities and services for the public at Sleeping Bear Dunes National Lakeshore, Michigan, for a period of five (5) years from January 1, 1991 through December 31, 1995.

EFFECTIVE DATE: September 23, 1991.

ADDRESSES: Interested parties should contact the Superintendent, Sleeping Bear Dunes National Lakeshore, Box 277, 9922 Front St., Empire, Michigan

49630, for information as to the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed it's obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1990, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: July 17, 1991.

Don H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 91-17580 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-70-M

Concession Contract Negotiations; Service America Corp.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with Service America Corporation authorizing it to continue to provide for the operation of vending machines for the sale of canned soft drinks facilities and services for the public of Jefferson National Expansion Memorial National Historic Site, Missouri, for a period of five (5) years from April 1, 1991, through March 31, 1991.

EFFECTIVE DATE: September 23, 1991.

ADDRESSES: Interested parties should contact the Superintendent, Jefferson National Expansion Memorial National Historic Site, 11 North Fourth Street, St. Louis, Missouri, 63102 for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed it's obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on March 31, 1991, and therefore, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals recieved as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: July 18, 1991.

Don. H. Castleberry,

Regional Director, Midwest Region.

[FR Doc. 91-17581 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 13, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by August 8, 1991.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Yavapai County

Childs—Irving Hydroelectric Facilities, From E. bank of Verde R. NE. to Stehr Lake and along Fossil Cr., Coconino/Tonto NF, Camp Verde vicinity, 91001023

ARKANSAS

Mississippi County

Baker Site, Address Restricted, Blytheville vicinity, 91001048

COLORADO

La Plata County

La Plata County Fairgrounds, 2500 Main Ave., Durango, 91001031

CONNECTICUT

Hartford County

Garvan—Carroll Historic District (East Hartford MPS), Roughly bounded by S. Prospect, Chapel and Main Sts. and I-84, East Hartford, 91001049

FLORIDA

Lee County

Edison, Thomas, Winter Estate, 2350 McGregor Blvd., Fort Myers, 91001044

LOUISIANA

Quachita Parish

Rawls Cabin, 223 Charlie Rawls Rd., West Monroe vicinity, 91001047

St. Landry Parish

Mouton House, 261 N. Liberty St., Opelousas, 91001045

West Baton Rouge Parish

Aillet House (Louisiana's French Creole Architecture MPS), 845 N. Jefferson Ave., Port Allen, 91001046

MINNESOTA

St. Louis County

Hibbing Disposal Plant, 1300 E. 23rd St., Hibbing, 91001022

MISSOURI

Henry County

Anheuser—Busch Brewing Association Building, 203 W. Franklin St., Clinton, 91001030

NEW YORK

Cattaraugus County

Ellicottville Historic District, Roughly bounded by Elizabeth, Monroe, Martha and Adams Sts., Ellicottville, 91001028

Franklin County

Duane Methodist Episcopal Church, NY 26 E of jct. with Kenny Rd., Duane, 91001027

Tompkins County

West Dryden Methodist Episcopal Church, Jct. of W. Dryden and Sheldon Rds., Dryden, 91001029

PUERTO RICO

Humacao Municipality

Algodones 2 (12VPr2-204), Address Restricted, Barrio Puerto Diablo, Vieques, 91001037

Algodones 3 (12VPr2-205), Address Restricted, Barrio Puerto Diablo, Vieques, 91001038

Algodones 6 (12VPr2-229), Address Restricted, Barrio Puerto Diablo, Vieques, 91001032

Camp Garcia (Campo Asilo) 3 (12VPr2-164), Address Restricted, Barrio Puerto Ferro, Vieques, 91001041

Le Pistolet (12VPr2-168), Address Restricted, Barrio Punta Arenas, Vieques, 91001040

Llave 13 (12VPr2-175), Address Restricted, Barrio Llave, Vieques, 91001036

Loma Jalova 3 (12VPr2-219), Address Restricted, Barrio Puerto Diablo, Vieques, 91001034

Monte Largo 2 (12VPr2-172), Address Restricted, Barrio Puerto Diablo, Vieques, 91001042

Playa Grande 9 (12VPr2-212), Address Restricted, Barrio Llave, Vieques, 91001035

Ventana 4 (12VPr2-171), Address Restricted, Barrio Punta Arenas, Vieques, 91001039

Yanuel 8 (12VPr2-173), Address Restricted, Barrio Puerto Diablo, Vieques, 91001043
Yanuel 9 (12VPr2-220), Address Restricted, Barrio Puerto Diablo, Vieques, 91001033

Rhode Island

Bristol County

St. Matthew's Episcopal Church, 5 Chapel Rd., Barrington, 91001024

Providence County

Brown, Morris, House, 317 Rochambeau Ave., Providence, 91001025

WYOMING

Fremont County

Diamond A. Ranch (Pioneer Ranches/Farms in Fremont County MPS), Off US 26/287 NE of Whiskey Mtn., Dubois vicinity, 91001026

A proposed move is being considered for the following property:

SOUTH CAROLINA

Williamsburg County

Gamble House, W of Nesmith off SC 502, Nesmith vicinity, 78002535.

[FR Doc. 91-17582 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Office of the Secretary

Office of the Administrative Law Judges; Notice of New Address

The Office of the Administrative Law Judges wishes to announce that on or about August 17, 1991 it shall be moving to new offices at the Tech World complex next to the DC Convention Center. The new address will be: Office of Administrative Law Judges, U.S. Department of Labor, 800 K Street, NW., suite 400, Washington, DC 20001-8002, Telephone: (202) 633-0330, (after August 17, 1991).

Interested parties and litigants are advised to use the new address for all correspondence and legal pleadings on or after August 17, 1991.

The Department of Labor is in the process of amending its regulations in the Code of Federal Regulations (CFRs) to reflect this new address.

For Further Information Contact: P.J. Jacoby, Director, Office of Program Operations; current telephone number: (202) 653-5052.

Signed at Washington, DC this 17th day of July, 1991.

John Vittone,

Deputy Chief Administrative Law Judge.

[FR Doc. 91-17555 Filed 7-23-91; 8:45 am]

BILLING CODE 4510-20-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Barko Hydraulics, et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of June and July 1991.

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-25,770; Barko Hydraulics, Superior, WI
TA-W-25,812; Plyfiber Container Corp., Raritan, NJ
TA-W-25,760; Union City Body Co., Inc, Union City, IN
TA-W-25,821; Sinteris Magnetics Corp., Grand Haven, MI

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-25,698; Andritz Sprout-Bauer, Muncy, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,826; Vending Services, Inc., Eau Claire, WI

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-25,908; Tom Henry Chevrolet, Bakerstown, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-25,644; Digital Equipment Corp., Phoenix, AZ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,815; Robert E. Derecktor of Rhode Island, Inc., Middletown, RI

U.S. imports of yachts and pleasure boats declined absolutely in 1989 compared to 1988 and declined absolutely in the first three quarters of 1990 compared to the same period in 1989.

TA-W-25,822; Thorngate Uniforms, Inc., Norristown, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,668 & TA-W-25,669; Electric Mobility Corp., Westville & Sewell, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,670; Frame One Corp. of America, Roanoke, VA

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-25,778; Kelsey-Hayes, Milford, MT

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.

Affirmative Determinations

TA-W-25,733; Atron/High Q, Pellston, MI

A certification was issued covering all workers separated on or after April 10, 1990.

TA-W-25,741; Columbia Footwear Corp., Hazleton, PA

A certification was issued covering all workers separated on or after April 19, 1990.

TA-W-25,802 and TA-W-25,803; Gerger Childrenswear, Inc., Easley, SC and Liberty, SC

A certification was issued covering all workers separated on or after May 3, 1990.

TA-W-25,791; AT & T Network Systems Microelectronics Group, Radford, VA

A certification was issued covering all workers separated on or after June 13, 1991.

TA–W–25,745; General Safety Corp., St. Clair Shoes, MI

A certification was issued covering all workers separated on or after October 1, 1990.

TA–W–25,825; U.S. Shoe Corp.,-Osgood Plant, Osgood, IN

A certification was issued covering all workers separated on or after April 22, 1990.

TA–W–25,795; Capital Tackle, Inc., Vancouver, WA

A certification was issued covering all workers separated on or after April 26, 1990 and before June 1, 1991.

TA–W–25,766; Allied Signal Bendix, Green Island, NY

A certification was issued covering all workers separated on or after April 29, 1990.

TA–W–25,530; Dexter Shoe Co., Dexter, ME

A certification was issued covering all workers separated on or after February 14, 1990.

TA–W–25,735; C & D Sportswear, Inc., Scranton, PA

A certification was issued covering all workers separated on or after April 19, 1990 and before March 31, 1991.

TA–W–25,807; ITT Hancock, Williamston, MI

A certification was issued covering all workers separated on or after May 6, 1990.

TA–W–25,761 & TA–W–25,762; Washington Apparel Group, Inc., D/B/A Dee Cee Apparel, Franklin, KY and McMinnville, TN

A certification was issued covering all workers separated on or after April 9, 1990.

TA–W–25,763 & TA–W–25,764; Washington, Apparel Group, Inc., D/B/A Dee Cee Apparel, Glasgow, KY and Cave City, KY

A certification was issued covering all workers separated on or after April 9, 1990.

TA–W–25,849; Olympic Luggage Corp., Kane, PA

A certification was issued covering all workers separated on or after May 20, 1990.

I hereby certify that the aforementioned determinations were issued during the months of June and July, 1991. 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: July 16, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91–17557 Filed 7–23–91; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–25, 727, TA–W–25, 727A, TA–W–25, 727B]

Weather Tamer, Inc., Columbia, TN, Chattanooga, TN, New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 6, 1991, applicable to all workers of Weather Tamer, Inc., Columbia, Tennessee. The notice was published in the **Federal Register** on June 21, 1991 (56 FR 28577).

The Department is amending the certification to include the corporate offices located in Chattanooga, Tennessee and New York, New York. Weather Tamer has three plants which produce children's outerwear. Workers at the other plants in Centerville, Tennessee (TA–W–25,695) and Athens, Alabama (TA–W–25,333) are currently certified for trade adjustment assistance.

The amended notice applicable to the above subject firm is hereby issued as follows:

All workers of Weather Tamer, Inc., Columbia, Tennessee and the corporate offices in Chattanooga, Tennessee and New York, New York who became totally or partially separated from employment on or after April 1, 1990 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 12th day of July 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91–17556 Filed 7–23–91; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by August 23, 1991.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Mr. Murray R. Welsh, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Mr. Murray R. Welsh, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a new collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Survey of Public Participation in the Arts (SPPA)

Frequency of collection: Annually

Respondents: Individuals or households

Use: The SPPA will provide measures of participation in the arts for various subgroups of the population, data on the extent of live participation versus through the media (TV or radio), information on future demand for arts participation, and data on current and prior training in the arts. This

information will be used by policymakers and art administrators at the national, regional, state, and local level to study the patterns in participation across the various population subgroups and to examine changes over time.

Estimated number of respondents: 21,000

Average burden hours per response: .187

Total estimated burden: 3,932

Murray R. Welsh,

Director, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 91-17523 Filed 7-23-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Possible Safety Impacts of Economic Performance Incentives: Final Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: This statement presents the final policy of the Nuclear Regulatory Commission (NRC) with respect to the possible safety impacts of economic performance incentive (EPI) programs established by State commissions regulating electric utilities. The policy statement (1) Contains a discussion of the possible effect of the policies and actions of State regulatory bodies, emphasizing that these actions can have either a positive or negative effect on public health and safety; (2) reflects the Commission's concern that certain forms of economic performance incentive (EPI) regulation may adversely affect the operation of nuclear plants and the public health and safety; (3) specifically identifies those methods that are of particular concern (e.g. the use of sharp thresholds, the measurement of performance over very short time intervals, the lack of "null zones," and inappropriate reliance on systematic assessment of licensee performance (SALP) scores or other performance indicators; (4) indicates that the NRC will continue to monitor the application of EPIs and performance criteria to nuclear power plant operations; and (5) urges licensees and State regulatory commissions to inform the NRC of EPI programs that are being considered for application to NRC licensees.

EFFECTIVE DATE: This policy statement becomes effective July 24, 1991.

FOR FURTHER INFORMATION CONTACT: Anthony T. Gody, Sr., Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Telephone: (301) 492-1254.

SUPPLEMENTARY INFORMATION: In exercising their jurisdiction over the economics of the generation of electricity, a number of State regulatory commissions and the Federal Energy Regulatory Commission (FERC) have established economic performance incentive (EPI) programs for electric power plants. Although some programs have existed unchanged for a number of years, others have been substantially modified or are newly established. They can significantly help to improve the economic performance of electric power plants. They can also affect the safety of nuclear power plants. The NRC monitors and evaluates these incentive programs to determine the effect that they may have on the safe operation of nuclear power reactors.

After reviewing the information on EPI programs established by State regulatory commissions that regulate the economic returns of utilities operating nuclear power plants, the Commission decided that it should set forth its views in a Commission Policy Statement on the manner in which such programs could affect safety.

Summary of Comments

On October 26,1990, the NRC published the draft policy statement, "Possible Safety Impacts of Economic Performance Incentives," in the Federal Register (55 FR 43231). The NRC received 37 comments: 14 from State public utility commissions, 12 from utility licensees or law firms representing utility licensees, and 11 from public interest groups, trade associations, non-affiliated individuals, or governmental bodies other than public utility commissions.

Most of the commenters believed that the NRC should provide advice but not endorse any specific EPI program. They indicated that the NRC should monitor the effectiveness of EPI programs but should not interfere in the proceedings of State public utility commissions. Almost all of the commenters also indicated that the NRC, the utilities, and the State utility commissions should continue to communicate with one another. Many of the utilities or their representatives that commented stated that the NRC should discourage the use of EPIs in the absence of evidence that they promote safety. Further, a number of utility commenters indicated that the SALP scores and other performance indicators should not be used for assessing penalties. In addition, certain commenters stated that regulators should not use the results of root-cause and self-assessment analysis to determine if costs should be disallowed. In separate correspondence, one utility informed the Commission of its concerns that State regulators had used the utility's voluntary corrective actions to justify a disallowance. Certain commenters also believed that the NRC should evaluate the manner in which specific EPA programs either benefit or hinder safety but should not endorse specific types of programs. Finally, some commenters suggested that the Policy Statement should be more specific by stating, for example, the difference between a long-term performance measure and a short-term performance measure.

Most of the State public utility commissions that commented indicated that rational incentive programs do not adversely affect the operation of nuclear power plants and thus do not adversely affect public halth and safety. Many of the States that commented indicated that they do not use any of the criteria of concern to the NRC, such as sharp thresholds, short term performance measures, or SALP scores. The State utility commission for New York stated that it does not penalize or reward utilities for operating at or close to the industry's average capacity factors. However, it imposes penalties and rewards on a sliding scale for deviations from the target factors. The State utility commission for North Carolina stated that it establishes targets based on long-term averages of nuclear capacity factors for testing the efficiency of nuclear plant generation. It does not automatically impose penalties for not meeting these targets if a utility can show that its nuclear operations were prudent. The State public utility commissions generally indicated that States cannot legally be precluded nor should be precluded from adopting performance standards that encourage utilities to both economically and safely operate nuclear power plants.

The public advocacy group, Massachusetts Public Interest Research Group (MASSPIRG) provided a substantial amount of comments. It was a major participant in the settlement agreement that resulted in the Massachusetts performance incentive plan for the Boston Edison Company relating to the Pilgrim Nuclear Plant. MASSPIRG generally supported the objectives of the draft Policy Statement and desired to work with NRC in identifying superior alternative indicators for use in EPA plans.

MASSPIRG indicated that the Massachusetts plan was of necessity in confidence because it was a part of a larger settlement with the Boston Edison Company. MASSPIRG stated that it understood the concerns that the NRC had previously expressed relating to the use of SALP scores and performance indicators. However, in developing the plan for the Boston Edison Company, MASSPIRG used expert consultants and searched for indicators that could correlate with long-run economic performance, correspond with recurrent Pilgrim problems, encourage the timely maintenance of equipment, and provide early indications of problems that would lead to long-run economic and safety performance. MASSPIRG also looked for indicators that were easy to evaluate and use in an incentive system and would cover a broad range of plant activities and systems.

The Pacific Gas and Electric Company (PG&E) provided many comments on the manner in which the comprehensive performance-based ratemaking settlement approved in 1988 by the California Public Utilities Commission (CPUC) for the Diablo Canyon Nuclear Power Plant provides long-term incentives to improve the reliability of the Diablo Canyon plant. The settlement, which will be in effect for 28 years, provides a number of incentives to PG&E to improve the reliability and safety of plant operations. PG&E assumes risks associated with equipment failures, prolonged outages, and new regulatory requirements for the entire 28 year period of the settlement. This program provides PG&E with an economic incentive to ensure that the plant operates well over many years. The Diablo Canyon settlement does not rely on short-term performance measurements with sharp thresholds and does not use SALP scores—features that the NRC has identified that may adversely affect the public health and safety.

NRC Response to Comments

Many of the comments related to the role of the NRC in EPI programs. The NRC certainly agrees that economic regulatory agencies should be the groups to develop and approve EPIs. However, the NRC reviews matters that raise safety concerns at licensed facilities. The NRC deals with safety issues regardless of the source of the concern.

The commenters provided a number of suggestions for changing the Policy Statement, particularly to more clearly specify certain issues. The NRC believes this should not be done. A wide variety of acceptable EPI programs could be devised. Because rate regulatory agencies and licensees are more familiar with economic regulatory options than is the NRC, they are more capable of devising plans to meet these regulatory objectives. It is the position of the NRC that the Policy Statement provides sufficient guidance on safety issues for the parties to use in developing or improving EPI programs.

Some licensees commented that the NRC should allow licensees to voluntarily report to it on EPI programs. These licensees also indicated that the NRC should not require licensees to evaluate or analyze information. However, the NRC believes that some EPI programs clearly could be of major safety concern, and that the NRC must obtain sufficient information to properly conduct its regulatory responsibility.

Certain commenters also stated that confidential negotiations may be necessary under certain circumstances to develop EPI programs because other regulatory matters are also involved. While the NRC concedes that such negotiations may be necessary, it is unlikely that the program developed must be withheld from the NRC until after final adoption. The NRC is issuing the Policy Statement to improve communications with agencies having economic regulatory responsibilities of nuclear power plants.

After carefully considering all the comments on the draft Policy Statement, the NRC has decided to issue the final Policy Statement with little change from the draft Policy Statement.

Statement of Policy

Potential Impacts

The NRC recognizes that the existing programs very considerably from State to State and that the plans are not easily classified, especially as to the effect that they may have on the safe operation of plants. However, certain general characteristics of programs can be evaluated and found to have an effect on safety that is either desirable (or at least neutral) or undesirable.

A desirable plan provides incentives to make reasonable improvements in operation and maintenance that result in long-term improvement in the reliability of the reactor, the main generator, and their support sytems. An undesirable plan provides incentives to operate a facility that could have safety problems or to start up before it is fully ready, merely to meet an operational goal.

A desirable EPI program rewards a utility for having sound operations and maintenance programs and for correcting recurrent or predictable failures or other problems that could lead to an operational transient, an unplanned plant outage, or a derating. Such an incentive is desirable because a well run plant and the prompt correction of problems enhance safety. Unanticipated transients and shutdowns challenge operators and safety systems and, although with a low probability, could initiate a more serious event.

Economic performance incentives can encourage a utility's operational organization to improve its performance, which can help to improve both safety and economic performance. However, current safety and economic requirements also provide utilities with incentives to operate safe plants.

The current influence of incentive plans on reactor safety is believed to be small. However, the Commission's concern with incentive plans is that, in the interest of real or perceived short-term economic benefit, the utility might hurry work, take short cuts, or delay a shutdown for maintenance in order to meet a deadline, a cost limitation, or other incentive plan factor.

Therefore, an incentive program could directly or indirectly encourage the utility to maximize measured performance in the short term at the expense of plant safety (public health and safety). By keeping a reactor on line when it should be taken down for preventive or corrective maintenance and by using shortcuts or compressed work schedules to minimize down time, the licensee could decrease the margin of safety.

Adverse Effects on Plant Operation and Public Health and Safety

Some specific features of incentive plans now used by some States could adversely affect public health and safety. These features are (1) Sharp thresholds between rewards and penalties (or between penalties and null zones, or rewards and null zones) and (2) performance measurements that have short time intervals. The NRC believes that these features should not be allowed to prompt licensees to operate a plant when it should be shut down for safety reasons.

A sharp threshold is a situation in which a licensee narrowly misses a target capacity factor and must bear a large part or all of the resulting replacement power costs. By creating a sharp threshold in its incentive program, a State could prompt a licensee to continue to operate a plant to achieve a target capacity factor in order to avoid the large replacement power cost or to earn a substantial reward. This type of incentive could divert attention from safe plant operation. To minimize these effects, States should consider

incorporating a reasonably broad null zone of acceptable performance in which no rewards or penalties are imposed.

Performance measurements for short-term intervals would encourage the licensee to focus on a short term target or performance goals such as a higher capacity factor or availability factor. This target could become the primary focus, diverting attention from long-term goals of reliability and operational safety. In contrast, performance measurements for long-term intervals would prompt the utility to follow sound maintenance and operational practices to improve operating performance. For example, an incentive program could include a three or four year period with a rolling average capacity factor evaluation period and could account for other factors such as refueling outages, inclement weather and other periodic events. Short-term measurements tend to make safety and economic goals conflict with each other, while long-term measurements tend to make the two goals complementary.

Other Special Features or Ratemaking Actions That Cause NRC Concern.

The Commission is also concerned about undue reliance on NRC's SALP ratings in EPI programs and about any State public utility commission's undue reliance on a utility's corrective actions following an incident to justify the disallowance of costs related to the incident.

Sharp thresholds and short-term performance measures coupled with substantial reliance on NRC's SALP ratings can adversely affect safety and present several major concerns. First, the NRC's SALP ratings assist the NRC and licensees in identifying trends and areas of performance that should receive a more detailed assessment, in assessing the safety of the performance at individual facilities, and in communicating to the licensee. Therefore, these ratings address selected areas of licensee activity, but do not necessarily cover all significant performance areas. Further, the scores and ratings are not based on absolute quantitative considerations, and therefore produce numerical scores that are of limited significance. The NRC expects licensees to focus on the facts in the SALP report, the issues identified, and the apparent root causes of problems. By determining financial rewards or punishments for the licensee based on SALP, the State may cause the licensee to focus on improving the numerical scores instead of addressing the underlying issues, where the focus should be. If the issues identified in SALP reports are obscured by concerns over the financial consequences incurred as a result of those ratings, the process may not achieve the desired objective and may instead prompt a licensee to take corrective actions that produce rapid results rather than taking those that yield the highest increase in safety in the long term. Undue emphasis on performance indicators in an incentive program could prompt a license to improve the scores by taking inappropriate actions rather than by identifying and correcting underlying safety conditions.[1]

The Commission is also concerned about State public utility commission ratemaking actions that might be interpreted as penalizing a utility for improving its own procedures or methods of operation. For example, where a State public utility commission observes that a utility has modified its procedures following an incident, infers from the utility's actions that the original procedures must have been inadequate, and then disallows certain costs on the basis of such assumed inadequacies, the utility will have a strong disincentive voluntarily to enhance or improve its operations and procedures in the future. Such State public utility commission action can discourage utilities from making needed improvements in procedures and operations and, thus, can be detrimental to the long-term safety of operation.

Continued NRC Monitoring Program

The NRC will periodically survey FERC and State regulatory commissions that regulate the utility rates of power reactors to identify any new programs or substantial changes in existing programs and to ascertain how the programs have been implemented, and to determine if large penalties have been imposed.

We will update the survey annually. We will periodically assess the frequency of the surveys to determine the need to adjust the schedule.

Licensees and Utility Commissions Urged To Inform NRC of Program Initiatives

The NRC needs to be informed of EPI programs that are being planned by State regulatory commissions and that can affect safety. Information on these programs enables the Commission to judge not only whether they could adversely affect safety but also whether they could enhance safety. A number of commenters supported certain features of an EPI program. The Commission has reviewed these features and believes State Public Utility Commissions (PUCs) may want to consider these features in establishing programs that prompt licensees to both economically and safely operate nuclear power plants. These features include (1) capacity factor targets based upon industry's average performance to account for problems throughout the industry, (2) equal opportunities for rewards and penalties, (3) the "banking" of superior performance to offset lower performance, and (4) using performance measures of the entire system instead of those for a specific unit. Frequently, the States develop these programs in coordination with regulated utilities. Therefore, the NRC will request by generic letter that licensees report whenever these commissions develop or substantially revise EPIs. The NRC also will ask FERC and the State utility regulatory commissions to discuss with the NRC initiatives to impose or change an EPI program that applies to an NRC licensee. The NRC will take these actions in order to gain information on the principal features of the program so that the NRC can assess the extent to which the program will affect plant safety. Further, by a generic letter, the NRC will request licensees to report the rewards and penalties assessed through these programs as they occur. A free exchange of information between the NRC and the agencies with economic jurisdiction over nuclear utilities will help the NRC and those agencies to work together to achieve the goals of the safe and economic operation of nuclear power plants.

Dated at Rockville, Maryland, this 18th day of July 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91–17484 Filed 7–23–91; 8:45 am]

BILLING CODE 7590–01–M

[1] For further information on existing economic incentive programs and the possible effect of such programs on nuclear safety, see NUREG/CR–4911, Incentive Regulation of Nuclear Power Plants by State Regulators, 1991. Copies of NUREG/CR–4911 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection or copying at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-61, issued to Connecticut Yankee Atomic Power Company (CYAPCO, the licensee), for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut.

Environmental Assessment

Identification of Proposed Action

The proposed amendment will revise Technical Specification (TS) Section 5.6.1.1, "Spent Fuel" and add Technical Specification 5.6.1.2, "New Fuel." The Technical Specification changes will allow for the storage of zircaloy clad fuel in the new and spent fuel storage racks. The proposed action is in accordance with the licensee's amendment request dated March 4, 1991.

The Need for the Proposed Action

During the upcoming refueling for Cycle 17 CYAPCO will begin to use zircaloy clad fuel instead of stainless steel clad fuel. The plant needs this TS change to store fresh and irradiated zircaloy clad fuel in the new and spent fuel storage racks.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. The current analysis considers the storage of Zircaloy-4 clad fuel assemblies in both the new and spent fuel racks. The staff has reviewed the methods and models for this analysis and has determined that they are acceptable. The criticality analysis considered various accident conditions. All appropriate biases and uncertainties were included in the design basis analysis for preventing criticality outside the reactor. Based on the review of the analysis the staff has concluded that the Haddam Neck Plant meets the design basis criteria for preventing criticality outside the reactor, that there is a 95 percent probability at a 95 percent confidence level that the effective multiplication factor of the fuel assembly will be no greater than 0.95 when fully moderated by unborated water and no greater than 0.98 when moderated by reduced hydrogenous material. The TS change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed TS amendment.

With regard to potential non-radiological impacts, the proposed amendment involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the amendment would be to deny the amendment request. Such action would not enhance the protection of the environment and would result in unjustified cost to the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letter dated March 4, 1991. This letter is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Rockville, Maryland, this 17th day of July 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-17528 Filed 7-23-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.71, "Maintenance of records, making of reports," subsection (e)(4), and certain requirements of 10 CFR 50.54, "Conditions of licenses," subsection (a)(3), to the Power Authority of the State of New York (PASNY/licensee) for the James A. FitzPatrick Nuclear Power Plant, located at the licensee's site in Oswego County, New York.

Environmental Assessment

Identification of Proposed Action

The licensee would be exempted from the requirements of 10 CFR 50.71, subsection (e)(4), to the extent that a one-time extension for submitting the annual update of the FSAR would be granted from the currently required submittal date of July 22, 1991, to January 22, 1992, which is a six-month extension. The licensee would also be exempted from the requirements of 10 CFR 50.54, subsection (a)(3) to the extent that a one-time extension for submitting annual changes to the quality assurance program description contained in the FSAR would be granted from the currently required submittal date of July 22, 1991, to January 22, 1992, which is a six-month extension. All future FSAR updates and quality assurance program description changes will be submitted on an annual basis by the July 22 date.

The Need for the Proposed Action

The current licensing workload for the FitzPatrick plant, in addition to difficulties in finding qualified personnel to fill an abnormally high number of vacancies in licensing engineering positions, have contributed to the need for exemption from 10 CFR 50.71(e)(4) and 10 CFR 50.54(a)(3). Furthermore, additional time is necessary to ensure that extensive improvements, designed to enhance the quality and clarity of the FSAR, are incorporated into the next update. These improvements include the complete revision of chapter 14, "Safety

Analysis," and the upgrading of many FSAR system drawings.

The licensing workload for the FitzPatrick plan includes the following issues:

1. Individual Plant Evaluation (Generic Letter 88–20).
2. Mark I Containment Hardened Vent.
3. Service Water System Evaluation (Generic Letter 89–13).
4. Station Blackout Analysis.
5. ATWS Rule diversity.
6. Motor Operated Valve Operability (Generic Letter 88–10).
7. Thermal Hydraulic Stability.
8. Intergranular Stress Corrosion Cracking (Generic Letter 88–01).
9. Spent Fuel Pool Expansion.
10. Licensing Actions Required for Refueling.
11. Power Update.
12. 24-Month Operating Cycle.

The stated licensing activities are important to the continued safe and efficient operation of the FitzPatrick plant and have therefore received priority over the annual updates of the FSAR and the quality assurance program description contained in the FSAR, which are administrative requirements.

An increased burden on the FitzPatrick licensing staff has resulted from difficulties in finding qualified personnel to fill an abnormally high number of vacancies in licensing engineering positions. The licensee has made every effort to fill these vacancies as soon as they occurred. In spite of this, vacancies to date in 1991 have exceeded one-third of the authorized licensing engineering positions. The licensee has initiated corrective actions to compensate for this shortage of qualified personnel by hiring three contract engineers and two summer interns. These additional personnel should have a positive impact on the efforts to reduce the current FitzPatrick licensing workload.

Schedular exemption is also requested to provide additional time to complete a total revision of FSAR chapter 14, "Safety Analysis," and to facilitate other FSAR improvements. The objective of the safety analyses in chapter 14 of the FSAR is to evaluate the ability of the plant to mitigate the consequences of a postulated accident without undue hazard to the health and safety of the public. The revisions to this chapter will result in the following improvements:

1. The transient response figures will be enlarged for legibility and to make them more suitable for licensed operator training.
2. The transient and accident analyses for the fuel reloads will be added.
3. The existing (Cycle 1) analyses will be retained since they are the original licensing basis of the FitzPatrick plant.
4. The format will be revised to facilitate updates required by futher reload cores.

Another FSAR improvement which requires additional time to implement is the replacement of many of the FSAR flow diagrams with new drawings which are consistent with current computer generated Operating Procedure (OP) and Process and Instrument (P&ID) drawings. The new OP, P&ID, and FSAR drawings incorporate differing levels of detail overlaid on a common base drawing using computer aided drafting techniques. This improves the consistency of all major plant drawing used for plant operator training.

It was determined that additional time would be required by the FitzPatrick licensing staff to prepare the annual update to the FSAR and the annual changes to the quality assurance program description contained in chapter 17 of the FSAR. The additional six months would provide the licensee with the time required to perform a detailed review of the revisions, and ensure that the updated FSAR is correct, complete and of higher quality.

Environmental Impact of the Proposed Action

The proposed exemption constitutes a six-month delay in the annual update of the FSAR and the annual changes to the quality assurance program description contained in chapter 17 of the FSAR. The requested exemption is temporary and is necessary to allow a detailed review of the updated material to be conducted. This detailed review will assure a more complete and correct FSAR. The additional time will also allow inclusion of the extenive revisions to chapter 14 and the improved FSAR system drawings.

The licensee has made a good faith effort to comply with the regulations by initiating corrective actions, both short-term and long/term, to improve its submittals and ensure that similar exemptions will not be necessary in the future. Therefore, the exemption would only provide temporary relief from the applicable regulations.

Based on the considerations discussed above, the staff concludes that granting the proposed exemption will not increase the probability of an accident and will not result in any post-accident radiological releases significantly in excess of those previously determined for James A. FitzPatrick Nuclear Power Plant. The proposed exemption would not otherwise affect radiological plant effluents, nor result in any significant occupational exposure. In addition, the exemption does not affect non-radiological plant effluents and has no other environmental impact.

Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission has concluded there are no measurable environmental impacts associated with the proposed exemption, any alternatives with equal or grater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the schedular requirements of 10 CFR 50.71(e)(4) for the FSAR update and 10 CFR 50.54(a)(3) for the QA program description changes. Such action would not enhance the protection of the environmental and could result in an unsatisfactory submittal lacking all the required information specified in the regulations.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement for the James A. FitzPatrick Nuclear Power Plant," dated March 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's submittal that supports the proposed exemption discussed above. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing envornmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letters dated June 28, 1991, and July 12 1991. These letters are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York.

Dated at Rockville, Maryland, this 18th day of July 1991.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I–I, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulations.

[FR Doc. 91–17529 Filed 7–23–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on August 7, 1991, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Wednesday, August 7, 1991—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the results of the Diablo Canyon Long-Term Seismic Program.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the nuclear industry, their respective consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Elpidio G. Igne (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: July 15, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91–7485 Filed 7–23–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactor Designs; Meeting

The Subcommittee on Advanced Reactor Designs will hold a meeting on August 6, 1991, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Tuesday, August 6, 1991—8:30 a.m. until the conclusion of business.

The Subcommittee will review the modular high-temperature gas cooled reactor (MHTGR) and the power reactor innovative small module (PRISM) designs sponsored by DOE.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of NRC staff, their consultants, Department of Energy and their contractors, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: July 16, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91–17527 Filed 7–23–91; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 1, 1991 through July 12, 1991. The last biweekly notice was published on July 10, 1991 (56 FR 31427).

Notice Of Consideration Of Issuance Of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 23, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained

absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: April 8, 1991

Description of amendment request: The proposed amendment will change the following sections of the Technical Specifications:

a. 3/4.1.3, Movable Control Assemblies,

b. 3/4.3.1, Table 4.3-1,

c. 3/4.5.1, ECCS Subsystems—Tavg Greater Than or Equal to 350° F and Table 4.5-1,

d. 3/4.7.6, Fire Suppression Systems,

e. 3/4.7.9, Feedwater Isolation Valves and Table 3.7-6,

f. 3/4.9.2, Instrumentation,

g. 3/4.9.4, Containment Building Penetrations,

h. 3/4.9.8, Residual Heat Removal and Coolant Recirculation

i. 3/4.10.2, Physics Test, and

j. BASES—3/4.7.6, Fire Suppression Systems and BASES— 3/4.9.4, Containment Building Penetrations

These changes are corrections to *Amendment No.* 125 and are administrative in nature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

SURVEILLANCE REQUIREMENT 4.1.3.1 and 4.1.3.2 on page 3/4 1-19 have been renumbered to 4.1.3.1.1 and 4.1.3.1.2 respectively for consistency and to avoid confusion with SURVEILLANCE REQUIREMENT 4.1.3.2 on page 3/4 1-21.

SURVEILLANCE REQUIREMENT 4.5.1.f(1) has had the word "and" added between the words "automatic" and "manual" to clarify the intent of the requirement.

Nomenclature changes to the fire protection section (Technical Specification 3/4.7.6) are proposed to provide consistency between the PMMS, station procedures, system drawings and technical specifications.

These proposed changes are administrative in nature and do not affect the intent of the Technical Specifications. There are no failure modes associated with the changes nor are any design basis accidents impacted by the changes.

The proposed change to TABLE NOTATION (2) makes the Technical Specifications consistent with the new nuclear instrumentation system (NIS) hardware and Technical Specifications that were approved in *Amendment No.* 125. The old NIS associated with Note 2 in Table 4.3-1 had overpower trips set at 25%, 74% and 109% rated power. The new NIS has trips set at 19, 29, 39, 49, 59, 69, 79, 89, 99, and 109% rated power. The accident analyses assume that the overpower trip is recalibrated to be within 9% of the steady state power level prior to event initiation. Removing the 16, 65 and 100% exceptions does not change the analyses' assumptions since these were required for the old NIS. The proposed change still requires an overpower trip within 9% and a daily calorimetric measurement to be performed. Thus, the proposed change does not impact the consequences or probability of the Main Steam Line Break, Control Rod Ejection, Excess Steam Flow, Control Rod Withdrawal and Isolated or Idled Loop Startup Accidents.

The ECCS is not affected by the proposed changes. TABLE 4.5-1 contains valves that receive an SIAS following a LOCA and must be tested to verify that they actuate to their correct position. Valve LD-TV-230 is being removed from this table since it receives a high containment pressure signal rather than an SIAS and is tested as a containment isolation valve under Technical Specification 4.6.3. Since this valve is tested by another Technical Specification, testing under Technical Specification 4.5.1 is redundant and unnecessary. Valves SW-MOV-1 and 2 are being added to TABLE 4.5-1 to reflect a recent modification which causes these valves to close on an SIAS following a LOCA. Testing these valves provides greater assurance that they will be able to perform these safety functions. Since these proposed changes do not affect the ECCS, it is able to perform its safety functions. Thus, these proposed changes do not impact the consequences or probability of a previously analyzed accident.

The proposed change adds ACTION statement "c" to LCO 3.7.9 to allow 3 loop operation when a main feedwater isolation motor operated valve (MOV) is inoperable, provided the MOV or its associated downstream manual isolation valve is closed. The list of manual isolation valves has been added to TABLE 3.7-6. The proposed change to allow 3 loop operation when a main feedwater isolation MOV is inoperable does not impact the Main Steam Line Break and Steam Generator Tube Rupture accident analyses. These accidents have been analyzed for 3 loop operation. Thus, this proposed change does not impact the consequences or probability of these design basis accidents.

The proposed change to Technical Specification 3/4.9.2 revises the current ACTION statement "a" and makes it "b" and a new ACTION statement "a" is added. The addition of an ACTION statement, to suspend core alterations is the required NIS is inoperable, will ensure that the monitors are available to detect an accident during fuel movement. Thus, there is no impact on the consequences or probability of a fuel handling accident.

The proposed change to require a minimum number of bolts to hold the equipment hatch door in the closed position during core alterations ensures that the containment boundary will be maintained. The 18 bolts are required to be torqued to withstand the stress on the hatch following a loss of the decay heat removal (DHR) system in conjunction with the effect of a safe shutdown earthquake (SSE). This will ensure that the hatch door is closed and secured making the containment a leak tight barrier. Thus, the consequences or probability of a fuel handling accident will not be impacted since the containment barrier will be intact.

The proposed change to SURs 4.9.8.1 and 4.9.8.2.1 deletes the requirement that the RHR flowrate be at least 2000 gpm. This change is being proposed because cooling flowrate requirements are a function of time from shutdown and cooling water temperature. RHR flowrates of 2000 gpm, especially during the winter, could cause excessive cooling of the RCS. Also, during midloop operations, high flowrates could result in vortexing and air entrainment in the RHR pump suction which could disable the pump. Removing this requirement will not impact the consequences of a loss of DHR because the Technical Specification definition of MODE 6 requires the average reactor coolant temperature to be below 140° F and therefore adequate cooling will be maintained by adjusting the flowrate appropriately. In addition, removing this requirement will not impact the consequences of a fuel handling accident.

The proposed change to the reactor trip setpoint in LCO 3.10.2(b) from 23% to 19% of RATED THERMAL POWER makes the setpoint consistent with the new NIS. As discussed above, the new NIS was previously reviewed and approved in Amendment No. Lowering the trip setpoint does not negatively impact the consequences or probability of the Main Steam Line Break, Control Rod Ejection, Excess Steam Flow, Control Rod Withdrawal and Isolated or Idled Loop Startup Accidents.

For these reasons, the proposed changes do not increase the probability or consequences of any accident previously analyzed.

2. Create the possibility of a new or different kind of accident from that previously analyzed.

The renumbering of SUR "4.1.3.1" and "4.1.3.2" to "4.1.3.1.1" and "4.1.3.1.2" respectively will maintain consistency and avoid confusion with SUR 4.1.3.2.

Replacing the word "adjustment" with "skewed" and deleting the words ". . .at power levels other than 16%, 65%, and 100% RATED THERMAL POWER" are considered editorial changes and provide consistency with new overpower trip setpoints.

The addition of the word "and" is editorial in nature and intended to clarify the requirement of SUR 4.5.1.f(1).

Removal of valve LD-TV-230 from TABLE 4.5-1 alleviates redundancy of testing and addition of valves SW-MOV-1 and 2 reflects a completed modification.

All proposed changes to the fire suppression systems section provide nomenclature consistency between the PMMS, station procedures, system drawings, and technical specifications.

Addition of an action statement to Section 3/4.9.2 corrects an oversight when the Haddam Neck Plant converted to the W STS format.

Changing the minimum number of bolts required to hold the containment equipment hatch door from 16 to 18 supports both normal and mid-loop refueling operation. This change is consistent with W STS.

Deletion of the minimum 2000 gpm flow requirement in MODE 6 reflects the fact that the specific RHR flow required to remove decay heat is variable, dependent on season, time after shutdown, and previous operating history.

Changing the percent of RATED THERMAL POWER from 23% to 19% provides consistency with the overpower trip setpoints approved by

Amendment No. 125 to the Haddam Neck Plant Technical Specifications.

Changes to the BASES section for fire suppression systems and containment building penetrations provide for clarification of the proposed changes already stated.

There are no new failure modes associated with any of the proposed changes. There are no changes in the way the plant is operated or in the operation of equipment credited in the design basis accidents. Therefore, the potential for an unanalyzed accident is not created.

3. Involve a significant reduction in the margin of safety.

The intent of the Technical Specifications for the proposed changes remains unchanged. The proposed changes will not impact any protective boundary and do not affect the consequences of any accident previously analyzed. Therefore, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: July 12, 1991

Description of amendment request: Connecticut Yankee Atomic Power Company (CYAPCO) has proposed for Cycle 16, a one-time exception to the 10 CFR Part 50, Appendix J Type B and C test requirements as specified in Technical Specification 4.6.1.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. The current leakage condition of the containment extrapolated from the integrated leak rate test of July 7, 1990 has a margin of 72% below the conservative safety limit of 0.75 La and 79% below the design leakage La. No operations are known to have occurred which would suggest a significant degradation of this estimate. There are no design basis accidents adversely affected due to this change.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Containment isolation features limit the consequences of any accident. The addition of 2 to 4 months to the test schedule should have no impact on this. Since there [are] no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. No new failure modes are introduced.

3. Involve a significant reduction in a margin of safety. As discussed above, the containment leakage determined within 18 months of the proposed 4-month testing interval extension provides reasonable assurance of a significant margin below the conservative safety limit. Also, since the change does not affect the consequences of any accident previously analyzed, there is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: February 22, 1991, as supplemented May 24, 1991

Description of amendment request: The amendment would change the Technical Specifications by increasing the required minimum usable fuel oil in the diesel generator fuel oil storage tanks from 57,200 to 62,000 gallons for each of the Division I and the Division II tanks, and from 39,000 to 41,200 gallons for the Division III tank.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

The Technical Specifications specify a minimum fuel oil inventory to ensure that the diesel generators will be able to maintain power to the necessary components and systems for at least seven days following a design basis accident. The seven day period complies with the requirements of ANSI N195-1976 and should provide adequate time for core recovery, accident mitigation and the recovery of alternate power sources or a replenishment of the fuel oil inventory. The proposed Technical Specification change ensures that the minimum usable fuel oil volume specified in the Technical Specifications meets the seven day supply requirement of the diesel generators. The proposed change complies with the guidance of Regulatory Guide 1.137 and ANSI N195-1976.

In providing compliance with regulatory guidance and ensuring the fuel oil supply requirements of the diesel generators are met, this change would not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. This change would not create the possibility of a new or different kind of accident from any previously analysed.

Accident analyses which incorporate diesel generator operability and availability assume that the emergency generator will support the requisite loads. The proposed Technical Specification change ensures that an adequate fuel oil inventory will be available to support the requisite loads for seven days.

Therefore, the requested revisions will not create the possibility of a new or different accident from any previously analyzed.

3. This change would not involve a significant reduction in the margin of safety.

This change will not alter the margin of safety currently realized by our implementation of the existing Technical Specifications. As indicated in Table I above, the minimum total fuel oil volume that is presently allowed in the Divisions I and II tanks is 65,386 gallons. This value bounds the new minimum total volume of 64,890 gallons. In addition, the minimum total fuel oil volume

currently allowed for Division III 44,134 gallons. This proposed change to the Technical Specifications only redefines the values calculated for the usable and unusable fuel oil volumes. The proposed change does not alter the availability, operability, or surveillance requirements for the diesel generators.

Therefore, the proposed change will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's amendment request and analysis of the issue of no significant hazards consideration. The staff does not agree with the licensee's conclusion in paragraph 3 of its analysis that the increase in required minimum quantity of usable fuel oil for the diesel generators would not alter the margin of safety. The increased quantity of fuel oil would be obtained by decreasing the minimum level of oil in the tanks thus reducing the available net pump suction head for the submerged oil transfer pumps from 1 foot - 4 inches to 4 inches. The manufacturer of the pumps has recommended that for continuous operation, the minimum required fluid level is 4 inches above the centerline of the pump suction pipe and flange. The inside diameter of the horizontal suction pipe and flange is 1 inch thus providing 3.5 inches of fluid above the suction inlet. The staff concludes that there would be a decrease in the margin of safety but that it is not significant because the new minimum fluid level would meet the pump manufacturer's recommendation. Based on the staff's review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: June 25, 1991

Description of amendment request: The proposed amendment would allow a one time extension of the required test interval for Overall Integrated Leakage Rate Tests (ILRT) (Type A tests) as specified in TS 4.6.1.2.a. The amendment would also delete the TS 4.5.1.2.a requirement coupling the third Type A test to the plant shutdown for the 10-year Inservice Inspection (ISI) outage. The submittal also requests an exemption from 10 CFR Part 50 Appendix J which requires the performance of the third Type A leak test during the shutdown for the 10-year plant inservice inspections required by Section 50.55a.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. The proposed extension of the surveillance interval does not increase the chances of an accident occurring. Containment integrity is related only to the mitigation of accident consequences, and containment leakage is not the precursor to any analyzed event. Regarding accident consequences, extension of the interval will not affect the containment's ability to maintain leakage below that assumed in the safety analyses. The previous Type A tests were completed successfully, and there have been no plant modifications since the last test (other than those requiring Type B or C testing) which would directly affect the test results. Type B and C testing of individual penetrations has been satisfactory, and there have been no pressure or temperature excursions in the containment which could have adversely affected containment integrity. There is no change to the testing methodology or acceptance criteria. No plant modifications which could degrade the ability of the containment to maintain leakage within the assumptions of the safety analyses are associated with this change, nor are any planned.

b. The proposed decoupling of the Appendix J Type A tests from the 10-year ISI outage also does not affect the probability of an accident occuring or the consequences of any analyzed event. The coupling of the ILRT to the ISI is not due to any known technical requirements, and does not enhance the purpose of the Type A test or provide additional assurance of containment integrity above the already being demonstrated. This coupling is not assumed in any safety analysis.

c. Thus, the proposed revision will not significantly increase the probability or consequences of any accident previously evaluated.

2. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

a. The proposed one-time extension of the test frequency does not affect the ILRT methodology or acceptance criteria nor does it alter the physical containment structure or boundary in any way. There is no addition or removal of plant hardware or any changes to test methodology. No new plant operating modes are being introduced. Results of previous Appendix J test remain well below allowable limits, and there have been no plant modification since the last tests which could affect these results.

b. The decoupling of Appendix J testing from the 10-year ISI outage does not impose any new requirements on plant operation or testing. The test methods, hardware, and acceptance criteria remain unchanged. There is no identified safety significance associated with the coupling of the two test/inspection programs during the same refueling outage.

c. Therefore, the proposed changes to the Type A test interval will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This change would not involve a significant reduction in the margin of safety.

a. Safety margin is established through the GGNS [Grand Gulf Nuclear Station] safety analyses as reflected in the TS Limiting Conditions for Operation. Containment leak rates assumed in the safety analyses are not increased by the proposed changes to the surveillance interval. The acceptance criteria which must be met to verify that leak rates remain within the assumed values are also not changed. Although the test frequency is relaxed for the one-time extension, no plant modifications have been made which would invalidate past leak test results confirming acceptable containment integrity. Further, no such modifications are planned. Appendix J testing and ISI are unrelated with respect to any safety margin, and decoupling of these two programs from the same outage in no way reduces the margin of safety associated with either program.

b. Thus, this change will not involve a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: Theodore R. Quay

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: June 26, 1991

Description of amendment request: This license amendment request proposes to revise Grand Gulf Nuclear Station (GGNS) Technical Specifications (TS) 3/4.3.2, 3/4.3.3, 3/4.3.6 and associated Bases to increase the surveillance test intervals (STIs) and allowed outage times (AOTs) for certain instrumentation associated with the reactor protection system, the Emergency Core Cooling Systems (ECCS), and the isolation actuation system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

The proposed TS changes increase the STIs and AOTs for actuation instrumentation supporting ECCS, the CRBF [Control Rod Block Function], and isolation functions. There are no physical changes in any of the affected systems themselves. Regarding the probability of malfunction of equipment, Topical Reports prepared by GE [General Electric] showed that for the ECCS, there is a small increase in the unavailability of the water injection function which may result in a slight increase in the consequences of previously evaluated accidents which rely upon ECCS for mitigation. This increase in unavailability was judged acceptable by GE. The NRC, in its review of the Topical Reports ..., concurred with this conclusion. The changes proposed are consistent with these SERs [Safety Evaluation Reports] ... with one addition. The additional change is bounded by the analyses ... detailed in this amendment request.

Further, given the resulting reduction in test related plant scrams and test induced wearout of equipment, the net effect of these changes represent a net improvement to overall plant safety.

Therefore, there is no increase in the probability or consequences of a previously evaluated accident due to the proposed changes.

b. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

Neither the design nor the functional operation of the affected instrumentation is being changed. The proposed changes only involve a change in the STIs and AOTs. These changes will not impact the function of monitoring system variables over their anticipated ranges for normal operation, anticipated operational occurrences, or accident conditions.

As stated ..., reliability is not degraded by the proposed changes.

The proposed changes do not introduce any new modes of plant operation, make any physical changes, or alter any operational setpoints.

Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created.

c. This change would not involve a significant reduction in the margin of safety.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The impact of reduced testing, other than as addressed above, is to allow a longer time interval over which instrument uncertainties (e.g., drift) may act. The current affected instrumentation setpoints already account for the effects of drift and include a sufficient allowance to tolerate extensions of the STIs. Implementation of the proposed changes is expected to result in an overall improvement in safety, as follows:

i. Reduced testing will result in fewer inadvertent reactor trips, less frequent actuation of ESF components, and less frequent distraction of operations personnel.

ii. Improvements in the effectiveness of the operating staff in monitoring and controlling plant operation will be realized. This is due to less frequent distraction of the operators to attend to instrumentation testing.

iii. Longer repair times associated with increased AOTs will lead to higher quality repairs and improved reliability.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: Theodore R. Quay

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: June 13, 1991

Description of amendment request: The proposed amendment would change the method of pH control for the water in the reactor building emergency sump after a postulated loss-of-coolant accident. The change would delete the specification for a sodium hydroxide spray additive and add a specification for the use of trisodium phosphate dodecahydrate as the chemical for pH control. The change would affect Technical Specification (TS) 3.6.2.2 and TS Bases 3/4.6.2.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not significantly increase the probability of an accident previously evaluated because the pH of the water in the emergency sump is being adjusted with trisodium phosphate dodecahydrate (TSP-C) rather than sodium hydroxide (NaOH) to be within a range that will reduce the potential for elemental iodine re-evolution and long-term stress corrosion during the recirculation mode of E[mergency] C[ore] C[ooling] S[ystem] operation. The use of a plain borated water spray rather than a sodium hydroxide-borated water mixture in the containment spray during the initial phases of a loss-of-coolant accident will not increase the consequences of an accident previously evaluated since research has shown that elemental iodine can be washed from the atmosphere with borated water[,] and stress corrosion from the boric acid is not a factor in the short term.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated because the function of the TSP-C is the same as NaOH. The TSP-C will act as a buffering agent to raise the pH of the water in the containment emergency sump to at least 7.0 before the recirculation phase of the post-LOCA actions begins. TSP-C does not create a personnel safety hazard in its handling as does NaOH.

3. The proposed change will not involve a significant reduction in the margin of safety. The TSP-C will buffer the sump water sufficiently to assure that the resulting mixture pH is at least 7.0. A pH at this level will be effective in reducing the potential for iodine re-evolution during the recirculation phase of the accident and preventing long-term stress corrosion.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: June 20, 1991

Description of amendment request: The proposed amendment would provide an alternative method for determining the intervals for the visual inspection of snubbers. The proposed alternative method is consistent with guidance provided by Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Action."

Current Technical Specification (TS) 4.7.9.1(a) would be replaced by new specifications a, b and c regarding Category, Visual Inspections and Visual Inspection Acceptance Criteria, respectively. Current TS 4.7.9.1(b) does not apply to the Crystal River snubber system, and the requirement of TS 4.7.9.1(c) already exists in TS 4.0.5.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated because the existing snubber operability requirements will remain intact. The operability continues to be maintained by visual and functional testing. The functional testing will continue to be performed in accordance with ASME Section XI requirements. Visual inspections will provide additional confidence in snubber operability.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated because the change will not alter plant configuration or change parameters governing normal plant operation. Snubber operability will continue to be maintained by visual and functional testing.

3. The proposed change will not involve a significant reduction to the margin of safety because the snubber system will continue to be fully capable of performing its intended safety function. The alternate visual inspection schedule maintains the same confidence level of snubber operability as the existing schedule.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

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NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: June 20, 1991

Description of amendment request: The proposed amendment would add a footnote to Technical Specification (TS) 4.6.1.2(d) to extend (one-time only) the interval for Type B and C leakage testing from 24 to approximately 27 months. The reason for the proposal is the extended duration of the current fuel cycle.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not significantly increase the probability or consequences of an accident previously evaluated because the additional time between surveillances will not substantially increase the leak rate of the penetrations and valves to be tested. The total leak rate is expected to remain below the allowable value of 0.6 La. Previous testing results have been within ten percent of that value.

2. The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated because the change will not alter plant configuration or change parameters governing normal plant operation. The extended period for the surveillance will not cause a significant increase of the leakage rates of systems and components penetrating primary containment.

3. The proposed change will not involve a significant reduction to the margin of safety because no changes are being made to the way the facility is being operated. The leakage rate will not significantly increase due to the three-month extended period. The allowable leakage rates defined in the technical specifications remain the same.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: June 25, 1991

Description of amendment request: The proposed amendment would add a footnote to the channel calibration surveillance requirement for the following instrumentation functions:

1. Reactor Protection System, "RCS Outlet Temperature - High"

2. Remote Shutdown Monitoring, "Reactor Coolant Temperature - Th"

3. Post-Accident Monitoring, "Reactor Coolant Outlet Temperature"

The footnote would allow a one-time extension of the surveillance interval for performing a channel calibration of these instrument functions until Refuel 8. Refuel 8 is currently scheduled for April 30, 1992 to June 25, 1992. Without the extension, the channel calibration of these instrument functions would be required no later than April 1992. This amendment affects the following portions of the Technical Specifications (TS): TS 4.3.1.1.1, Table 4.3-1 Functional Unit 3; TS 4.3.3.5, Table 4.3.6 Instrument 2; and TS 4.3.3.6, Table 4.3-7 Instrument 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[T]he proposed change will not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated. The instrument functions addressed by this change are not assumed as the primary means of mitigating any design basis accidents for Crystal River Unit 3. The instruments will continue to perform consistent with design assumptions for the functions assumed to be provided.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not alter the manner in which the [T]echnical [S]pecification surveillance is performed. The change only affects the next performance date for the surveillance.

3. Involve a significant reduction in the margin of safety because the instruments will continue to be fully capable of performing their design basis functions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

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NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: June 21, 1991

Description of amendment request: The proposed amendments would revise Technical Specification 4.7.2.b to permit verification of the heat exchanger surveillance curves by performing component cooling water (CCW) heat exchanger performance tests with an average reactor coolant system temperature of at least 547° F and prior to entering Mode 2. The test results would more accurately reflect the heat exchanger performance under the proposed conditions and the heat exchanger performance would be confirmed prior to reactor criticality.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

[These] change[s] [do] not revise any minimum equipment requirements nor any plant operating parameters. CCW heat exchanger performance monitoring will continue to assure CCW system operability. Prior to the performance of the heat exchanger performance test, the satisfactory performance every 12 hours of the surveillance described in Technical Specification 4.7.2.a verifies the CCW system's capability to remove the design basis heat loads. Verification of CCW heat exchanger performance prior to entry into mode 2 ensures that sufficient cooling capacity is available for continued operation of safety-related equipment during accident conditions as described in the F[inal] S[afety] A[nalysis] R[eport]. Therefore, the proposed change does not affect the probability or consequences of accidents previously analyzed.

2. Operation of the facility in accordance with the proposed amendment[s] would not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new types of equipment are added by [these] change[s]. The proposed change[s] [introduce] no changes in operation or new modes of operation. The ability of the CCW system to provide the appropriate heat removal capability is maintained.

3. Operation of the facility in accordance with the proposed amendment[s] would not involve a significant reduction in a margin of safety.

CCW heat exchanger performance upon entry into mode 4 is confirmed by verifying that the I[ntake] C[ooling] W[ater] temperature is below the limits identified by heat exchanger performance curves based on historical post-cleaning data. By performing heat exchanger performance tests prior to entry into mode 2, CCW operability and satisfactory heat exchanger performance is confirmed prior to reactor criticality. Prior to the performance of the heat exchanger performance test, the satisfactory performance every 12 hours of the surveillance described in Technical Specification 4.7.2.a verifies the CCW system's capability to remove the design basis heat loads. Based on the above, the proposed amendment[s] [do] not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: July 2, 1991

Description of amendment request: The proposed amendments would revise the Turkey Point Technical Specifications (TS) to reflect results from the pre-operational testing of the new battery chargers which were installed as part of the Emergency Power System (EPS) Enhancement Project. During the pre-operational testing phase, the licensee determined that under low load conditions, the battery chargers will not consistently share load within 10% of their rating. The Turkey Point DC bus system consists of four DC buses shared between the two units. With one unit in Modes 5 or 6, one or more of the DC buses may have reduced load and the associated battery chargers may not be sharing the load within 10%.

The proposed amendments would revise the surveillance requirement for the battery chargers to require verification of load carrying capability for each battery charger instead of determining consistent load sharing. These changes affect TS 4.8.2.1.a.2 and TS Bases 3/4.8.1, 3/4.8.2, and 3/4.8.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[O]peration in accordance with the proposed amendment[s] would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change[s] [do] not revise or alter the minimum equipment requirements nor any plant operating parameters. The revised surveillance requirement relating to the battery chargers during two chargers per D.C. bus operation, will ensure the ability to verify battery charger operability. Battery charger load sharing is not required for the safety related function of the chargers for Turkey Point and verification of charger current and voltage is a more appropriate determination of battery charger operability. Deleting the requirement for battery charger load sharing within 10% does not alter the capability to detect any battery charger failures which would prevent the performance of its safety related function. [These] change[s] [do] not affect assumptions contained in plant safety analyses or the physical design of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Therefore, the proposed change[s] [do] not affect the probability or consequences of accidents previously analyzed.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change[s] [do] not involve the addition of any new type of equipment or create any new modes or changes in operation. Battery charger load sharing is not required for the safety related function of the chargers for Turkey Point and verification of charger current and voltage is a more appropriate determination of battery charger operability. Deleting the requirement for battery charger load sharing within 10% does not alter the capability to detect any battery charger failures which would prevent the performance of its safety related function.

The proposed change[s] [ensure] the ability of the battery chargers to provide the appropriate charging capability and [ensure] that the operability requirements of TS 3.8.2.1 are met. [These] change[s] [do] not affect any safety analysis assumptions, or physical modifications to the facility. Therefore, the proposed change[s] [do] not create the

possibility of a new or different kind of accident.

(3) involve a significant reduction in a margin of safety.

The proposed change[s] [present] a revised method to verify or demonstrate[,] as appropriate, that the battery chargers are operating correctly. This method ensures the operability requirements of TS 3.8.2.1 are met, without compromising the safety margin defined in, and maintained by, the Technical Specifications. Therefore, the proposed amendment[s] [do] not involve a significant reduction in the margin of safety.

Based on the above, FPL has determined that the proposed amendment request does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the probability of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety; and therefore does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: December 13, 1990

Description of amendment request: The amendment would revise the Operating License and Technical Specifications by replacing the existing license condition on fire protection with the standard license condition and removing unnecessary fire protection requirements from the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1). This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed amendment does not affect the substance of the Fire Protection Program at the DAEC. System operability requirements, compensatory (remedial) actions, inspection/testing requirements, fire brigade staffing and reporting requirements will remain as before but are located in the DAEC Updated FSAR, with the exception of the fire brigade staffing requirement excluding two members of the shift crew. An FSAR change has been prepared which stipulates that two members of the shift crew are excluded from fire brigade manning. This FSAR change has been implemented at the DAEC, and will be included with our annual FSAR update required by 10 CFR 50.71(e) in June 1991.

The configuration and operation of fire protection systems at the DAEC are unchanged by this proposed amendment. Institution of the standard license condition will ensure that proposed changes to the Fire Protection Program, as described in the Updated FSAR, are reviewed against the criteria contained in 10 CFR 50.59 to determine whether an unreviewed safety question exists prior to implementing such changes. In effect, changes to the DAEC Fire Protection Program may be made without prior NRC approval only if the change does not adversely affect the ability of the DAEC to achieve and maintain safe shutdown in the event of a fire. The additional Technical Specification requirements assigning the review of the DAEC Fire Protection Program and implementing procedures to the Operations committee reinforce current Fire Protection Program policy at the DAEC.

2). This proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

This proposed amendment does not affect the substance of the Fire Protection Program at the DAEC. System operability requirements, compensatory (remedial) actions, inspection/testing requirements, fire brigade staffing and reporting requirements will remain as before. The bases for fire protection as defined by the DAEC Fire Hazards Analysis will not change as a result of this proposed license amendment. This proposed amendment relates to the acceptability of administrative relocation of DAEC's Fire Protection Program requirements from Technical Specifications to the FSAR. No new or different kinds of fire hazards not previously considered by the Fire Hazards Analysis are created by the administrative changes that would be implemented by the proposed amendment. Institution of the standard license condition will ensure that proposed changes to the Fire Protection Program are reviewed against the criteria contained in 10 CFR 50.59 to determine whether an unreviewed safety question exists prior to implementing such changes. The additional Technical Specification requirements reinforce current Fire Protection Program policy at the DAEC.

3). This proposed amendment does not involve a significant reduction in the margin of safety. This proposed amendment does not affect the substance of the Fire Protection Program at the DAEC. System operability requirements, compensatory (remedial) actions, inspection/testing requirements, fire brigade staffing and reporting requirements will remain as before. The configuration and operation of fire protection systems at the DAEC are unchanged by this proposed amendment. Changes to the DAEC Fire Protection Program will be controlled by the standard license condition, administrative Technical Specifications and prior review under 10 CFR 50.59. The required review of proposed changes under 10 CFR 50.59 will ensure that the ability to achieve and maintain safe shutdown in the event of a fire is not adversely affected and the margin of safety is not reduced when evaluated against the bases contained in the Updated FSAR.

Since the function and substance of DAEC's Fire Protection Program have not changed and adequate controls to ensure that changes to the program are made under 10 CFR 50.59, the probability or consequences of an accident previously evaluated is not significantly increased, no new or different kinds of accidents are introduced, and the existing margin of safety is not significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036.

NRC Project Director: John N. Hannon.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: February 22, 1991, supplemented with additional information June 14, 1991.

Description of amendment request: The amendment would revise the flow and discharge pressure requirements for annual fire pump Surveillance Requirement 4.13.B.1.e. In addition, it would revise the Bases for Section 3.13 to include a reference to safety-related equipment and delete excessive detail regarding pump sizing criteria.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed values for the fire pump flow rate and discharge pressure requirements accurately reflect the pump requirements for the worst-case system demand as set forth in Branch Technical Position APCSB 9.5-1 and

involve no change in the interpretation of the industry standards of these requirements.

The proposed pump performance requirements reflect a modification to the Fire Protection System installed in January, 1991, and information gained from a thorough review of the current system configuration. This modification was installed in accordance with approved design standards and significantly reduced the head losses associated with Sprinkler System 4. This allows the fire pumps to supply the required pressure and flow rate for Sprinkler System 4 at a lower pump discharge pressure, well within the operating limits of either fire pump.

The proposed changes to the Bases for Section 3.13 are administrative and do not involve any increase in the probability or consequences of an accident previously evaluated.

2) The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The revision to the annual fire pump Surveillance Requirements reflects the flow rate and discharge pressure necessary to supply the worst-case system demand and does not create the potential for any accidents not previously evaluated.

The proposed changes to the Bases for Section 3.13 are administrative and do not create the possibility of a new or different kind of accident from any previously evaluated.

3) The proposed amendment does not involve a significant reduction in the margin of safety.

The revision of the annual fire pump Surveillance Requirements reflects the flow rate and discharge pressure necessary to supply the worst-case system demand and does not involve a reduction in the margin of safety.

The proposed changes to the Bases for Section 3.13 are administrative and do not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036.

NRC Project Director: John N. Hannon.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 25, 1991

Description of amendment request: The proposed amendment would revise the Millstone Unit 3 visual inspection surveillance requirements (Technical Specifications 4.7.10.a and 4.7.10.b) and acceptance criteria (Technical Specification 4.7.10.c) associated with seismic sway arresters (snubbers).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The proposed changes incorporate the alternate schedule for visual inspection of the snubbers recommended by the NRC in GL 90-09. As determined by the Staff, this alternate schedule for visual inspections maintains the same confidence level as the existing schedule. In addition, the ACTIONS required by the existing technical specifications as a result of finding snubbers inoperable remain the same. The change to the Technical Specification Index has no impact on the consequences or the probability of an accident previously analyzed. Therefore, the proposed changes do not affect the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not affect any plant operations, the potential for an unanalyzed accident is not created, and no new failure modes are introduced. The proposed changes will not affect the operability of the snubbers to perform their intended function during normal or accident conditions.

3. Involve a significant reduction in the margin of safety.

As stated in GL 90-09, the alternate schedule for visual inspections maintains the same confidence level as the existing schedule. In addition, the proposed changes do not affect any of the Actions specified in technical specifications which result from identification of inoperable snubbers. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: May 23, 1991

Description of amendment request: The proposed amendments would relocate the procedural details of the current Radiological Effluent Technical Specifications (RETS) to other licensee controlled documents (the Radiological Monitoring and Controls Program and the Process Control Program), in accordance with the recommendations of NRC Generic Letter 89-01.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

These proposed actions simplify the RETS, meet the regulatory requirements for radioactive effluents and radiological environmental monitoring, and implement the recommendations of GL 89-01 and the Commission's Interim Policy Statement on TS Improvements. The proposed changes are administrative in nature, should result in improved administrative practices, and do not affect plant operations.

Therefore, the proposed changes to not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature, do not require physical alteration to any plant system, and cause no change in the method by which any safety-related system performs its function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in the margin of safety?

The proposed changes to not alter the basic regulatory requirements and do not affect any safety analyses. The relocated RETS will continue to provide adequate controls for radioactive effluent releases and for radiological environmental monitoring activities pursuant to applicable regulatory requirements.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: James E. Dyer

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: June 12, 1991

Description of amendment request: This amendment request incorporates into Section 4.2.1 of the Environmental Protection Plan, Appendix B of the Hope Creek Generating Station license, the aquatic monitoring requirements to minimize the impact of the station operation on sea turtles.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. This change only extends the monitoring period, enhances and documents monitoring and reporting activities, and educates the monitoring personnel in sea turtle identification and resuscitation procedures.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not make any physical changes to the plant or changes in parameters governing normal plant operation. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes involve increased monitoring, documentation and administrative procedures and do not degrade the existing margin of safety. Therefore, these changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: June 20, 1991

Description of amendment request: The proposed amendments modify Technical Specification section 3.5.1, surveillance requirement 4.5.1.c. The current surveillance requires verification that power to the safety injection accumulator isolation valves is disconnected by removal of the breaker from the circuit. The control power lockout switches were recently modified to provide the necessary protection against single active failure, thus removal of the breaker from the circuit is unnecessary.

The proposed amendment also modifies the applicability of surveillance requirement 4.5.1.c to agree with the applicability of the specification. The specification is applicable when plant pressure is above 1000 psig and the surveillance requirement is applicable whenever plant pressure is above 2000 psig. This change will make the surveillance requirement applicable whenever plant pressure is above 1000 psig.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

a. The proposed deletion of the surveillance requirement to remove the breaker from the circuit for the safety injection accumulator isolation valves would not affect the accident analysis. The control power lockout switches provide protection against a single active failure and two operator actions would be required to close the valve. Therefore, [it] would not increase the probability or consequences of a previously analyzed accident.

b. The proposed change is an administrative change to correct an apparent typographical error. Therefore, it would not increase the probability or consequences of a previously analyzed accident.

2. Create the possibility of a new or different kind of accident.

a. The control power lockout switches protect against a single active failure and two operator actions would be required to close the valve. Deletion of the requirement to remove the breaker from the circuit will not introduce any new failure modes. Therefore, there can be no impact on plant response to the point where a different accident is created.

b. The proposed change is an administrative change to correct an apparent typographical error. Therefore, there can be no impact on plant response to the point where a different accident is created.

3. Involve a significant reduction in a margin of safety.

a. The control power lockout switch will provide the protection currently being provided by removing the breaker from the circuit. The proposed change will delete the requirement to remove the breaker from the circuit, but will still require verification of the power lockout switch position every 31 days when reactor coolant system pressure is greater than 1000 psig. Therefore, there is no reduction in any margin of safety.

b. The proposed change is an administrative change to correct an apparent typographical error. Therefore, there can be no reduction in any margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C., 20005-3502

NRC Project Director: Walter R. Butler

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 15, 1991 as supplemented by letter dated March 26, 1991.

Description of amendment request: The proposed amendment would revise the pressure-temperature (P-T) limits for the reactor coolant system, in the Ginna Technical Specifications, during heatup, cooldown, leak test, and criticality. The revised P-T limits were developed by the licensee to comply with the NRC position on radiation embrittlement of reactor vessel materials and its effect on plant operations, outlined in Regulatory

Guide (RG) 1.99, Revision 2, and Generic Letter 88-11 guidance. The revised P-T limits also considered a re-evaluation of the low temperature overpressurization protection system (LTOPS) setpoint.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

These changes to the Technical Specifications, in accordance with 10 CFR 50.91, have been evaluated to determine if the operation of the facility in accordance with the proposed Amendment would:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

3) Involve a significant reduction in the margin of safety.

Re-calculation of heatup/cooldown limits using approved NRC methodology does not increase the probability or consequences of an accident. New limits generated from approved methodology do not reduce the margin of safety.

Deletion of education material that is more appropriately documented outside of Technical Specification does not effect the probability consequences, or margin of safety of an accident. Neither does it cause a different type accident.

Reducing the LTOPS setpoint protects the Appendix G limits and prevents RHR overpressurization. A setpoint reduction reduces the consequences of an overpressurization event because mitigation is initiated earlier. This results in a smaller challenge to the RHR system and reduces the probability of failure. Reducing the LTOPS setpoint does not cause a different kind of accident. Since existing acceptance criteria are still met there is no reduction in a margin of safety.

Additional restrictions ensure no single inadvertent operator action will result in mass injection due to SI. The LTOPS setpoint based on possible mass injection and heat injection cases is adjusted to meet existing acceptance criteria. Therefore, the consequences or probability of an accident are not increased, a new accident is not created or is a margin of safety reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Nicholas S. Reynolds, Bishop, Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005

NRC Acting Project Director: Susan Shankman

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of amendment requests: June 28, 1991

Description of amendment requests: The proposed amendments will revise Technical Specifications 3/4.5.2, "ECCS Subsystems - T_{avg} Greater Than or Equal to 350° F" and 3/4.6.3 "Containment Isolation Valves." A surveillance requirement to verify the position of the containment emergency sump isolation valves and the emergency core cooling pump and containment spray pump mini-flow valves every twelve hours is being added to Technical Specification 3/4.5.2. Valve alignment clarification is added to 3/4.6.3 for the containment emergency sump valves listed in Table 3.6-1 and addressed by the surveillance being added to 3/4.5.2. An Action is being added to 3/4.5.2 to invoke Technical Specification 3/4.6.1.1 in the event containment integrity is breached.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The required valve positions are not being changed. The system is being operated as designed. No physical changes are being made to the plant. The addition of a technical specification to require verification of valve positions will not involve any increase in the probability or consequences of an accident previously evaluated. Since this technical specification will decrease the potential for valve misalignment the probability or consequences of an accident previously evaluated will be decreased.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The required valve positions are not being changed. The system is being operated as designed. No physical changes are being made to the plant. The addition of a technical specification to require verification of valve positions will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in margin of safety?

The required valve positions are not being changed. The system is being operated as designed. No physical changes are being made to the plant. The addition of a technical specification to require verification of valve positions will not involve any reduction in a margin of safety. This technical specification will decrease the potential for valve misalignment and will strengthen the operators' ability to maintain the current margin of safety.

The NRC staff has reviewed the licensees' analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: James E. Dyer

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: September 14, 1990, as supplemented March 15, 1991.

Description of amendment request: The proposed changes would revise the Technical Specifications (TS) for the Perry Nuclear Power Plant, Unit 1, to provide new reactor vessel pressure-temperature limits, recalculated using the formulas of NRC Regulatory Guide 1.99, Revision 2, as requested by NRC Generic Letter (GL) 88-11. In addition, the proposed changes would remove the reactor vessel material surveillance program withdrawal schedule from the TSs and would relocate the schedule in the Perry Updated Safety Analysis Report (USAR) in accordance with NRC GL 91-01. Associated changes to the Bases are also proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of a previously evaluated accident, because the revised pressure-temperature limit curves are determined in accordance with 10 CFR

Part 50, Appendices G and H, using the conservative methods described in NRC Generic Letter 88-11 and NRC Regulatory Guide 1.99, Revision 2. These revised curves will establish equivalent or more conservative limits on reactor vessel pressure as a function of temperature during the first 8 years of effective full power operation. The relocation of the surveillance capsule withdrawal schedule from the TS to the USAR in accordance with GL 91-01, is a purely administrative change; NRC prior approval is still necessary for any change to the schedule itself.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not involve any changes to plant components nor do they introduce any new modes of operation. The plant will be operated within the revised operating pressure limits, which will be determined in a more conservative manner. The relocation of the surveillance capsule withdrawal schedule is an administrative change that will have no effect on previous accident analyses.

The proposed changes do not involve a significant reduction in the margin of safety because the revised pressure-temperature limits conservatively account for reactor vessel irradiation embrittlement and are based on the latest NRC guidelines in Regulatory Guide 1.99, Revision 2, along with actual neutron fluence data obtained for Perry Unit 1. The relocation of the surveillance capsule withdrawal schedule is an administrative change only. Therefore, the existing margin of safety will be maintained.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: May 10, 1991

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 6.0, "Administrative Controls," for the Davis-Besse Nuclear Power Station (DBNPS) to add flexibility and allow changes in the composition of the Station Review Board. In addition, some position titles within TS 6.0 would be revised to reflect organizational changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Toledo Edison has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the DBNPS Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no initiators or assumptions for a previously evaluated accident are affected by these proposed changes to TS 6.0.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because no initiators or assumptions for a previously evaluated accident are affected by these proposed changes to TS 6.0.

2a. Not create the possibility of a new kind of accident previously evaluated because no accident initiators are created. No new hardware changes are being made, no new testing is being created and no new operating manipulations are being created by these proposed changes to TS 6.0.

2b. Not create the possibility of a different kind of accident from any accident previously evaluated because no accident initiators are created. No changes in hardware, testing, or plant manipulations are being created by these proposed changes to TS 6.0.

3. Not involve a significant reduction in a margin of safety because the Station Review Board will continue to be composed of experienced, onsite supervisory personnel with expertise in the disciplines of plant operations, maintenance, planning, radiological controls, engineering and quality assurance. The other proposed changes are strictly administrative in nature.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John N. Hannon

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 9, 1991, as supplemented by letter dated June 26, 1991.

Description of amendment request: This request proposes amendments to the Kewaunee Nuclear Power Plant (KNPP) Technical Specifications to satisfy commitments made by the licensee regarding NRC Generic Letter 90-06. This letter deals with Generic Issue 70 and Generic Issue 94, which focus on power-operated relief valve and block valve reliability and additional low-temperature overpressure protection. The proposed amendments include restrictions on the restart of an inactive reactor coolant pump, limiting conditions for operation of the pressurizer power-operated relief valves (PORVs) and associated block valves, and operability requirements of the low-temperature overpressure protection (LTOP) system. Administrative changes are also proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(a) Reactor coolant pump starting prohibitions

The proposed change was reviewed in accordance with the provisions of 10 CFR 50.92 to show no significant hazards exist. The proposed change will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

Low-temperature overpressure protection (LTOP) is required in pressurized water reactors to provide protection against brittle failure of the reactor pressure vessel. The design basis of the KNPP LTOP system assumes that the maximum temperature difference between the secondary side heat sink and the reactor coolant system cold leg will be less than or equal to 100° F when a reactor coolant pump is started. This proposed TS provides an additional administrative control to ensure that the design basis of the LTOP system is satisfied. Consequently, this proposed TS provides increased assurance that the KNPP Appendix G pressure-temperature limits (Figure TS 3.1-2) will not be exceeded due to an energy input event. Therefore, this proposed change does not increase the probability or consequences of an accident previously evaluated.

2) create the possibility of a new or different type of accident from an accident previously evaluated.

A new or different kind of accident from those previously evaluated will not be created by this TS change. The proposed TS

is for the purpose of providing an additional administrative restriction to assure that the design basis of the KNPP LTOP system is met. Therefore, the proposed TS change would not allow the KNPP to operate outside of its design basis.

3) involve a significant reduction in the margin of safety.

This proposed TS change will not reduce the margin of safety. Rather, the proposed change provides an additional administrative control to ensure plant operation remains within the design basis of the LTOP system. Consequently, the likelihood of the KNPP experiencing a pressure transient due to an energy input event that challenges the LTOP system and the Appendix G pressure/temperature limits is reduced.

(b) Modifications to the limiting conditions for operation of the pressurizer PORVs and associated block valves

The proposed changes were reviewed in accordance with the provisions of 10 CFR 50.92 and it has been determined that no significant hazards exist. The proposed changes will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of an accident previously evaluated will not be increased by this TS change. The accident of interest is a design-basis steam generator tube rupture (SGTR). The probability of a SGTR will not be increased as a result of providing an additional administrative control to ensure the availability of the pressurizer PORVs and block valves.

In addition, the consequences of an accident previously evaluated will not be increased by this TS change. The proposed change provides increased assurance that the pressurizer PORVs and block valves will be available to assist in the mitigation of a SGTR and thus limit the consequences of a SGTR.

2) create the possibility of a new or different kind of accident from an accident previously evaluated.

A new or different kind of accident from those previously evaluated will not be created by this TS change. The proposed TS is for the purpose of providing reasonable assurance that the pressurizer PORVs and block valves are available when called upon to perform a function. Ensuring the available of the PORVs and block valves will not alter the plant configuration, or plant performance.

3) involve a significant reduction in the margin of safety.

The margin of safety will not be reduced by this change to the Technical Specifications. This TS change increases the assurance that the pressurizer PORVs and block valves will be available when called upon to perform a function. Therefore, plant safety is enhanced and the risk to the health and safety of the public is reduced.

(c) Operability requirements of the LTOP system

The proposed changes were reviewed in accordance with the provisions of 10 CFR 50.92 and it has been determined that no significant hazards exist. The proposed changes will not:

1) involve a significant increase in the probability or consequences of an accident previously evaluated.

Low-temperature overpressure protection (LTOP) is required in pressurized water reactors to provide protection against brittle failure of the reactor pressure vessel. This proposed TS provides additional administrative assurance that LTOP will be available to mitigate a pressure transient event. The proposed TS is consistent with the design basis of the LTOP system. Consequently, this proposed TS provides increased assurance that the KNPP Appendix G pressure/temperature limits will not be exceeded during an overpressure event. Therefore, this proposed change will not increase the probability or consequences of an accident previously evaluated.

2) create the possibility of a new or different type of accident from an accident previously evaluated.

A new or different kind of accident from those previously evaluated will not be created by this TS change. The proposed TS is for the purpose of providing additional administrative assurance that LTOP will be available at the KNPP. The proposed TS is consistent with current plant practice regarding LTOP and will not alter the plant configuration or performance.

3) involve a significant reduction in the margin of safety. This proposed TS change will not reduce the margin of safety. Rather, the proposed TS change provides an additional administrative control to ensure LTOP availability. Consequently, the likelihood of a pressure transient exceeding the KNPP Appendix G pressure/temperature limits at low temperatures is reduced.

(d) Administrative changes

This proposed amendment includes administrative changes as a result of the conversion of Section 3.1 to the Word Perfect format, and are necessary to correct minor typographical errors and format inconsistencies. They do not change the intent of the Technical Specification or decrease WPSC's management support or involvement in activities at the Kewaunee Plant.

Therefore, the proposed changes pose no significant hazards for the following reasons:

1) The proposed changes will not result in a significant increase in the probability of occurrence of consequences of an accident.

2) The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

3) The proposed changes will not involve a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendments request: April 24, 1991

Description of amendments request: Technical Specification 15.3.4, "Steam and Power Conversion System," would be revised by changing specification A.4. to require a minimum of 13,000 gallons of water per operating unit in the condensate storage tank when the reactor coolant is heated above 350° F and the reactor is to be taken critical. The current specification requires 10,000 gallons of water per operating unit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The volume of condensate is pertinent during accident scenarios involving a demand for auxiliary feedwater and notably during a station blackout. The volume of water in storage does not affect the probability of an accident but potentially affects the consequences.

The proposed change increases the required water inventory in the condensate storage tanks. The increased inventory provides the operator with additional time in which to take action. Maintaining a greater water volume also provides the capability to remove a greater quantity of decay heat prior to additional operator action being required. The additional margin may serve to reduce the overall accident consequences.

The amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The required minimum inventory in the condensate storage tanks is increased. However, there is no change to the design or operation of the auxiliary feedwater system or to any other plant system or component. Therefore, no new or different accident scenario resulting from this proposed amendment can be postulated.

The proposed amendment does not result in a significant reduction in a margin of safety. In fact, as noted above, providing the greater inventory of water in the condensate storage tanks provides the operator with additional time to respond to the accident and with additional heat removal capability. These tend to increase a margin of safety.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: John N. Hannon.

Previously Published Notices Of Consideration Of Issuance Of Amendments To Operating Licenses And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: November 19, 1990 as supplemented April 1, 1991, May 20, 1991 and June 14, 1991.

Brief description of amendment request: The proposed amendments would increase the enrichment of Westinghouse Standard and Vantage 5H fuel that can be stored in the new fuel storage racks, the spent fuel pool or placed in the reactor core. Date of publication of individual notice in **Federal Register:** June 28, 1991 (56 FR 29732)

Expiration date of individual notice: July 29, 1991

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Notice Of Issuance Of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, 50-529, and 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of application for amendment: October 11, 1990

Brief description of amendment: These amendments eliminate typographical errors, provide clarification, and improve consistency in the Technical Specifications for Palo Verde Nuclear Generating Station (PVNGS) Units 1, 2, and 3.

Date of issuance: June 27, 1991

Effective date: June 27, 1991

Amendment No.: Unit 1: No. 54; Unit 2: No. 39 and Unit 3: No. 27

Facility Operating License No. NPF-41, No. NPF-51, and No. NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 1991 (56 FR 15638) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: November 7, 1990, and supplemented on May 20, 1991.

Brief description of amendments: The amendments modify Technical Specifications (TS) action statements of 3.8.1.2, 3.8.2.2, 3.8.2.4, and 3.9.4 in relation to the limiting condition for operation (LCO) requirements for the A.C. electrical power sources, A.C. electrical busses, D.C. electrical equipment and busses, and the containment penetrations. The requirement to establish containment integrity is replaced with the requirement to suspend all operations relative to: core alterations, positive reactivity changes, the movement of irradiated fuel, and the movement of heavy loads over irradiated fuel. The change also requires that containment penetration closure, as identified in TS 3.9.4, be established within 8-hours and corrective actions be initiated immediately to restore the minimum A.C. electrical power sources, A.C. electrical busses and, D.C. electrical equipment and busses. The requirements of TS 3.9.4 are modified to be consistant with the above action

statements and the applicable TS Bases sections are also modified to reflect the proposed changes.

The May 20, 1991, letter provided clarifying information and did not change the initial proposed no significant hazards consideration determination.

Date of issuance: June 27, 1991

Effective date: June 27, 1991

Amendment Nos.: 155 and 135

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 9, 1991 (56 FR 890) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated June 27, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: April 2, 1991

Brief description of amendments: The amendments modify the Technical Specifications (TS) Definitions, Section 1.8, Item 1.8.3, and the TS Surveillance Requirements, Section 4.6.1.1.b. Section 1.8 defines when containment integrity exists, Item 1.8.3 defines the conditions the containment air locks must meet to assure containment integrity, and Section 4.6.1.1.b specifies the required surveillances of the air locks to assure containment integrity. The changes remove the existing requirement that the air locks be operable, in both the TS definitions and surveillance sections, and replace it with the requirement that the air locks be in compliance with the requirements of TS Section 3.6.1.3. Section 3.6.1.3 provides the limiting conditions of operation (LCO), applicable modes, and actions to be taken (including the allowed out-of service times for repairs) when the air locks are inoperable prior to requiring a unit to shutdown.

Date of issuance: July 1, 1991

Effective date: July 1, 1991

Amendment Nos.: 156 and 136

Facility Operating License Nos. DPR-53 and DPR-69. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24205) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated July 1, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 22, 1991

Brief description of amendment: This amendment revises the Technical Specifications to eliminate the setdown requirements for the Average Power Range Monitor (APRM) flow referenced rod block and scram lines and changes the Rod Block Monitor (RBM) rod block set points from flow-biased to power-dependent. The revisions will enhance plant availability by facilitating more rapid power ascension.

Date of issuance: July 1, 1991

Effective date: July 1, 1991

Amendment No.: 138

Facility Operating License No. DPR-35: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 20, 1991 (56 FR 11771) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: January 15, 1991

Brief description of amendment: The amendment revises numerous Technical Specifications (TS) in support of the realignment of some of Carolina Power & Light Company's (CP&L's) organizational structure. CP&L has created a Nuclear Assessment Department (NAD) to assume the functions and responsibilities for (1) administering CP&L's independent review program for nuclear facilities that was provided by the Corporate Nuclear Safety Section (CNSS), and (2) auditing of the unit activity provided by the Quality Assurance Services Section of the Corporate Quality Assurance Department.

Date of issuance: July 8, 1991

Effective date: July 8, 1991

Amendment No. 26

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 6, 1991 (56 FR 9376) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: May 9, 1991

Brief description of amendments: The amendments revised Technical Specification 4.0.2 and the associated bases to delete the 3.25 limit on extension of surveillance intervals.

Date of issuance: July 2, 1991

Effective date: July 2, 1991

Amendment Nos.: 124 and 113

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24208) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: April 25, 1990

Brief description of amendments: The amendments revise the Technical Specifications to correct inconsistencies in the Reactor Vessel Toughness tables.

Date of issuance: July 10, 1991

Effective date: July 10, 1991

Amendment Nos.: 125 and 114

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 11, 1990 (55 FR 28473) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 10, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: March 22, 1991

Brief description of amendment: The amendment will amend Table 4.0-1, "Augmented Inservice Inspection Program," Technical Specification 4.0.6 to reflect the addition of another weld location on a feedwater line.

Date of Issuance: June 27, 1991

Effective date: June 27, 1991

Amendment No.: 139

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 1, 1991 (56 FR 20030) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: April 18, 1991

Brief description of amendment: The amendment will change Section 1.10, definition of E-bar - Average Disintegration Energy, by deleting Tritium as an isotope to be used in the calculation of E-bar.

Date of Issuance: July 1, 1991

Effective date: July 1, 1991

Amendment No.: 140

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 29, 1991 (56 FR 24208) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 1, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: June 14, 1991

Brief description of amendment: The amendment would replace footnotes (a) and (b) to Table 3.3-2, Item 6.a with new footnotes (c) and (d) and add new note "d" to Table 3.3-2, Items 3.a.1 and 3.a.2, to allow the feedwater isolation system to be defeated during surveillance testing and that the Limiting Condition for Operation is only applicable when the feedwater isolation system is in the automatic mode.

Date of Issuance: July 3, 1991

Effective date: July 3, 1991

Amendment No.: 141

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (56 FR 28423 dated June 20, 1991). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by July 22, 1991, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment and final no significant hazards consideration determination is contained in a Safety Evaluation dated July 3, 1991.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: April 16, 1991

Brief description of amendments: The amendments are a one-time only change to enable replacement of the existing 125 volt DC battery cells with new cells.

Date of issuance: July 1, 1991

Effective date: July 1, 1991

Amendment Nos.: 121 and 103

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 15, 1991 (56 FR 22463) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 1, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: April 18, 1991

Brief description of amendments: The amendments revised the format of the Semiannual Radioactive Effluent Release Report from Regulatory Guide 1.21, Revision 0, Appendix A to Regulatory Guide 1.21, Revision 1.

Date of issuance: July 5, 1991

Effective date: 30 days from the date of issuance.

Amendment Nos.: 148 and 120

Facility Operating License Nos. DPR-51 and NPF-6. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 29, 1991 (56 FR 24208) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 5, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72301

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: April 18, 1991

Brief description of amendment: The amendment revised the list of radioactive material sources in Technical Specification (TS) 4.14 subject to the 18-month periodic leak test by deleting the four area radiation monitor sources located inside the reactor building from TS 4.14.

Date of issuance: July 5, 1991

Effective date: 30 days from the date of issuance.

Amendment No.: 149

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 15, 1991 (56 FR 22464) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: April 10, 1991, as revised June 17, 1991

Brief description of amendment: The amendment altered Technical Specification 4.7.4 Surveillance Requirements to incorporate snubber population size as a factor in determining the time interval between visual inspections of snubbers. In addition, references to snubbers connected to a common hydraulic fluid reservior were deleted.

Date of issuance: July 8, 1991

Effective date: July 8, 1991

Amendment No: 78

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22468) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: December 14, 1990

Brief description of amendment: The amendment revised Section 4.7.D.1.c of the Technical Specifications by deleting the requirement for a weekly partial closure and reopening of the main steam line isolation valves, and corrected an error in the first footnote of Table 3.7-3.

Date of issuance: July 12, 1991

Effective date: July 12, 1991

Amendment No.: 171

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 6, 1991 (56 FR 26167) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 12, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street S. E., Cedar Rapids, Iowa 52401.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 31, 1989, as supplemented by letter dated June 7, 1991.

Brief description of amendment: The amendment changed the expiration date for the Cooper Nuclear Station *Facility Operating License No. DPR-46 from June 4, 2008 to January 18, 2014. This extends the duration of the license to 40 years from the date of issuance of the operating license.*

Date of issuance: July 5, 1991

Effective date: July 5, 1991

Amendment No.: 143

Facility Operating License No. DPR-46. Amendment revised the Facility Operating License.

Date of initial notice in **Federal Register:** November 15, 1989 (54 FR 47607) The additional information contained in the June 7, 1991, letter was clarifying in nature and thus was within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 5, 1991. No siginificant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California *Date of application amendments:* September 11, 1990 (Reference LAR 90-09)

Brief description of amendments: These amendments revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to clarify the requirement that two redundant steam supply sources are needed for the turbine-driven auxiliary feedwater (AFW) pump to be operable and to remove the differential pressure values from the surveillance requirements for the AFW pumps and perform the testing pursuant to TS 4.0.5.

Date of issuance: June 27, 1991

Effective date: June 27, 1991

Amendment Nos.: Unit 1: No. 62; Unit 2: No. 61

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 14, 1990 (55 FR 47575) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California *Date of application amendments:* October 18, 1990

Brief description of amendments: These amendments revise the combined Technical Specifications (TS) for Diablo Canyon Power Plant Unit Nos. 1 and 2. The change allows the determination of Quadrant Power Tilt Ratio by either a full incore flux map or by symmetric flux thimbles measurement in the event that a single power range channel becomes inoperable above 75 percent rated thermal power. The existing TS permit only the use of the four pairs of symmetric core thimbles in this situation.

Date of issuance: June 26, 1991

Effective date: June 26, 1991

Amendment Nos.: Unit 1: No. 63; Unit 2: No. 62

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 14, 1990 (55 FR 47576) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 26, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 28, 1990 (Reference LAR 90-03)

Brief description of amendments: The amendments revised the combined Technical Specifications for the Diablo Canyon Power Plant Unit Nos. 1 and 2 by adding TS 3/4.7.1.6 and the associated Bases to assure operability of the steam generator 10 percent atmospheric dump valves for mitigation of a steam generator tube rupture accident.

Date of issuance: June 27, 1991
Effective date: June 27, 1991
Amendment Nos.: Unit 1: No. 64; Unit 2: No. 63
Facility Operating License Nos. DPR-80 and DPR-82: Amendments changed the Technical Specifications.
Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10543) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: April 12, 1991
Brief description of amendments: The amendment revised the visual inspection portion of Specification 4.7.4 and the associated Bases as suggested in NRC Generic Letter 90-09.
Date of issuance: June 28, 1991
Effective date: June 28, 1991
Amendment Nos.: 113 and 82
Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20042) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 28, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 28, 1991
Brief description of amendments: The amendments modified the reactor pressure vessel pressure-temperature limits and removed the schedule in the technical specifications for withdrawal of material specimens as suggested by NRC Generic Letter 91-01.
Date of issuance: June 27, 1991
Effective date: June 27, 1991
Amendments Nos.: 162 and 164
Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20042) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 22, 1989
Brief description of amendments: The amendments revised the Technical Specifications to incorporate a Surveillance Requirement for the safety grade pneumatic supply to the containment purge/vent valve inflatable seals.
Date of issuance: July 3, 1991
Effective date: July 3, 1991
Amendments Nos.: 163 and 165
Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22473) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 3, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Philadelphia Electric Company, Public Service Electric and Gas Company Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment: June 14, 1991
Brief description of amendments: The amendment changed Section 3.3.B.1 and 4.3.B.1 of Peach Bottom, Unit 3 Technical Specifications to allow operation of control rod 38-23, uncoupled from its drive, for the remainder of Cycle 8, which is to be completed before October 30, 1991. The amendment specifies conditions under which Rod 38-23 may be operated and modifies existing surveillance requirements to verify rod position by use of neutron instrumentation.
Date of issuance: July 10, 1991
Effective date: July 10, 1991
Amendment No.: 166
Facility Operating License No. DPR-56: Amendment revised the Technical Specifications. Public comments requested as to proposed significant hazards consideration: Yes (56 FR 28935 dated June 25, 1991). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by July 25, 1991. The notice indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 10, 1991.
Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: April 15, 1991
Brief description of amendment: The amendment revises the TSs to conform to the NRC staff position on Inservice Inspection (ISI) in Generic Letter (GL) 88-01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping."
Date of issuance: July 1, 1991
Effective date: July 1, 1991
Amendment No.: 170
Facility Operating License No. DPR-59: Amendment revised the Technical Specification.
Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24215) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1991.
No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: June 21, 1990

Brief description of amendment: The amendment reduces the Residual Heat Removal pump flow rate surveillance acceptance criteria from 9900 gpm to 8910 gpm. This change allows more accurate and repeatable inservice testing by eliminating problems inherent in testing the pumps near runout flow conditions. The amendment also removes an out-of-date 14-day LCO approved only for cycle 9 by TS

Amendment No. 153.

Date of issuance: July 1, 1991

Effective date: July 1, 1991

Amendment No.: 171

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** August 8, 1990 (55 FR 32330) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: Two letters, both dated April 3, 1991

Brief description of amendments: These amendments corrected administrative errors in technical specifications.

Date of issuance: July 1, 1991

Effective date: For both units as of the date of issuance, to be implemented within 60 days from the date of issuance.

Amendment Nos. 127 and 106

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24218) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 1, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: October 26, 1990, as supplemented April 15, 1991

Brief description of amendment: The amendment changes the Technical Specifications to allow the deletion of two valves from Table 3.8-2, the addition of twelve valves to Table 3.8-2, the rearrangement of Table 3.8-2 into alphanumeric order, and the updating of twelve valve designations and functions. In addition, surveillance test requirements for valves whose overloads are not bypassed will be added, and surveillance test requirements for circuitry not used at V. C. Summer Nuclear Station will be deleted.

Date of issuance: July 1, 1991.

Effective date: July 1, 1991.

Amendment No.: 102

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register: January 9, 1991 (56 FR 896)** The April 15, 1991, supplement to the proposed amendment did not affect the staff's finding of no significant hazards considerations. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: August 1, 1990

Brief description of amendments: These amendments revise the frequency of the surveillance for the outside recirculation spray and containment spray weight-loaded check valves from once every 18 months to every refueling outage.

Date of issuance: July 8, 1991

Effective date: July 8, 1991

Amendment Nos. 158 & 157

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1990 (55 FR 53078) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 8, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 5, 1991

Brief description of amendment: The amendment revises Section 6.0 of the Wolf Creek Technical Specifications to reflect an organizational change and various title changes in the Wolf Creek Nuclear Operating Corporation.

Date of Issuance: June 27, 1991

Effective date: June 27, 1991

Amendment No.: 45

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13672) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1991.

No significant hazards consideration comments received: No. Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 20, 1991

Brief description of amendment: The amendment revises Technical Specification 3.1.3.2 and its associated Bases to add a new Action Statement to address the situation where more than one digital rod position indicator per control rod bank may be inoperable. The new Action Statement would avoid unnecessary plant shutdowns per Technical Specification 3.0.3, yet is consistent with the overall protection provided by related Technical Specifications. Additionally, a revision to Technical Specification 3.1.3.1 corrects an erroneous reference.

Date of Issuance: June 27, 1991

Effective date: June 27, 1991

Amendment No.: 46

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 1, 1991 (56 FR 20047) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room Locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 17th day of July 1991.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 91-16427 Filed 7-23-91; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-322-OLA-2; ASLBP No. 91-631-OLA-2 (Possession Only License)]

Order; Changing Location of Prehearing Conference

July 17, 1991.

In the Matter of Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1)

For good cause shown, the July 12, 1991 unopposed joint motion of Scientists and Engineers for Secure Energy, Inc. and Shoreham-Wading River Central School District to move the location of the July 30, 1991 prehearing conference from Hauppauge, New York to the Washington, DC area is hereby granted.

The prehearing conference scheduled for July 30, 1991, at Hauppauge, New York is cancelled. Instead, the prehearing conference will be held on July 30, 1991, beginning at 9:30 a.m., in the Nuclear Regulatory Commission Hearing Room, 5th Floor, 4350 East West Highway, Bethesda, Maryland.

In a July 15, 1991 response to the motion, Long Island Lighting Company proposed to cancel a July 23, 1991 prehearing conference in Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), Docket No. 50-322-OLA, and to reschedule it on the same day as the subject prehearing conference. This proposal was opposed by movants. The proposal was not regarded as relevant to the motion to change the location of the July 30, 1991 prehearing conference and was not considered by the Licensing Board in deciding the motion.

It is so ordered.

For the Atomic Safety and Licensing Board.

Bethesda, Maryland. July 17, 1991.

Morton B. Margulies,

Chairman, Administrative Law Judge.

[FR Doc. 91-17483 Filed 7-23-91; 8:45 am]

BILLING CODE 7590-01-M

THE PRESIDENT'S EDUCATION POLICY ADVISORY COMMITTEE

Meeting

AGENCY: The President's Education Policy Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: The President's Education Policy Advisory Committee was established under Executive Order 12687 and signed by the President of the United States on August 15, 1989.

Tentative Agenda

Items: The tentative agenda for the meeting will include a discussion of suggestions for presidential education-related activities ideas for parental and business involvement in education.

Dates: The ninth meeting is scheduled for Monday, July 29, 1991, from 1:30 to 4 p.m.

Address: The meeting will be held at the Old Executive Office Building, room 180, Washington, DC.

Attendance: Please contact Rae Nelson at the White House Office of Policy Development to indicate attendance or for further information. The phone number is (202) 456-7777. For clearance purposes, please call no less than twenty-four hours in advance. Please provide over the phone, your social security number, date of birth, and name as read on your driver's license. When entering the building, you will be required to show picture identification.

July 18, 1991.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 91-17618 Filed 7-23-91; 8:45 am]

BILLING CODE 3127-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-850]

Application and Opportunity for Hearing: Steelville Telephone Exchange, Inc.

July 18, 1991.

Notice is hereby given that Steelville Telephone Exchange, Inc. has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order of exemption from the registration requirements of section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person, not later than August 13, 1991, may submit to the Commission in writing the person's views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which the person desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-17562 Filed 7-23-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: Systems of Records; Parking Permit Application File and Vanpool Application File and Parking Permit Management System

The Department of Transportation herewith publishes a notice relating to the proposed amendment of two systems of records maintained in connection with application for parking permit in its Washington. DC garages.

Any person or agency may submit written comments on the proposed amendment of the systems to Fred Fillman, Chief, Transportation and Parking Section (M-443.3), Office of the Secretary, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Comments to be considered must be received by August 15, 1991.

If no comments are received, the proposed change will become effective on the above-mentioned date. If comments are received, the comments will be considered and where adopted,

the document will be republished with the changes.

Issued in Washington, D.C. July 15, 1991.

Melissa J. Allen,

Deputy Assistant Secretary for Administration

Narrative Statement for Department of Transportation Office of the Secretary

The Department of Transportation (DOT), on behalf of the Office of the Secretary (OST), proposes to amend two existing systems of records, "Parking Permit Application File and Vanpool Application File." DOT/OST 024 and "Parking Permit Management System," DOT/OST 025, established under the Privacy Act of 1974. These systems contain information on individuals applying for parking privileges in Washington, DC parking garages.

The purposes of this notice is to amend the two systems by including, as a routine use of the information contained in each system, matching of applicants for the purpose of creating or adding to carpools and vanpools and the distribution of information concerning applications by individuals to other Federal agencies as part of a matching program designed to expose fraudulent applications. Under certain circumstances the release of this information to other Federal agencies will create a valuable deterrent effect on individuals fraudulently appearing on more than one carpool or vanpool application in the Washington, D.C. area. This will give Parking Management Officers in the area information they need to help prevent carpool and vanpool permits being issued to individuals that do not have the required number of riders to qualify for a permit.

Most of the information in the systems is provided voluntarily by individuals filling out DOT Form 1700.9, "Official Parking Application" which has a Privacy Act Disclosure printed on it. The information will be used in accordance with the stated routine uses and will not unduly impact individual privacy rights.

Information in these systems may be processed in both hard copy and computerized environments. A description of the steps taken to safeguard these records is given under the appropriate heading in the attached copy of the system notice for each system prepared for publication in the **Federal Register.**

The purpose of this report is to comply with Office of Management and Budget Circular A–130, Appendix 1, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Systems of record

DOT/OST 024

SYSTEM NAME:

Parking Permit Application Files and Vanpool Application Files.

SYSTEM LOCATION:

Department of Transportation, Office of the Secretary (OST), Parking Management Office, M–443.3, 400 Seventh Street, SW., Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOT parking permit holders (Washington, DC), DOT carpool members (Washington, DC), and DOT vanpool applicants (Washington, DC).

CATEGORIES OF RECORDS IN THE SYSTEM:

Parking permit application forms and vanpool application forms.

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

The following routine uses apply:

- In an effort to match people for carpools or vanpools.
- To determine criteria for permit issuance.
- To update data as changes occur.
- To record garage violations.
- For periodic review or revalidation.
- As part of a program designed to expose fraudulent applications. (This is not a computer matching program as stated in the Computer Matching and Privacy Protection Act of 1988 because it is a routine administrative match using Federal personnel records (5 USC 552a(8)(b)(v)(I)).
- See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 USC 552a(b)(12).

Disclosures may be made from this system to consumer reporting agencies (collecting on behalf of the U.S. Government) as defined in the Fair Credit Reporting Act (15 USC 1681a(f)) or the Federal Claims Collection Act of 1982 (31 USC 3701(a)(3)).

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

STORAGE:

Stored in lockable visible edge file in a security locked workroom.

RETRIEVABILITY:

Parking permit application forms are indexed sequentially by permit number; vanpool applications are alphabetical by name and organized for retrieval by "home cell" numbers for areas.

SAFEGUARDS:

Records maintained in lockable files within the Parking Management Office. Printout of carpool listing used in matching program has name, agency, DOT permit number, and work telephone number only.

RETENTION AND DISPOSAL:

Records cards are retained for 3 years locally, sent to the Federal Records Center for 2 more years, and then destroyed.

SYSTEM MANAGER AND ADDRESS:

Chief, Transportation and Parking Section, M443.3, U.S. Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590.

NOTIFICATION PROCEDURE:

Individual may review own data upon presentation of valid DOT ID card.

RECORD ACCESS PROCEDURE:

Same as Notification Procedure.

CONTESTING RECORD PROCEDURES:

Apply to System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from applications submitted by individual and from notifications from other agencies in the matching program.

Systems of record

DOT/OST 025

SYSTEM NAME:

Parking Permit Management System.

SYSTEM LOCATION:

Department of Transportation, Office of the Secretary (OST), Parking Management Office, M–443.3, 400 Seventh Street, SW., Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOT parking permit holders and DOT carpool members (Washington, DC).

CATEGORIES OF RECORDS IN THE SYSTEM:

Status record of carpool permits, member record of carpools, and carpool location listings.

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

The following routine uses apply:

- Used for ADP report and listing production.

• Used by the Parking Management Office for system administration.

• Location listings are for use in forming and enlarging carpools and are used by the general public.

• Carpool listing printouts are furnished to other Federal Parking Management offices in a program designed to expose fraudulent applications. (This is not a computer matching program as stated in the Computer Matching and Privacy Protection Act of 1988 because it is a routine administrative match using Federal personnel records (5 USC 552a(a)(8)(b)(v)(I)).

• Prefatory Statement of General Routine Uses applies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 USC 552a(b)(12).

Disclosures may be made from this system to consumer reporting agencies (collecting on behalf of the U.S. Government) as defined in the Fair Credit Reporting Act (15 USC 1681a(f)) or the Federal Claims Collection Act of 1982 (31 USC 3701(a)(3)).

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

Must enter password to access data. Password known only to Parking Management Office personnel.

RETRIEVABILITY:

Indexed sequentially by permit number.

SAFEGUARDS:

Parking Management Office personnel have only access to general files through data password. The carpool location list is available for general public use, but is secured in the Parking Management Office. Printout of carpool listing used in matching program has name, agency, DOT permit number, and work telephone number only.

RETENTION AND DISPOSAL:

Data is deleted from ADP files when individual leaves the system. Record copies of monthly reports and listings are retained locally for 3 years, forwarded to the Federal Records Center for 2 more years, then destroyed.

SYSTEM MANAGER AND ADDRESS:

Chief, Transportation and Parking Section, M443.3, U.S. Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590.

NOTIFICATION PROCEDURES:

Individual may review own data upon presentation of valid DOT ID card.

RECORD ACCESS PROCEDURES:

Same as Notification Procedure.

CONTESTING RECORD PROCEDURES:

Apply to System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from applications submitted by individual and from notifications from other Federal agencies in the matching program.

[FR Doc. 91-17569 Filed 7-23-91; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

UMTA Section 3 and 9 Grant Obligations

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1991, Public Law 101-516, signed into law by President George Bush on November 5, 1990, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **Federal Register** every 30 days of grants obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management Division, Office of Capital and Formula Assistance, Department of Transportation, Urban Mass Transportation Administrtion, Office of Grants Management, 400 Seventh Street, SW., room 9301, Washington, DC 20590 (202) 366-2053.

SUPPLEMENTARY INFORMATION: The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information:

SECTION 3 GRANTS

Transit Property	Grant No.	Grant amount	Obligation date
City of Tucson, Tucson, AZ	AZ-03-0016-00	$3,000,000	05/31/91
Bay Area Rapid Transit District, San Francisco-Oakland, CA	CA-03-0355-00	2,841,000	06/18/91
City of Port Collins, Port Collins, CO	CO-03-0047-00	326,000	06/27/91
Housatonic Area Regional Transit, Danbury, CT.-N.Y	CT-03-0079-00	1,650,000	06/14/91
Iowa Department of Transportation, Iowa	IA-03-0065-00	250,665	05/31/91
Chicago Transit Authority, Chicago, IL-Northwestern IN	IL-03-0158-00	13,387,719	05/10/91
Lowell Regional Transit Authority, Lowell, MA	MA-03-0162-00	2,860,002	06/05/91
Franklin Regional Transit Authority, Greenfield, MA	MA-03-0163-00	97,302	06/05/91
Southeastern Regional Transit Authority, New Bedford, MA	MA-03-0173-00	914,967	06/05/91
City of Lincoln, Lincoln, Nebraska	NE-03-0025-00	38,025	05/31/91
City of Roswell, Roswell, New Mexico	NM-03-0010-00	1,650,000	04/22/91
Metropolitan Transportation Authority, New York, N.Y.-Northeastern N.J	NY-03-0265-00	102,182,250	06/30/91
Regional Transportation Commission, Reno, NV	NV-03-0006-00	3,056,175	06/18/91
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH-03-0113-00	6,750,000	06/04/91
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH-03-0115-00	15,959,700	07/08/91
City of Charleston, Charleston, S.C	SC-03-0007-00	518,712	07/02/91
Vermont Agency of Transportation, Montpelier, VT	VT-03-0013-00	324,762	06/07/91

SECTION 3 GRANTS—Continued

Transit Property	Grant No.	Grant amount	Obligation date
West Virginia Department of Administration, West Virginia	WV-03-0020-00	3,425,988	06/18/91

SECTION 9 GRANTS

Transit Property	Grant No.	Grant amount	Obligation date
Orange County Transit District, Los Angeles-Long Beach, CA	CA-90-X428-00	$15,135,200	04/01/91
Metropolitan Transit Development Board, San Diego, CA	CA-90-X435-00	7,942,693	04/05/91
Delaware River Port Authority, Philadelphia, PA.-N.J	NJ-90-X032-00	2,550,568	05/16/91
Centre Area Transportation Authority, State College, PA	PA-90-X208-00	380,597	05/21/91

Issued on July 17, 1991.

Brian W. Clymer,

Administrator.

[FR Doc. 91-127475 Filed 7-23-91; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1991—Rev., Supp. No. 1]

Surety Companies Acceptable on Federal Bonds; Contractor's Bonding and Insurance Co.

The above mentioned company was listed in 56 FR 30139, July 1, 1991, as a surety company acceptable on Federal bonds. Federal bond-approving officers are hereby notified that Contractor's Bonding and Insurance Company is required by State law to conduct business in the State of California as CBIC Bonding and Insurance Company.

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1991 Revision, to indicate that CBIC Bonding and Insurance Company is acceptable on Federal bonds in the State of California.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287-3921 or (202) 874-6850 (effec. July 27, 1991).

Dated: July 1, 1991.

Charles F. Schwan, III,

Director, Funds Management Division.

[FR Doc. 91-17515 Filed 7-23-91; 8:45 am]

BILLING CODE 4810-35-M

Office of Thrift Supervision

Danbury Federal Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Danbury Federal Savings and Loan Association, Danbury, Connecticut, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17535 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Fidelity Federal Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Fidelity Federal Savings and Loan Association, Austin, Texas, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17536 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Monycor Federal Savings Bank, Barron, WI; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Monycor Federal Savings Bank, Barron, Wisconsin, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17537 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Pan American Savings Bank San Mateo, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corpoation as sole Receiver for Pan American Savings Bank, San Mateo, California, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17538 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Surety Federal Savings and Loan Association, F.A.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Surety Federal Savings and Loan Association, F.A., Morganton North Carolina, on July 9, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17539 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Danbury Savings and Loan Association, Inc.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Danbury Savings and Loan Association, Inc., Danbury Connecticut, OTS No. 0350, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17540 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Fidelity Savings-Austin, F.A; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Fidelity Savings-Austin, F.A., Austin, Texas, OTS No. 8018, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17541 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Monycor Savings Bank, A Federal Savings Bank, Barron, WI; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Monycor Savings Bank, a Federal Savings Bank, OTS Number 3236, on July 12, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17542 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

Surety Federal Savings and Loan Association, FSA; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Surety Federal Savings and Loan Association, FSA., Morganton, North Carolina, OTS No. 8459 on July 9, 1991.

Dated: July 18, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-17543 Filed 7-23-91; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Seurat" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at The Metropolitan Museum of Art, New York, New York, beginning on or about September 24, 1991, to on or about January 12, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: July 17, 1991.

Alberto J. Mora,

General Counsel.

[FR Doc. 91-17564 Filed 7-23-91; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202-619-6975, and the address is U.S. Information Agency, 301 Fourth Street SW., room 700, Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 56, No. 142
Wednesday, July 24, 1991

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 MINE SAFETY AND HEALTH REVIEW COMMISSION

July 18, 1991.

TIME AND DATE: 2:00 p.m. Tuesday, July 23, 1991.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Drummond Company, Inc.*, Docket No. SE 91–10–R. (Issues include whether the judge erred in vacating an unwarrantable failure finding of a citation issues under Section 104(d)(1) of the Mine Act, 30 U.S.C. § 814(d)(1), alleging a violation of 30 CFR § 75.400).

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay 1–800–877–8339 for Toll Free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 91–17726 Filed 7–22–91; 3:15 pm]

BILLING CODE 6735–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings

TIME AND DATE: 9:15 a.m., Tuesday, July 30, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. Final Rule: Part 747, Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure, and Investigations.

RECESS: 9:25 a.m.

TIME AND DATE: 9:30 a.m., Tuesday, July 30, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Administrative Action under Sections 208 and 307 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
4. Administrative Action under Sections 206, 208, and 307 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
5. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
6. Application for Federal Insurance. Closed pursuant to exemptions (8) and (9)(A)(ii).
7. Appeal of Denial of Insurance. Closed pursuant to exemptions (6), (8), and (9)(B).
8. NCUA's Budget FY 92 and FY 93. Closed pursuant to exemptions (2) and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91–17711 Filed 7–22–91; 1:43 pm]

BILLING CODE 7535–01–M–

NATIONAL SCIENCE BOARD

DATE AND TIME:

August 9, 1991, 9:45 a.m. Open Session
August 9, 1991, 8:30 a.m. Closed Session

PLACE: National Science Foundation, 1800 G Street NW., room 540, Washington, DC 20550.

STATUS:

Part of this meeting will be open to the public.
Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Friday, August 9, 1991

Closed Session (8:30 a.m.–9:45 a.m.)

1. Minutes—June 1991 Meeting.
2. NSB and NSF Staff Nominees.
3. Future NSF Budgets.
4. Grants and Contracts.

Friday, August 9, 1991

Open Session (9:45 a.m.–12:00 Noon)

5. Chairman's Report.
6. Minutes—June 1991 Meeting.
7. Director's Report.
8. Overview of NSF Environmental Sciences Activities.
9. Other Business.

Thomas Ubois,

Executive Officer.

[FR Doc. 91–17698 Filed 7–22–91; 1:42 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 22, 29, August 5, and 12, 1991.

PLACE: Commissoners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 22

Thursday, July 25

1:30 p.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Amendment to Fitness-for-Duty Rule

Friday, July 26

10:00 a.m.
Briefing by NRC Staff on Recommendations Regarding Yankee Rowe Pressure Vessel Embrittlement Issues (Public Meeting)

Week of July 29—Tentative

Tuesday, July 30

10:00 a.m.
Briefing on International Nuclear Reactor Safety (Closed—Ex. 1)

Wednesday, July 31

2:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Commission Decision Regarding Yankee Rowe Reactor Vessel (Tentative)

Thursday, August 1

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 5—Tentative

Monday, August 5

10:00 a.m.
Briefing on AEOD Programs (Public Meeting)
11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

3:00 p.m.

Discussion of Pending Investigations (Closed –Ex. 5 and 7)

Week of August 12—Tentative

Friday, Augus' 16

10:00 a.m.

Briefing on Uncertaintieis in Implementing the EPA HLW Standards (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: July 19, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–17668 Filed 7–22–91; 1:41 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
July 24, 1991

Part II

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Chukchi Sea; Oil and Gas Lease Sale 126 and Notice of Leasing Systems, Sale 126

4310-MR

United States
Department of the Interior
Minerals Management Service

Outer Continental Shelf
Chukchi Sea
Oil and Gas Lease Sale 126

1. **Authority**. This Notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1356 (1988)), and the regulations issued thereunder (30 CFR Part 256).

2. **Filing of Bids**. Sealed bids will be received by the Regional Director (RD), Alaska OCS Region, Minerals Management Service (MMS), 949 E. 36th Avenue, Room 544, Anchorage, Alaska 99508-4302. Bids may be delivered in person to that address during normal business hours (8 a.m. to 4 p.m.) until the Bid Submission Deadline at 10 a.m., August 27, 1991. All times cited in this Notice refer to Alaska Standard Time (a.s.t.) which is the local time in the area. Bids will not be accepted the day of Bid Opening, August 28, 1991. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless a written modification or written withdrawal request is received by the RD prior to 10 a.m. August 27, 1991. Bid Opening Time will be 9 a.m. on August 28, 1991, at the Egan Civic and Convention Center, 555 West 5th Avenue, Anchorage, Alaska. All bids must be submitted and will be considered in accordance with applicable regulations including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register on April 4, 1991, at 56 FR 13842.

3. **Method of Bidding**. A separate signed bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 126, Chukchi Sea (Official Protraction Diagram (OPD) number(s), OPD name(s), and block number(s)), not to be opened until 9 a.m., a.s.t., August 28, 1991," must be submitted for each block or prescribed bidding unit bid upon. The company qualification number should also appear on the envelope. For example, a label would read as follows: "Sealed Bid for Oil & Gas Lease Sale 126, NS 3-7, block 228, not to be opened until 9 a.m., August 28, 1991, ABC Oil Inc. No. Y0234." For those blocks which must be bid upon as a bidding unit (see paragraph 12), it is recommended that all numbers of blocks and OPD's comprising the bidding unit appear on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior--Minerals Management Service. The company qualification number should also appear on the check or draft together with OPD and block identification. No bid for less than all of the unleased portions of a block or bidding unit as described in paragraph 12 will be considered. Bidders are advised to use the description "All the Unleased Federal Portion" for those blocks having only portions currently available for leasing.

All documents must be executed in conformance with signatory authorizations on file. Partnerships also need to submit or have on file in the Alaska OCS Region office a list of signatories authorized to bind the partnership. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 33.33333 percent. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. **Bidding System**. All bids submitted at this sale must provide for a cash bonus in the amount of $62 or more per hectare or fraction thereof. All leases awarded will provide for a yearly rental payment of $8 per hectare or fraction thereof. All leases will provide for a minimum royalty of $8 per hectare or fraction thereof. The bidding system applied for this sale will be cash bonus with a 1/8-fixed royalty rate.

5. **Equal Opportunity**. Each bidder must qualify for the sale by submitting prior to the Bid Submission Deadline stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form MMS-2033 (June 1985), and the Affirmative Action Form, Form MMS 2032 (June 1985). See the Affirmative Action paragraph under "Information to Lessees" ITL No. (i).

6. **Bid Opening**. Bid opening will begin at the times stated in paragraph 2. The public opening and reading of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of bid opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. **Deposit of Payment**. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest-bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. **Withdrawal of Blocks**. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. **Acceptance, Rejection, or Return of Bids**. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or bidding unit will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $62 or more per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, and other applicable regulations may be returned to the person submitting that bid by the authorized officer and not considered for acceptance.

10. **Successful Bidders**. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease, pay the balance of the cash bonus bid together with the first year's annual rental for each lease issued, by electronic funds transfer (EFT) in accordance with the requirements of 30 CFR 218.155. The Federal Reserve Bank of New York must receive the EFT payment no later than noon, Eastern Standard Time, on the eleventh business day after receipt of the notice of bid acceptance. The term "business day" is defined as a day on which the Alaska OCS Region office is open for business. Successful bidders must satisfy the bonding requirements of 30 CFR 256, Subpart I.

11. **Official Protraction Diagrams (OPD's)**. Blocks or portions of blocks offered for lease may be located on the following OPD's which may be purchased from the Alaska OCS Region office for $2 each:

Outer Continental Shelf Official Protraction Diagrams:

NS 2-8	(revised 5/2/89)
NS 3-7	(approved 7/14/81)
NS 3-8	(approved 1/21/81)
NR 2-2	Tison (revised 5/2/89)
NR 2-4	Studds (revised 5/2/89)
NR 3-1	Karo (revised 8/22/86)
NR 3-2	(approved 10/12/77)
NR 3-3	(revised 12/16/85)
NR 2-6	Chukchi Sea (revised 10/26/87)
NR 3-4	Solivik Island (revised 12/16/85)
NR 4-3	Wainwright (revised 12/16/85)
NR 3-5	Point Lay West (revised 9/14/87)

12. **Description of the Areas Offered for Bids**. The lease sale area offered for bids is listed by OPD. Two categories of blocks may appear under each OPD listed: (1) whole or partial blocks, and/or (2) blocks which comprise bidding units.

For whole or partial blocks, each block must be bid on separately. Hectares for whole or partial blocks listed in this paragraph may be found on the appropriate OPD.

For bidding units, each bidding unit must be bid on separately and must include all blocks within the unit. The entire bidding unit is listed in this Notice under the OPD where the first partial block is located. When part of the bidding unit is located on an adjacent OPD, the appropriate OPD number will be listed (i.e., 661, (NS 3-7)).

The following blocks or portions of blocks are offered for bids:

Official Protraction Diagram NS 2-8 (revised May 2, 1989)

(1) **WHOLE and PARTIAL BLOCKS:**

15-20	279-285	543-549	807-813
59-65	323-329	587-593	851-857
103-109	367-372	631-637	895-901
147-153	411-416	675-681	940-946
191-197	455-459	719-725	984-988
235-241	499-505	763-769	

(2) **BIDDING UNITS:**

Blocks	Hectares	Total Hectares
14	406.55	
58	328.60	
102	250.67	
146	172.76	
190	94.86	
234	20.08	1273.52
21	1078.85	
2 (NS 3-7)	1078.85	2157.70
682	503.27	
661 (NS 3-7)	503.27	
726	618.28	
705 (NS 3-7)	618.28	2243.10
770	733.26	
749 (NS 3-7)	733.26	1466.52
814	848.21	
793 (NS 3-7)	848.21	1696.42
858	963.13	
837 (NS 3-7)	963.13	1926.26
902	1078.03	
881 (NS 3-7)	1078.03	2156.06
939	1077.42	
983	999.86	2077.28

Official Protraction Diagram NS 3-7 (approved July 14, 1981)

(1) **WHOLE and PARTIAL BLOCKS:**

3-22	310-313	486-487	750-770
46-66	316	490-506	794-814
90-110	318-330	532-550	838-858
134-154	354	576-586	882-902
178-198	357	588-594	925-937
222-226	360	619-629	940-946
228	362-374	632-638	970-972
230-242	398	663-673	976-981
266-270	402-418	675-682	984-990
272	442-443	706-716	
274-286	446-462	718-726	

Official Protraction Diagram NS 3-8 (approved January 21, 1981)

(1) **WHOLE and PARTIAL BLOCKS:**

1-21	353-373	749-752	940-944
45-65	397-417	755-769	946
89-109	441-461	793-796	969-973
133-153	485-505	798-813	977-981
177-197	529-549	837-840	985-988
221-241	573-593	842-856	990
265-279	617-637	881-901	
282-285	661-681	925-930	
309-329	705-725	933-938	

(2) **BIDDING UNITS:**

Blocks	Hectares	Total Hectares
506	43.88	
550	158.07	
594	273.17	
638	388.23	
682	503.27	
726	618.28	1984.90
770	733.26	
814	848.21	1581.47

Official Protraction Diagram NR 2-2, Tison (revised May 2, 1989)

(1) **WHOLE and PARTIAL BLOCKS:**

16-20	236-242	500-506	764-770
60-64	280-286	545-550	808-815
104-107	324-330	588-594	852-859
110	368-374	632-638	896-903
148-154	412-418	676-682	940-947
192-198	456-462	720-726	984-991

(2) **BIDDING UNITS:**

Blocks	Hectares	Total Hectares
15	922.31	
59	844.79	
		1767.10
103	764.28	
147	689.79	
191	612.32	
		2066.39
235	534.87	
279	457.44	
323	380.03	
367	302.64	
411	225.27	
455	147.91	
499	70.58	
		2118.74
543	6.59	
544	2290.68	
		2297.27
375	38.10	
353 (NR 3-1)	38.10	
419	150.60	
397 (NR 3-1)	150.60	
463	265.13	
441 (NR 3-1)	265.13	
507	379.63	
485 (NR 3-1)	379.63	
		1666.92
551	494.10	
529 (NR 3-1)	494.10	
595	608.55	
573 (NR 3-1)	608.55	
		2205.30
639	722.96	
617 (NR 3-1)	722.96	
		1445.92
683	837.34	
661 (NR 3-1)	837.34	
		1674.68
727	951.70	
705 (NR 3-1)	951.70	
		1903.40
771	1066.03	
749 (NR 3-1)	1066.03	
		2132.06

Official Protraction Diagram NR 2-4, Studds (revised May 2, 1989)

(1) **WHOLE and PARTIAL BLOCKS:**

8-15	273-279	537-543	801-808
52-59	317-323	581-587	846-852
96-103	361-367	625-631	889-896
140-147	405-411	669-675	933-940
185-190	449-455	713-720	977-984
229-234	493-499	757-764	

(2) **BIDDING UNITS:**

Blocks	Hectares	Total Hectares
184	1139.92	
228	1062.92	
		2202.84
272	985.95	
316	908.99	
		1894.94
280	131.64	
265 (NR 3-3)	131.64	
324	245.58	
309 (NR 3-3)	245.58	
368	359.49	
353 (NR 3-3)	359.49	
		1473.42

Blocks	Hectares	Total Hectares
360	832.05	
404	755.14	
448	678.24	2265.43
412	473.37	
397 (NR 3-3)	473.37	
456	587.22	
441 (NR 3-3)	587.22	2121.18
492	601.37	
536	524.51	
580	447.68	
624	370.87	
668	294.07	2238.50
500	701.04	
485 (NR 3-3)	701.04	1402.08
544	814.83	
529 (NR 3-3)	814.83	1629.66
588	928.59	
573 (NR 3-3)	928.59	1857.18
632	1042.32	
617 (NR 3-3)	1042.32	2084.64
676	1156.02	
661 (NR 3-3)	1156.02	2312.04
712	217.30	
756	140.55	
800	63.82	421.67
844	4.23	
845	2286.88	2291.11

Official Protraction Diagram NR 3-1, Karo (revised August 22, 1986)

(1) WHOLE and PARTIAL BLOCKS:

3-5	310-321	574-583	798-800
9-16	323-331	586-587	803-804
20-23	354	593-595	808-815
46-58	357-364	618-627	837-839
64-67	367-375	630	841-844
90-92	398	637-639	846-847
95-101	401-408	662-663	851-853
109-111	411-419	665-671	857-859
134-135	442-444	674	881-887
142-145	446-452	679-683	890-903
147-148	455-456	706-707	925-931
152-155	459-463	709-714	933-947
178-179	486-496	722-727	969-974
186-199	498-499	750-752	976
222-223	504-507	754-758	979-991
229-243	530-540	765-771	
266-287	549-551	793-795	

Official Protraction Diagram NR 3-2, (approved October 12, 1977)

(1) WHOLE and PARTIAL BLOCKS:

1-6	188-193	529-550	765-769
8-15	196-198	573-584	793-802
18-20	221-229	587-594	809-813
22	232-242	617-626	815
45-61	265-273	632-636	837-846
64-66	276-286	638	852-859
89-104	309-317	661-670	881-903
107-110	319-330	677-680	925-947
133-142	353-374	682	969-991
144-148	397-418	705-714	
152-154	441-462	722-724	
177-186	485-506	749-758	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
639	722.96	
683	837.34	
		1560.30
727	951.70	
771	1066.03	
		2017.73

Official Protraction Diagram NR 3-3 (revised December 16, 1985)

(1) WHOLE and PARTIAL BLOCKS:

2-7	144-150	398-405	705-728
11-24	178-185	407-416	749-772
46-51	187-194	420	793-816
55	223-238	442-460	837-860
57-64	266-284	486-508	881-904
90-95	310-319	530-552	925-948
98	321-328	574-596	969-992
100-106	354-372	618-640	
134-142	376	662-684	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
221	24.45	
222	2297.22	
		2321.67

Official Protraction Diagram NR 2-6, Chukchi Sea (revised October 26, 1987)

(1) WHOLE and PARTIAL BLOCKS:

17-24	281-288	546-552	810-813
61-68	325-332	590-597	854-855
105-111	369-376	634-641	898
149-156	413-420	678-685	
193-200	457-464	722-727	
237-244	502-508	766-770	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
112	2282.78	
113	8.54	
		2291.32
157	100.67	
134 (NR 3-5)	100.67	
201	214.00	
178 (NR 3-5)	214.00	
245	327.29	
222 (NR 3-5)	327.29	
289	440.56	
266 (NR 3-5)	440.56	
		2165.04
333	553.79	
310 (NR 3-5)	553.79	
		1107.58
377	666.99	
354 (NR 3-5)	666.99	
		1333.98
421	780.16	
398 (NR 3-5)	780.16	
		1560.32
465	893.30	
442 (NR 3-5)	893.30	
		1786.60
501	1142.98	
545	1066.61	
		2209.59
509	1006.41	
486 (NR 3-5)	1006.41	
		2012.82
553	1119.48	
530 (NR 3-5)	1119.48	
		2238.96
589	990.26	
633	913.93	
		1904.19

Blocks	Hectares	Total Hectares
677	837.62	
721	761.34	
765	685.07	
		2284.03
809	608.83	
853	532.61	
897	456.41	
		1597.85

Official Protraction Diagram NR 3-4, Solivik Island (revised December 16, 1985)

(1) **WHOLE and PARTIAL BLOCKS:**

1-6	178-199	485-496	793-795
8	221-242	529-538	837-838
10-23	265-283	573-580	881
45-50	309-326	617-623	
52-67	353-369	661-666	
89-111	397-411	705-709	
134-155	441-453	749-752	

Official Protraction Diagram NR 4-3, Wainwright (revised December 16, 1985)

(1) **WHOLE** and **PARTIAL BLOCKS:**

2-11
46-53
90-95
134-136
178

Official Protraction Diagram NR 3-5, Point Lay West (revised September 14, 1987)

(1) **WHOLE** and **PARTIAL BLOCKS:**

3-24	179-196	355-366	531-534
47-67	223-239	399-408	574-577
92-110	267-281	443-450	618-619
135-153	311-323	487-492	

(2) **BIDDING UNITS:**

Blocks	Hectares	Total Hectares
90	8.54	
91	2282.78	
		2291.32

13. **Lease Terms and Stipulations.**

Nothing in this Notice affects or diminishes the applicability of Federal law to or on the OCS nor extends State law to or on the OCS.

(a) Leases resulting from this sale will have an initial term of ten (10) years. Leases will be issued on Form MMS-2005 (March 1986). Copies of the lease form are available from the Regional Supervisor, Leasing & Environment, Alaska OCS Region, at the first address stated in paragraph 2.

(b) The following stipulations will apply to each lease resulting from this sale unless otherwise indicated.

Stipulation No. 1--Protection of Archaeological Resources

(a) "Archaeological resource" means any prehistoric or historic district, site, building, structure, or object (including shipwrecks); such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object (16 U.S.C. 470w(5)). "Operations" means any drilling, mining, or construction, or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Supervisor, Field Operations (RSFO), believes an archaeological resource may exist in the lease area, the RSFO will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RSFO, to determine the potential existence of any archaeological resource that may be affected by operations. The report, prepared by an archaeologist and a geophysicist, shall be based on an assessment of data from remote-sensing surveys and of other pertinent archaeological and environmental information. The lessee shall submit this report to the RSFO for review.

(2) If the evidence suggests that an archaeological resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the archaeological resource may be; or

(ii) Establish to the satisfaction of the RSFO that an archaeological resource does not exist or will not be adversely affected by operations. This shall be done by further archaeological investigation, conducted by an archaeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RSFO. A report on the investigation shall be submitted to the RSFO for review.

(3) If the RSFO determines that an archaeological resource is likely to be present in the lease area and may be adversely affected by operations, the RSFO will notify the lessee immediately. The lessee shall take no action that may adversely affect the archaeological resource until the RSFO has told the lessee how to protect it.

(c) If the lessee discovers any archaeological resource while conducting operations in the lease area, the lessee shall report the discovery immediately to the RSFO. The lessee shall make every reasonable effort to preserve the archaeological resource until the RSFO has told the lessee how to protect it.

Stipulation No. 2--Protection of Biological Resources

If biological populations or habitats that may require additional protection are identified in the lease area by the Regional Supervisor, Field Operations (RSFO), the RSFO may require the lessee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RSFO shall give written notification to the lessee of the RSFO's decision to require such surveys.

Based on any surveys which the RSFO may require of the lessee or on other information available to the RSFO on special biological resources, the RSFO may require the lessee to:

(1) Relocate the site of operations;

(2) Establish to the satisfaction of the RSFO, on the basis of a site-specific survey, either that such operations will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist;

(3) Operate during those periods of time, as established by the RSFO, that do not adversely affect the biological resources; and/or

(4) Modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If any area of biological significance should be discovered during the conduct of any operations on the lease, the lessee shall immediately report such findings to the RSFO and make every reasonable effort to preserve and protect the biological resource from damage until the RSFO has given the lessee direction with respect to its protection.

The lessee shall submit all data obtained in the course of biological surveys to the RSFO with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed until the RSFO provides written directions to the lessee with regard to permissible actions.

Stipulation No. 3--Orientation Program

The lessee shall include in any exploration or development and production plans submitted under 30 CFR 250.33 and 250.34 a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) for review and approval by the Regional Supervisor, Field Operations. The program shall be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns which relate to the sale and adjacent areas. The program shall be formulated by qualified instructors experienced in each pertinent field of study and shall employ effective methods to ensure that personnel are informed of archaeological and biological resources and habitats, including endangered species, fisheries, bird colonies, and marine mammals, and to ensure that personnel understand the importance of not disturbing archaeological resources and of avoidance and nonharassment of wildlife resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating. The orientation program shall also include information concerning avoidance of conflicts with subsistence activities. The program also shall include presentations and information about all pertinent lease sale stipulations and information to lessees provisions.

The program shall be attended at least once a year by all personnel involved in onsite exploration or development and

production activities (including personnel of the lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors, and subcontractors.

The lessee shall maintain a record of all personnel who attend the program. This record shall include the name and date(s) of attendance of each attendee and shall be kept onsite for so long as the site is active, not to exceed 5 years.

Stipulation No. 4--Transportation of Hydrocarbons

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Regional Technical Working Group, or other similar advisory groups with participation of Federal, State, and local governments and industry.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Regional Supervisor, Field Operations.

Stipulation No. 5--Subsistence Whaling and Other Subsistence Activities

All exploration and development and production operations shall be conducted in a manner that minimizes any potential for conflict between oil and gas industry and subsistence activities, particularly the subsistence bowhead whale hunt.

Prior to submitting an exploration plan or development and production plan to the lessor for activities proposed during the bowhead whale migration period, the lessee shall contact potentially affected subsistence whaling communities, such as Wainwright, Barrow, Point Hope, and Point Lay, and the Alaska Eskimo Whaling Commission (AEWC) to discuss potential conflicts with the siting, timing, and methods of proposed operations. Through this consultation, the lessee shall make reasonable

efforts to assure that exploration, development, and production activities are compatible with whaling and other subsistence hunting activities and will not result in undue interference with subsistence harvests.

A discussion of resolutions reached during this consultation process and any unresolved conflicts shall be included in the exploration plan or the development and production plan. In particular, the lessee shall show in the plan how mobilization of the drilling unit and crew and supply boat routes will be scheduled and located to minimize conflicts with subsistence activities. Communities, individuals, and other entities who were involved in the consultation shall be identified in the plan. The lessee shall notify the Regional Supervisor, Field Operations, of all complaints received from subsistence hunters during operations and of steps taken to resolve such complaints.

The lessee shall send a copy of the exploration plan or development and production plan to the potentially affected whaling communities and the AEWC at the same time they are submitted to the lessor to allow concurrent review and comment as part of the lessor's plan approval process.

Subsistence whaling activities occur generally during the following period:

April to June: Barrow whalers use lead systems off Point Barrow and west of Barrow in the Chukchi Sea. Wainwright whalers use lead systems between Wainwright and Peard Bay. Point Hope and Point Lay whalers use the lead systems south of Point Hope.

Stipulation No. 6--Oil-Spill-Response Preparedness

Lessees must be prepared to respond to oil spills, which includes training of personnel for familiarization with response equipment and strategies, and conducting drills to demonstrate readiness. Prior to approval of exploration or development and production plans, lessees shall submit for review and approval Oil-Spill-Contingency Plans (OSCP's) in accordance with 30 CFR 250.42. The OSCP must address all aspects of oil-spill-response readiness, including an analysis of potential spills and spill-response strategies, type, location and availability of appropriate oil-spill equipment, and response times and equipment capability for the proposed activities. The plan must also address response drills and training requirements. The lessee shall conduct drills under realistic conditions, without endangering the safety of personnel, to the extent necessary to demonstrate continued readiness and response capability for appropriate environmental conditions: e.g., solid ice, open water, and broken ice conditions. For production operation, drills shall be conducted at least semiannually. Additional drills will be required if drilling operations continue into new seasonal environmental

conditions. Drills shall include deployment of onsite response equipment, and additional equipment available from a cooperative or other sources identified in the OSCP, to the extent necessary to demonstrate adequate response preparedness for the type, location, and scope of proposed activities and anticipated environmental conditions.

14. **Information to Lessees.**

(a) Information on Bird and Marine Mammal Protection

Lessees are advised that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to the following laws, among others, the provisions of the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 et seq.); the Endangered Species Act (ESA), as amended (16 U.S.C. 1531 et seq.); and applicable International Treaties.

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment and thereby be in violation of existing laws and treaties. With respect to endangered species and marine mammals, disturbance could be determined to constitute a "taking" situation. Under the ESA, the term "take" is defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in such conduct." Under the MMPA, "take" means "harass, hunt, capture, collect, or kill or attempt to harass, hunt, capture, or kill any marine mammal." Violations under these Acts and applicable Treaties may be reported to the National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (FWS), as appropriate.

Incidental taking of marine mammals and endangered and threatened species is allowed only when the statutory requirements of the MMPA and/or the ESA are met. Section 101(a)(5) of the MMPA allows for the taking of small numbers of marine mammals incidental to a specified activity within a specified geographical area. Section 7(b)(4) of the ESA allows for the incidental taking of endangered and threatened species under certain circumstances. If a marine mammal species is listed as endangered or threatened under the ESA, the requirements of both the MMPA and the ESA must be met before the incidental take can be allowed.

Under the MMPA, the NMFS is responsible for species of the order Cetacea (whales and dolphins) and the suborder Pinnipedia (seals and sea lions) except walrus; the FWS is responsible in Alaskan waters for polar bears, sea otters, and walrus. Procedural regulations implementing the provisions of the MMPA are found at 50 CFR 18.27 for FWS, and at 50 CFR Part 228 for NMFS.

Lessees are advised that specific regulations must be applied for and in place and the Letters of Authorization must be obtained by those proposing the activity to allow the incidental take of marine mammals whether or not they are endangered or threatened. The regulatory process may require one year or longer.

Of particular concern is disturbance at major wildlife concentration areas, including bird colonies, marine mammal haulout and breeding areas, and wildlife refuges and parks. Maps depicting major wildlife concentration areas in the lease area are available from the Regional Supervisor, Field Operations. Lessees are also encouraged to confer with the FWS and NMFS in planning transportation routes between support bases and leaseholdings.

Behavioral disturbance of most birds and mammals found in or near the lease area would be unlikely if aircraft and vessels maintain at least a 1-mile horizontal distance and aircraft maintain at least a 1,500-foot vertical distance above known or observed wildlife concentration areas, such as bird colonies and marine mammal haulout and breeding areas.

For the protection of endangered whales and marine mammals throughout the lease area, it is recommended that all aircraft operators maintain a minimum 1,500-foot altitude when in transit between support bases and exploration sites. Lessees and their contractors are encouraged to minimize or reroute trips to and from the leasehold by aircraft and vessels when endangered whales are likely to be in the area. Human safety should take precedence at all times over these recommendations.

(b) Information on Areas of Special Biological and Cultural Sensitivity

Lessees are advised that certain areas are especially valuable for their concentrations of marine birds, marine mammals, fishes, or other biological resources or cultural resources. Identified areas and time periods of special biological and cultural sensitivity include the spring lead system from April through July, the area from Icy Cape to the northern boundary of the sale Notarea east of 162°W. longitude, Peard Bay, Ledyard Bay, Kasegaluk Lagoon, and the open water within 12 miles of the major bird colonies of Cape Lisburne and Cape Thompson. These areas are among areas of special biological and cultural sensitivity to be considered in the oil-spill-contingency plan required by 30 CFR 250.42. Lessees are advised that they have the primary responsibility for identifying these areas in their oil-spill contingency plans and for providing specific protective measures. Additional areas of special biological and cultural sensitivity may be identified during review of exploration plans and development and production plans.

Consideration should be given in oil-spill-contingency plans as to whether use of dispersants is an appropriate defense in the vicinity of an area of special biological and cultural sensitivity. Lessees are advised that prior approval must be obtained before dispersants are used.

(c) Information on Arctic Peregrine Falcon

Lessees are advised that the arctic peregrine falcon (Falco peregrinus tundrius) is listed as threatened by the U.S. Department of the Interior and is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Peregrines are generally present in Alaska from mid-April to mid-September and are most disturbed by human activities in the vicinity of nest sites. The conduct of Outer Continental Shelf exploration or development and production activities will not conflict with arctic peregrine falcons if onshore facilities are located away from known nest sites. The lessee should contact the FWS for information on locations of known nest sites of peregrine falcons. Aircraft should maintain at least a 1-mile horizontal and 1,500-foot vertical distance from known or potential peregrine nest sites to avoid conflict.

Lessees are advised that the FWS will review exploration plans and development and production plans submitted by lessees to the MMS. The FWS review may determine that certain restrictions could apply to further protect arctic peregrine falcon habitats. Lessees and affected operators should establish regular communication with MMS and FWS. Human safety should take precedence at all times over these recommendations.

(d) Information on Chukchi Sea Biological Task Force

Lessees are advised that in the enforcement of the Protection of Biological Resources stipulation, the Regional Supervisor, Field Operations (RSFO), will consider recommendations from the Chukchi Sea Biological Task Force (BTF), composed of designated representatives of the Minerals Management Service, Fish and Wildlife Service, National Marine Fisheries Service, and Environmental Protection Agency. Personnel from the State of Alaska and local communities are invited and encouraged to participate in the proceedings of the BTF. The RSFO will consult with the Chukchi Sea BTF on the conduct of biological surveys by lessees and the appropriate course of action after surveys have been conducted.

(e) Information on Coastal Zone Management

Lessees are advised that the Alaska Coastal Management Program (ACMP) may contain policies and standards that are relevant to

exploration and development and production activities associated with leases resulting from this sale.

In addition, the North Slope Borough Coastal Management Program has been incorporated into the ACMP and contains more specific policies related to transportation corridors; energy facility siting; geologic hazards; and protection of subsistence areas and resources, habitats, and historic or prehistoric resources.

Relevant policies are applicable to ACMP consistency reviews of postlease activities. Lessees are encouraged to consult and coordinate early with those involved in coastal management review.

(f) Information on Endangered Whales and MMS Monitoring Program

Lessees are advised that the MMS intends to continue its areawide endangered whale monitoring program in the Chukchi Sea during exploration activities. The program will gather information on whale distribution and abundance patterns and will provide the RSFO with additional assistance to determine the extent, if any, of adverse effects to the species.

The MMS will perform a National Environmental Policy Act review for each proposed exploration plan and development and production plan, including an assessment of cumulative effects of noise on endangered whales. Should the review conclude that activities described in the plan will be a threat of serious, irreparable, or immediate harm to the species, the Regional Supervisor, Field Operations (RSFO), will require that activities be modified, or otherwise mitigated before such activities would be approved.

Lessees are further advised that the RSFO has the authority and intends to limit or suspend any operations, including preliminary activities, as defined under 30 CFR 250.31, on a lease whenever bowhead whales are subject to a threat of serious, irreparable, or immediate harm to the species. Should the information obtained from MMS or lessees' monitoring programs indicate that there is a threat of serious, irreparable, or immediate harm to the species, the RSFO will require the lessee to suspend operations causing such effects, in accordance with 30 CFR 250.10. Any such suspensions may be terminated when the RSFO determines that circumstances which justified the ordering of suspension no longer exist. Notice to Lessees No. 86-2 specifies performance standards for preliminary activities.

Incidental taking of marine mammals and endangered and threatened species is allowed only when the statutory requirements of the MMPA and/or the ESA are met. Section 101(a)(5) of the MMPA allows for the taking of small numbers of marine mammals incidental to a specified activity within a specified geographical area. Section 7(b)(4) of the ESA allows for the

incidental taking of endangered and threatened species under certain circumstances. If a marine mammal species is listed as endangered or threatened under the ESA, the requirements of both the MMPA and the ESA must be met before the incidental take can be allowed.

Information regarding endangered whales will be reviewed annually by the MMS in consultation with the NMFS and the State of Alaska until it is determined that annual reviews are no longer necessary. The sources of information include: the MMS monitoring program; pertinent results of the MMS environmental studies; and other applicable information. The purpose of the review will be to determine whether existing mitigating measures adequately protect the endangered whales. Should the review indicate the threat of serious, irreparable, or immediate harm to the species, the MMS will take action to protect the species, including the possible imposition of a seasonal drilling restriction, or other restrictions if appropriate.

(g) Information on Oil-Spill-Cleanup Capability

Exploratory drilling, testing, and other downhole activities may be prohibited in broken ice conditions unless the lessee demonstrates to the RSFO the capability to detect, contain, clean up, and dispose of spilled oil in broken ice. The adequacy of such oil-spill response capability will be determined within the context of Best Available and Safest Technologies requirements and will be considered at the time the oil-spill-contingency plans are reviewed. The adequacy of these plans will be determined by the RSFO prior to approval of exploration or development and production plans.

(h) Archaeological Resources

Lessees are advised that information indicates that prehistoric archaeological resources may exist in the sale area and the RSFO intends to invoke subparagraphs (1) through (3) of Stipulation No. 1--Protection of Archaeological Resources, for the following blocks:

OPD	Blocks
NR 2-4	52-55, 96-100, 140-144, 184-187, 228-231, 272-277, 316-321, 360-365, 404-409, 448-453, 492-496, 536-540, 580-583, 624-628, 668-671, 712-715, 756-758, 800-802, 844-846, 889-891, 933-934, 977-978
NR 2-6	17-18, 61-62
NR 3-1	287, 328, 331, 371-372, 418-419, 459-460, 462-463, 504, 593-595, 637-639, 681-683, 725-727, 769-770, 947, 990-991
NR 3-2	14-15, 58-60, 139-140, 181-184, 221-227, 265-270, 309-313, 353-356, 397, 573, 661, 727, 768-769, 771, 811-813, 815, 837-838, 855-857, 881-882, 899-900, 925-926, 928-929, 940-941, 969-973, 983-985
NR 3-3	23-24, 193-194, 234-238, 277-281, 321-324, 367-368, 947-948, 989-992
NR 3-4	1-5, 14-17, 45-49, 57-62, 89-93, 100-106, 110-111, 134-137, 144-151, 153-155, 178-181, 188-189, 193-195, 197-199, 221-224, 231-242, 266-267, 271-283, 314-326, 361-369, 404, 407-411, 447-448, 450-453, 493-496, 537-538, 580, 623, 666, 709, 752, 795, 838, 881
NR 3-5	22-24, 65-67, 108-110, 153, 195-196, 238-239
NR 4-3	47-48, 52-53, 90-95, 134-136, 178
NS 3-8	586-589, 629-634, 671-682, 713-726, 755-770, 798-814, 843-856, 889-901, 935, 981, 985-988, 990

In accordance with Sale 126 lease stipulation No.1, lessees will be given written notification regarding the requirements for implementing the stipulation to ensure protection of resources which may exist in the lease sale area. This listing of blocks may be modified at any time when additional information becomes available.

(i) Affirmative Action Requirements

Revision of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, March 1986) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms contain language that would be superseded by revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Submission of Form MMS-2032 (June 1985) and Form MMS-2033 (June 1985) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(j) Navigation Safety

Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the U.S. Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended. U.S. Army Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(k) Offshore Pipelines

Lessees are advised that the Department of the Interior and the Department of Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(l) State Review of Exploration Plans and Associated Oil-Spill-Contingency Plans

The State of Alaska has advised the Minerals Management Service (MMS) that, to the extent State regulations for oil-spill-contingency plans (OSCP's) are more restrictive than MMS regulations, the State will review Outer Continental Shelf plans and associated OSCP's through the consistency review process for consistency with the State standards. In addition, the contingency plans will be reviewed for use of best available and safest technology, under 30 CFR 250.22, and coordination with State and regional coastal management plans during the consistency review of individual proposals on a case-by-case basis.

(m) Availability of Bowhead Whales for Subsistence Hunting Activities

Lessees are advised that the National Marine Fisheries Service (NMFS) issued final rule (55 FR 29207 dated July 18, 1990) authorizing an incidental nonlethal take (by harassment) of six species of marine mammals (bowhead, gray, and beluga whales and bearded, ringed, and spotted seals) in the Chukchi and Beaufort Seas from 1990-1995 by individuals who are conducting prelease and postlease oil and gas exploratory activities. These regulations prohibit the take of any marine mammal in the spring lead system used by bowhead whales in the Chukchi Sea. Incidental takes of bowhead whales are allowed only if Letters of Authorization (LOA's) are obtained from the NMFS pursuant to these regulations. In issuing an LOA, the NMFS must determine

that proposed activities will not have an unmitigable adverse effect on the availability of the bowhead whale to meet subsistence needs by causing whales to abandon or avoid hunting areas, directly displacing subsistence users, or placing physical barriers between whales and subsistence users.

Lessees are also advised that, in reviewing proposed exploration plans which propose activities during the bowhead whale migration, the Minerals Management Service (MMS) will conduct an environmental review of the potential effects of the activities, including cumulative effects of multiple or simultaneous operations, on the availability of the bowhead whale for subsistence use. The MMS may limit or require operations be modified if they could result in significant effects on the availability of the bowhead whale for subsistence use.

(n) Polar Bear Interaction

Lessees are advised that polar bears may be present in the area of operations, particularly during the solid-ice period. Lessees should conduct their activities in a manner which will limit potential encounters and interaction between lease operations and polar bears. The U.S. Fish and Wildlife Service (USFWS) is responsible for the protection of polar bears under the provisions of the Marine Mammal Protection Act of 1972, as amended. Lessees are advised to contact the USFWS regarding proposed operations and actions which might be taken to minimize interaction with polar bears.

Lessees are reminded of the provisions of the 30 CFR 250.40 regulations which prohibit discharges of pollutants into offshore waters. Trash, waste, or other debris which might attract polar bears or be harmful to polar bears should be properly stored and disposed of to minimize attraction of, or encounters with, polar bears.

Jennifer A. Salisbury

Acting Director, Minerals Management Service

Jennifer A. Salisbury

Deputy

Richard Roldan

Assistant Secretary - Land and Minerals Management

JUL 18 1991

Date

Richard Roldan

[FR Doc. 91-17518 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-MR-C

Billing Code: 4310-MR

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf
Chukchi Sea

Notice of Leasing Systems, Sale 126

Section 8(a)(8) (43 U.S.C. 1337(a)(8)) of the Outer Continental Shelf Lands Act (OCSLA) requires that, at least 30 days before any lease sale, a Notice be submitted to the Congress and published in the Federal Register:

1. identifying the bidding systems to be used and the reasons for such use; and

2. designating the tracts to be offered under each bidding system and the reasons for such designation.

This Notice is published pursuant to these requirements.

1. Bidding system to be used. In the Outer Continental Shelf (OCS) Sale 126, blocks will be offered under the following bidding system as authorized by section 8(a)(1) (43 U.S.C. 1337(a)(1): bonus bidding with a fixed 12 1/2-percent royalty.

a. Bonus Bidding with a 12 1/2-Percent Royalty. This system is authorized by section (8)(a)(1)(A) of the OCSLA. It has been chosen for all blocks proposed for the Chukchi Sea (Sale 126) because these blocks are expected to have high exploration, development, and production costs.

The Department of the Interior analyses indicate that the minimum economically developable discovery on a block in such high-cost areas under a 12 1/2-percent royalty system would be less than for the same blocks under a 16 2/3-percent royalty system. In addition, the lower royalty rate system is expected to encourage more rapid production and higher economic profits. It is not anticipated, however, that the larger cash bonus bid associated with a lower royalty rate will significantly reduce competition, since the higher costs for exploration and development are the primary constraints to competition.

[FR Doc. 91-17519 Filed 7-23-91; 8:45 am]

BILLING CODE 4310-MR-C

2. Designation of Blocks. All blocks in this lease sale will be offered under a 12 1/2-percent royalty system because that system is most appropriate to the resource levels and costs expected in this sale area.

Jennifer A. Salisbury

ACTING Director, Minerals Management Service

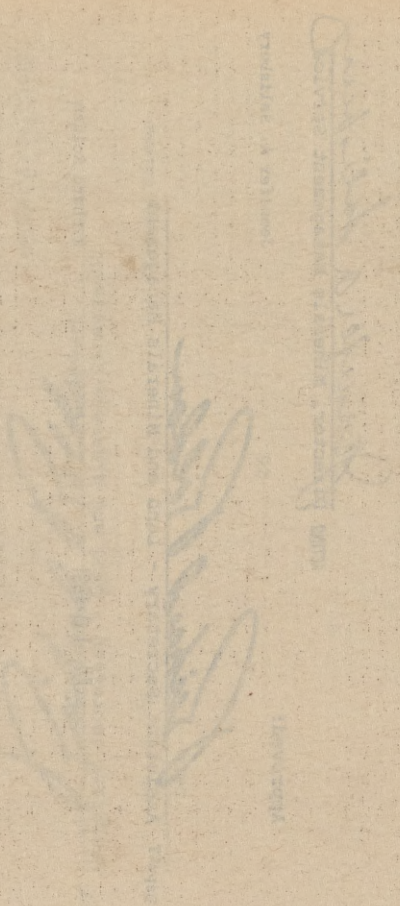
Approved:

Richard Roldan

Deputy Assistant Secretary - Land and Minerals Management

JUL 18 1991

Richard Roldan



federal register

Wednesday
July 24, 1991

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 157

Notice of Construction, Alteration, Activation, and Deactivation of Airports; Final Rule With Request for Comments

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 157

[Docket No. 25708, Amendment No. 157-6]

RIN: 2120-AE20

Notice of Construction, Alteration, Activation, and Deactivation of Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action revises a previous amendment to this part before the effective date of that amendment: (1) By deleting a requirement for operators to provide the FAA with notice prior to establishing an airport located within a specified distance from another airport, or prior to establishing a heliport located in a residential, business, or industrial area; (2) by excluding from the notice requirements of this part those proponents who intend to use, on an intermittent basis for less than one year, a site that is not an established airport; and (3) by clarifying that telephone notice for situations involving an emergency public service or an unreasonable hardship arising from a delay due to the 90-day advance notice requirement should be directed to the appropriate Airports District/Field Office or Regional Office. This action is expected to eliminate any potential reading of an agency regulation which may suggest that notice would be required in situations where such notice is not needed or intended.

DATES: Effective date: August 30, 1991. Comments received on or before November 21, 1991 will be considered.

ADDRESSES: Send comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 25708, 800 Independence Avenue SW., Washington, DC 20591; or deliver comments to: Federal Aviation Administration, Rules Docket, Room 915-G, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard K. Kagehiro, Airspace and Obstruction Evaluation Branch, ATP-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3075.

SUPPLEMENTARY INFORMATION:

Comments Invited

Even though this rule is final, interested persons are invited to submit written data, views, or arguments pertinent to the issues addressed by this amendment. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25708." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must identify the docket number.

Background

On August 27, 1990, the FAA published Amendment No. 157-4 which revised certain notice requirements associated with the construction, alteration, activation, and deactivation of airports (55 FR 34994). Amendment No. 157-4 was based on comments to a Notice of Proposed Rulemaking published on October 4, 1988 (Docket No. 25708, Notice No. 88-15; 53 FR 39062). Specifically, Amendment No. 157-4: (1) Provides for a notice requirement for the establishment of, or a change to, a traffic pattern; (2) clarifies the notice requirement for certain changes in the status of airport use designation; (3) defines the term "private use of public lands or waters"; (4) eliminates the term "personal use" as an airport use designation; (5) provides for an FAA determination void date; (6) reduces the time from 30 to 15 days that an airport proponent must notify the FAA of the completion of an airport project; (7) clarifies the scope of part 157 to include consideration of the safety of persons and property on the surface, and states that an FAA determination is not based on any environmental or land-use compatibility issue; (8) incorporates certain editorial changes to simplify and clarify Part 157; and (9) establishes a reporting requirement for certain airports and landing areas. The original effective date of Amendment No. 157-4 was February 27, 1991.

After publication of Amendment No. 157-4 (August 27, 1990) and before the original effective date of Amendment No. 157-4 (February 27, 1991), the FAA received comments from aviation organizations and operators regarding the revised notice requirement for temporary airports and landing areas. The majority of these commenters believed that prior notice would be required for a limited number of aircraft landings at a site that is not an established airport but is located within a certain distance from another airport or located in a residential, business, or industrial area. Based on those comments, the FAA reviewed Amendment No. 157-4 and concluded that the provisions of § 157.1, Applicability (as revised by Amendment No. 157-4), may suggest that an operator who conducts a limited number of landings and takeoffs at a site that is not an established airport has, in effect, established a new airport. Such an interpretation, while not the FAA's intent, would imply that the operator would have been required to notify the FAA at least 90 days in advance of any such landing. The FAA believed that the potential misunderstanding of the revised § 157.1 was created, in part, because of the difference in the wording and form of § 157.1 as proposed in Notice No. 88-15 and as it appeared in Amendment No. 157-4.

On February 28, 1991, the FAA delayed the effective date of Amendment No. 157-4 to August 30, 1991 (Amendment No. 157-5; 56 FR 8674) to eliminate any potential reading of an agency regulation that suggests that notice is required in situations where such notice is not needed or intended. The FAA stated that the delay was necessary to provide time for review and possible revision of the provisions involved to reduce the possibility of misunderstanding.

FAA Response

This amendment responds to comments regarding the revised notice requirements for certain temporary airports and landing areas. This action does not affect any other revision to Part 157 resulting from Amendment No. 157-4.

The FAA, in Amendment No. 157-4, had intended to establish a notice requirement for those operators establishing airports in proximity to

other airports or located in residential, business, or industrial areas. Such notice provides the FAA with an opportunity to conduct an aeronautical study of an airport proposal and to determine the effects of that proposal on neighboring airports, on existing or contemplated traffic patterns at neighboring airports, and on the existing airspace environment and projected FAA programs. Further, the FAA would have the opportunity to study the effects that existing or proposed manmade objects and natural objects within the affected area would have on the airport proposal.

However, the FAA recognizes that there may be a number of reasons for multiple operations to a site with no intent to establish an airport within the meaning of part 157. For example, medical, firefighting, law enforcement, construction, logging, and agricultural functions may require repeated flights to and from an accident, incident, construction, or other temporary landing site. Additionally, certain construction, agricultural, and logging functions may not require the continuous use of a site over the course of the project but would instead involve occasional and infrequent return visits to the site. Because the notice requirements of this part currently exclude only those proponents who use or intend to use a site for less than 30 consecutive days, proponents who must use a site on an intermittent basis, for a period in excess of 30 days, are required to provide 90-days advance notice. Such notice would be required in a situation involving two operations to the same site when the return visit is conducted 30 or more days after the first operation. The FAA believes that the majority of such operations would not require or result in the establishment of an airport nor constitute an intent to establish an airport.

Currently, an operator who conducts no more than 10 operations a day at a site that is not intended to be used for more than 30 consecutive days, is not required to provide notice under part 157. For the purposes of this part, the FAA considers one operation to consist of both the flight to the site and the associated departure from that site. Ten operations therefore, would consist of 10 landings and 10 associated takeoffs.

The FAA acknowledges that § 157.1 (as revised by Amendment No. 157–4, effective August 30, 1991) may suggest that notice would be required in any situation involving an aircraft landing at a site that is located in a residential, business, or industrial area or a site within a certain distance from another airport. Such a notice requirement would result in hundreds of notices a day from aircraft operators conducting routine construction, logging, agricultural, or law enforcement operations to and from sites that are not, nor intended to be, established airports. Accordingly, the FAA is amending the language and form of § 157.1 (as revised by Amendment No. 157–4) to correspond with the current language of this section and as proposed in Notice 88–15. This revision is intended to minimize the possibility of different interpretations and eliminate the suggestion of a notice requirement where no such requirement is needed or intended. Further, the FAA is excluding those proponents who intend to use a site on an intermittent basis for less than one year. For the purposes of this part, the term "intermittent use of a site" is defined as the use of a site for no more than 3 days in one week and at which no more than 10 operations will be conducted in any one day. The FAA continues to believe that the current threshold of 10 operations a day is a reasonable limit above which the number of operations may begin to have an effect on the operation at neighboring airports. The FAA believes that those functions involving a level of activity in excess of 10 operations a day warrant closer examination by the FAA for appropriate consideration of the potential impact to adjacent airspace users. The FAA also considers a limit of 3 days a week as a reasonable indicator of the intermittent use of a site as opposed to the use of a site for 5 or more days a week as being representative of the continuous use of a site.

Section 157.5 (as revised by Amendment No. 157–4) provides that an operator must submit notice of intent to establish a new airport, FAA Form 7480–1, at least 90 days before work is to begin. However, § 157.5(b)(1) provides that in situations involving public service, public health, or public safety emergencies, or when delay would result in an unreasonable hardship, an operator may provide notice to the FAA by telephone or any other expeditious means. If operations have ceased and the site is not intended to be used again, the operator is not required subsequently to submit written notice to the FAA on Form 7480–1.

The FAA is clarifying § 157.5 (as revised by Amendment No. 157–4) by explaining that operators providing telephone notification in accordance with § 157.5(b)(1) should contact the appropriate FAA Airport District/Field Office or Regional Office as soon as practicable. Amendment No. 157–4 did not identify the appropriate FAA office to contact by telephone.

The Rule

This action revises a previous amendment to this part (Amendment No. 157–4) which will become effective on August 30, 1991. To eliminate the possibility of misinterpretation of agency rulemaking, the FAA is revising § 157.1 (as revised by Amendment No. 157–4) to provide that an airport at which flight operations will be conducted under visual flight rules (VFR), and will be used for less than 30 days with no more than 10 operations a day, is excluded from the notice requirements of part 157, regardless of where that airport is located. Additionally, proponents who use or intend to use a site that is not an established airport on an intermittent basis (no more than 3 days in a week and for no more than 10 operations a day) are excluded from the notice requirement. Section 157.5 is also being revised to specify the appropriate FAA office to be notified by telephone for situations involving an emergency public service or an unreasonable hardship to the operator.

This action only affects those changes to Part 157 (resulting from Amendment No. 157–4) which involve the revised notice requirements for certain airports and landing areas. The other changes to Part 157 resulting from Amendment No. 157–4 are not affected by this action and will become effective on August 30, 1991. To reflect the correct and intended verbiage of part 157 as a result of Amendment No. 157–4 and this action, the FAA is printing part 157 in its entirety.

Effective Date

This amendment is adopted as a final rule to clarify the intent of an agency regulation and to ensure that the public will not be unnecessarily inconvenienced by an apparent requirement for notice which the agency did not intend and does not require. The revision of part 157 was previously proposed for public comment, and extensive public comments were received on the issues addressed in this amendment. Accordingly, I find that further notice and delay in the clarification of an agency regulation are unnecessary and contrary to the public interest, and that this amendment is excepted from the general notice and

comment requirements pursuant to 5 U.S.C. 553(b). For the same reasons, and because this amendment relieves a restriction, I find that good cause exists for making the amendment effective coincident with the August 30 effective date of Amendment No. 157–4.

Requests for Comments

Comments are requested on the specific issues addressed by this amendment, particularly on the clarifying language of revised § 157.1, Applicability. The FAA received approximately 60 comments regarding the notice requirement for the establishment of airports located in proximity to another airport and for the establishment of heliports located in residential, business, and industrial areas. The FAA is requesting additional comments to provide all interested and affected parties with an opportunity to express their views and opinions on this matter. Issues relating to the notice requirement for a change to, or the establishment of an airport traffic pattern; the elimination of the term "personal use" as an airport use designation; the provision for FAA determination void dates; and other changes resulting from Amendment No. 157–4 have been the subject of notice and comment proceedings, and this request for comments does not represent a reopening or reconsideration of these issues.

Economic Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each proposed change outweigh potential costs. Accordingly, the FAA has examined the economics of this proposal in an effort to identify and quantify benefits and costs. As a result of that examination, the agency has determined that benefits are positive, but minimal, and costs are negligible.

This rule relieves the public from an unintended and unnecessary notice requirement which would have resulted in the absence of this action. In particular, this rule will relieve certain airport proponents from the burden of a 90-day notice requirement prior to the establishment of an airport located within a specified distance from another airport, the establishment of a heliport located in a residential, business, or industrial area; or the intermittent use of a site for less than one year. The FAA has determined that this rule does not impose additional cost burdens on the public or on the FAA and is, in fact, cost relieving.

An analysis of the economic impact of the changes to Part 157 resulting from Amendment No. 157–4 appears in the preamble discussion to that amendment (55 FR 34994; August 27, 1990). This clarification of regulatory requirements does not affect that analysis. Because there is no impact resulting from this rule, and this rule is relieving in nature, the FAA has not performed a further regulatory evaluation.

International Trade Impact Statement

This rule will not impose a competitive disadvantage to either U.S. air carriers doing business abroad or foreign air carriers doing business in the United States. This assessment is based on the fact that this rule will have no impact on either U.S. or foreign air carriers.

Federalism Implications

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

Paperwork Reduction Act

This action clarifies an agency regulation and does not change any reporting requirement associated with part 157.

Conclusion

For the reasons discussed in the preamble, and based on the regulatory analysis contained in the preamble to Amendment No. 157–4, the FAA has determined that this regulation is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 157

Airports, Aviation safety.

The Amendment

For the reasons set forth above, 14 CFR part 157 of the Code of Federal Regulations is amended by revising it to read as follows:

PART 157—NOTICE OF CONSTRUCTION, ALTERATION, ACTIVATION, AND DEACTIVATION OF AIRPORTS

Sec.

Authority: Secs. 309, 313(a), 314, 72 Stat. 751; 49 U.S.C. 1350, 1354(a), 1355.

§ 157.1 Applicability.

This part applies to persons proposing to construct, alter, activate, or deactivate a civil or joint-use (civil/military) airport or to alter the status or use of such an airport. Requirements for persons to notify the Administrator concerning certain airport activities are prescribed in this part. This part does not apply to projects involving:

(a) An airport subject to conditions of a Federal agreement that requires an approved current airport layout plan to be on file with the Federal Aviation Administration; or

(b) An airport at which flight operations will be conducted under visual flight rules (VFR) and which is used or intended to be used for a period of less than 30 consecutive days with no more than 10 operations per day.

(c) The intermittent use of a site that is not an established airport, which is used or intended to be used for less than one year and at which flight operations will be conducted only under VFR. For the purposes of this part, *intermittent use of a site* means:

(1) The site is used or is intended to be used for no more than 3 days in any one week; and

(2) No more than 10 operations will be conducted in any one day at that site.

§ 157.2 Definition of terms.

For the purpose of this part:

Airport means any airport, heliport, helistop, vertiport, gliderport, seaplane base, ultralight flightpark, manned balloon launching facility, or other aircraft landing or takeoff area.

Heliport means any landing or takeoff area intended for use by helicopters or other rotary wing type aircraft capable of vertical takeoff and landing profiles.

Private use means available for use by the owner only or by the owner and other persons authorized by the owner.

Private use of public lands means that the landing and takeoff area of the proposed airport is publicly owned and the proponent is a non-government entity, regardless of whether that landing and takeoff area is on land or on

water and whether the controlling entity be local, State, or Federal Government.

Public use means available for use by the general public without a requirement for prior approval of the owner or operator.

Traffic pattern means the traffic flow that is prescribed for aircraft landing or taking off from an airport, including departure and arrival procedures utilized within a 5-mile radius of the airport for ingress, egress, and noise abatement.

§ 157.3 Projects requiring notice.

Each person who intends to do any of the following shall notify the Administrator in the manner prescribed in § 157.5:

(a) Construct or otherwise establish a new airport or activate an airport.

(b) Construct, realign, alter, or activate any runway or other aircraft landing or takeoff area of an airport.

(c) Deactivate, discontinue using, or abandon an airport or any landing or takeoff area of an airport for a period of one year or more.

(d) Construct, realign, alter, activate, deactivate, abandon, or discontinue using a taxiway associated with a landing or takeoff area on a public-use airport.

(e) Change the status of an airport from private use to public use or from public use to another status.

(f) Change any traffic pattern or traffic pattern altitude or direction.

(g) Change status from IFR to VFR or VFR to IFR.

§ 157.5 Notice of intent.

(a) Notice shall be submitted on FAA Form 7480–1, copies of which may be obtained from an FAA Airport District/Field Office or Regional Office, to one of those offices and shall be submitted at least—

(1) in the cases prescribed in paragraphs (a) through (d) of § 157.3, 90 days in advance of the day that work is to begin; or

(2) in the cases prescribed in paragraphs (e) through (g) of § 157.3, 90 days in advance of the planned implementation date.

(b) Notwithstanding paragraph (a) of this section—

(1) in an emergency involving essential public service, public health, or public safety or when the delay arising from the 90-day advance notice requirement would result in an unreasonable hardship, a proponent may provide notice to the appropriate FAA Airport District/Field Office or Regional Office by telephone or other expeditious means as soon as practicable in lieu of submitting FAA Form 7480–1. However, the proponent shall provide full notice, through the submission of FAA Form 7480–1, when otherwise requested or required by the FAA.

(2) notice concerning the deactivation, discontinued use, or abandonment of an airport, an airport landing or takeoff area, or associated taxiway may be submitted by letter. Prior notice is not required; except that a 30-day prior notice is required when an established instrument approach procedure is involved or when the affected property is subject to any agreement with the United States requiring that it be maintained and operated as a public-use airport.

§ 157.7 FAA determinations.

(a) The FAA will conduct an aeronautical study of an airport proposal and, after consultations with interested persons, as appropriate, issue a determination to the proponent and advise those concerned of the FAA determination. The FAA will consider matters such as the effects the proposed action would have on existing or contemplated traffic patterns of neighboring airports; the effects the proposed action would have on the existing airspace structure and projected programs of the FAA; and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal. While determinations consider the effects of the proposed action on the safe and efficient use of airspace by aircraft and the safety of persons and property on the ground, the determinations are only advisory. Except for an objectionable determination, each determination will contain a determination-void date to facilitate efficient planning of the use of the navigable airspace. A determination does not relieve the proponent of responsibility for compliance with any local law, ordinance or regulation, or state or other Federal regulation. Aeronautical studies and determinations will not consider environmental or land use compatibility impacts.

(b) An airport determination issued under this part will be one of the following:

(1) *No objection.*

(2) *Conditional.* A conditional determination will identify the objectionable aspects of a project or action and specify the conditions which must be met and sustained to preclude an objectionable determination.

(3) *Objectionable.* An objectionable determination will specify the FAA's reasons for issuing such a determination.

(c) *Determination void date.* All work or action for which notice is required by this sub-part must be completed by the determination void date. Unless otherwise extended, revised, or terminated, an FAA determination becomes invalid on the day specified as the determination void date. Interested persons may, at least 15 days in advance of the determination void date, petition the FAA official who issued the determination to:

(1) Revise the determination based on new facts that change the basis on which it was made; or

(2) Extend the determination void date. Determinations will be furnished to the proponent, aviation officials of the state concerned, and, when appropriate, local political bodies and other interested persons.

§ 157.9 Notice of completion.

Within 15 days after completion of any airport project covered by this part, the proponent of such project shall notify the FAA Airport District Office or Regional Office by submission of FAA Form 5010–5 or by letter. A copy of FAA Form 5010–5 will be provided with the FAA determination.

Issued in Washington, DC on July 19, 1991.

James B. Busey,

Administrator.

[FR Doc. 91–17568 Filed 7–23–91; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
July 24, 1991

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Temporary Flight Restrictions; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26605; Notice No. 91-14]

RIN 2120-AD-55

Temporary Flight Restrictions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The FAA proposes to require the operator of an aircraft used in conducting authorized news-gathering operations in an area covered by temporary flight restrictions to contact the official in charge of the on-scene emergency response activities for the purpose of obtaining information about current and forecasted disaster relief aircraft activities. Adoption of this proposal would reduce the potential for traffic conflicts and disruption of relief operations. This proposal would increase the level of safety afforded aircraft used in conducting rescue or disaster relief operations.

DATES: Comments must be received on or before September 23, 1991.

ADDRESSES: Comments on this proposal may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 26605, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP-230, Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-9251.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking procedures by submitting such written data, views, or arguments as they may desire. Comments are invited that provide the factual basis supporting the views and suggestions presented relating to the environmental, energy, or economic impacts that may result from adoption of the proposals contained in this notice. Communications should identify the regulatory docket number or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further action on the proposed revisions to the rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons before and after the closing date for comments. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No." The postcard will be date/time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the docket number and/or notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Currently, when temporary flight restrictions are established under § 91.137(a)(2) to provide for the safety of aircraft conducting rescue or disaster relief operations, aircraft carrying properly accredited newspeople may enter the prescribed area without prior approval after filing a flight plan. However, the pilot of such an aircraft must operate above the altitude(s) being used by rescue or disaster relief aircraft. The process by which a pilot determines which altitudes are in use is not prescribed by the current regulation. Therefore, a pilot may determine such altitudes by requesting the information directly from the rescue or disaster relief aircraft on an appropriate two-way radio frequency, by observation, or by other methods. The information obtained using these methods may be valid for only a short time, or inaccurate.

For example, in the case of temporary flight restrictions established for a forest fire being fought by aircraft dropping fire retardants, a pilot of an aircraft carrying newspeople visually determines the presence of rescue or disaster relief aircraft, and will often overlook the fact that there may be air tankers holding outside the operations area prior to entering the area to drop fire retardants. The official in charge of on-scene activities is the logical source for accurate information concerning the aircraft operating in the operations area and can generally be reached via two-way radio communications.

Recently, situations involving aircraft carrying newspeople and emergency response aircraft in areas covered by temporary flight restrictions have occurred. For example, the U.S. Department of the Interior and the Forest Service have indicated that aircraft carrying accredited newspeople have been observed on several occasions operating below the altitudes being used by rescue or disaster relief aircraft. Specifically, on July 10, 1989, during fire suppression in Meadow Valley, Washington (Bertha Fire Helibase), a Bell 206 Helicopter was observed heading toward the fire scene, flying at approximately 50 feet above ground level (AGL), directly over the helibase. Temporary flight restrictions were in effect over the area. Due to the unknown position of the intruding helicopter, fire suppression activities were temporarily suspended. Another incident occurred on June 29, 1989, near Sunflower, Arizona, over mountainous terrain at 4,300 feet mean sea level. A fire had been reported out of control and temporary flight restrictions were in effect for the area. An air tanker had just made a drop and was climbing out of the mountain canyon when a Robertson R-22 Helicopter was observed flying up the canyon at or near the same altitude, approximately 700 feet AGL. The tanker was required to increase the rate of climb in order to avoid the helicopter. Subsequently, the intruding helicopter landed at the firebase heliport. The pilot of the intruding helicopter was under contract to a news service. After landing, the pilot was informed of the temporary flight restrictions and the potentially hazardous situation that he had created for himself, his passengers and the crew of the air tanker. At no time prior to landing at the heliport did the pilot of the intruding helicopter make contact with the official in charge of on-scene activities.

The FAA has determined that such incidents demonstrate the need for stricter control of news-gathering operations using aircraft. Such control would be facilitated by having the news-gathering aircraft operate within the parameters established by the on-scene emergency response official. When a

temporary flight restriction is issued through the notice to airman (NOTAM) system, information containing the person in charge of the emergency, the appropriate phone number, and the FAA coordination facility are in the NOTAM. Further, this contact would result in an appropriate air-to-air or air-to-ground radio frequency being given to the aircraft operator. Failure to obtain pertinent information from the official in charge of on-scene emergency response activities and remain clear of the routes, altitudes, and operating areas identified within the temporary flight restriction area would be a violation of § 91.137.

The Proposal

The FAA is proposing to revise § 91.137(c)(5) to require: (1) All pilots of aircraft carrying properly accredited newspeople to first contact the official in charge of on-scene emergency response activities to ascertain the routes, altitudes, and operating areas in use by disaster relief aircraft; and (2) that the aircraft be operated clear of all disaster relief aircraft operations identified by the official in charge.

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA. The full regulatory evaluation provides more detailed analysis of the economic consequences of this proposed regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society for each regulatory change outweigh potential costs. This Order also requires the preparation of a Regulatory Impact Analysis of all major rules except those responding to emergency situations or other narrowly defined exigencies. A major rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this proposal is not major as defined in the Executive Order; therefore, a full regulatory analysis that includes the identification and evaluation of cost reducing alternatives to the proposal has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this proposal without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (RFA) and an international trade impact assessment. If more detailed economic information than is contained in this summary is desired, the reader is referred to the full regulatory evaluation contained in the docket.

Costs

The FAA estimates the total monetary costs of the proposed rule to be zero. However, there would be some negligible qualitative costs in the form of inconvenience to operators of aircraft used for news-gathering. These costs are discussed below.

For the FAA, or any government or private authority that acts as the official in charge of emergency relief aircraft operations, the proposed rule would not impose any additional administrative costs for either personnel or equipment. Any additional operations workload generated by the proposed rule would be absorbed by current personnel and equipment resources.

For aircraft operators, the proposed rule would not impose any additional equipment or operating costs. Potential equipment costs would be the acquisition of two-way radio equipment in order to contact the official in charge. Potentially affected aircraft would be air taxis or aircraft owned by news-gathering organizations. However, these aircraft routinely operate in airspace that requires two-way radio communication. Thus, the FAA assumes that these types of aircraft are already equipped with two-way radios. Operators of aircraft conducting authorized news-gathering operations could incur qualitative costs in the form of inconvenience. This would be the result of having to contact the official in charge of the emergency in addition to filing a flight plan with air traffic control. However, the FAA contends that the inconvenience of having to contact the official in charge would be negligible.

Benefits

The proposed rule is expected to accrue potential benefits primarily in the form of enhanced aviation safety to emergency response aircraft and news-gathering aircraft. These benefits are discussed below.

Safety benefits would take the form of a reduced risk in casualty losses (namely, aviation fatalities and property damage) resulting from a lowered likelihood of midair collisions. Of course, the FAA does not know with certainty to what extent the proposal would help in preventing midair collisions. In addition, the FAA cannot predict with a reliable degree of certainty the frequency and magnitude of casualty loss resulting from a midair collision because it represents a random event.

The potentially disastrous incidents described in the background section of this notice posed an unnecessary and unwarranted diminution in the margin of safety of areas under temporary flight restrictions. By not contacting the official in charge, these pilots left themselves unaware of emergency air traffic information that was pertinent to not only their safety, but to the safety of fire fighters in the air and on the ground. The FAA contends that requiring aircraft operators conducting authorized news-gathering operations to contact the official in charge would increase their awareness of the emergency operations being conducted in the area. This increased awareness and information would increase safety by lowering the likelihood of a midair collision between news-gathering and emergency aircraft. Forest fires and other crisis situations in which emergency aircraft must operate are potentially dangerous enough without the added potential of colliding with news-gathering aircraft. This proposal would also increase efficiency by lowering the likelihood of emergency operations being suspended due to unidentified aircraft operating in the area.

Conclusion

The estimated dollar cost of this proposal is zero because there would be no costs incurred to acquire additional equipment or to hire personnel on the part of the FAA, the emergency relief authority, or aircraft operators. In qualitative terms, the proposed rule would impose negligible costs in the form of the inconvenience of news-gathering aircraft operators having to contact the official in charge. The potential benefits of this proposal would be the enhanced safety of requiring aircraft operators to be more aware of emergency relief aircraft traffic and other advisory information. This information is necessary to navigate safely within an area of temporary flight restrictions and would reduce the likelihood of a midair collision. This proposed action would also generate benefits in the form of an increased efficiency in emergency operations. On balance, the FAA firmly believes that the proposed rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities. The small entities that could be potentially affected by the implementation of this proposed rule are unscheduled operators of aircraft for hire, such as air taxi operators owning nine or fewer aircraft.

Only air taxi operators and aircraft operated by news-gathering organizations without two-way radios would be affected by this proposed amendment. However, the FAA assumes that all potentially affected aircraft already are equipped with two-way radios. This assumption is based on the fact that these aircraft must routinely operate in airspace that requires two-way communications with air traffic control. Therefore, the FAA certifies that this proposed amendment would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The proposed amendment would neither have an effect on the sale of foreign aviation products or services in the United States, nor have an effect on the sale of U.S. products or services in foreign countries. This is because the proposed amendment would neither impose costs on aircraft operators nor on aircraft manufacturers (U.S. or foreign) that would result in a competitive disadvantage to either.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, the FAA certifies that this proposal, if adopted, 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. This proposal is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 91

Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Noise control, Temporary flight restrictions.

The Proposed Amendment

For the reasons set forth in the preamble, the FAA proposes to amend part 91 of the Federal Aviation Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 31(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Section 91.137(c)(5) is revised to read as follows:

§ 91.137 Temporary flight restrictions.

* * * * *

(c) * * *

(5) The aircraft is carrying properly accredited newspersons; and:

(i) Prior to entering the area identified in the NOTAM, the pilot in command files a flight plan with the appropriate FAA or ATC facility specified in the NOTAM; and contacts the official in charge of on-scene emergency response activities for the purpose of obtaining information about current and forecasted disaster relief aircraft routes, altitudes, and operating areas; and

(ii) After entering the area identified in the NOTAM, the pilot in command remains clear of the routes, altitudes, and operating areas identified by the official in charge or which otherwise appear to be used by disaster relief aircraft.

* * * * *

Issued in Washington, DC, on July 18, 1991.

Jerry W. Ball,

Acting Director Air Traffic Rules and Procedures Service.

[FR Doc. 91–17567 Filed 7–23–91; 8:45 am]

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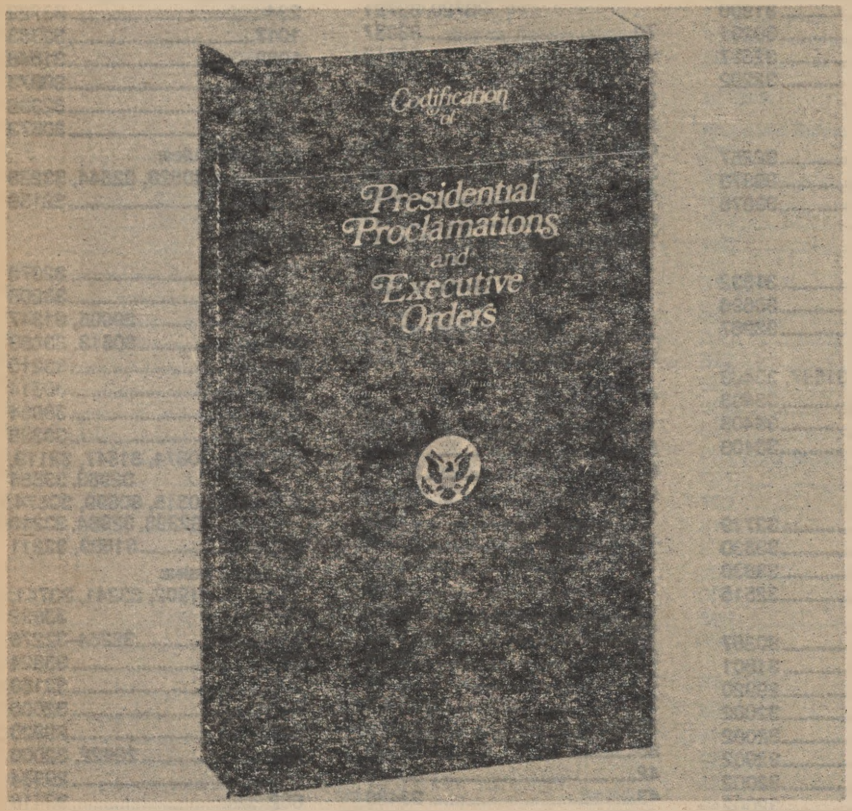

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