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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 88-112]

Pink Bollworm Regulated Areas; Removal of Mississippi From List of Quarantined States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the pink bollworm quarantine and regulations by removing previously regulated areas in Mississippi and by removing Mississippi from the list of states quarantined because of pink bollworm. We have determined that pink bollworm has been eradicated in Mississippi. This action is necessary to remove unnecessary restrictions on the interstate movement of regulated articles.

DATES: Interim rule effective September 20, 1988. Consideration will be given only to comments postmarked or received on or before November 21, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington DC 20090-6464. Please state that your comments refer to Docket Number 88-112. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Sidney E. Cousins, Operations Officer, Domestic and Emergency Operations Staff, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

The pink bollworm, *Pectinophora gossypiella* (Saunders), is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917, and now exists throughout most of the cotton-producing states west of the Mississippi River.

Prior to the effective date of this document, the pink bollworm quarantine and regulations (contained in 7 CFR 301.52 *et seq.*, and referred to below as the regulations) quarantined the states of Arizona, Arkansas, California, Louisiana, Mississippi, Nevada, New Mexico, Oklahoma, and Texas because of the pink bollworm. The regulations restrict the interstate movement of regulated articles from regulated areas in quarantined states for the purpose of preventing the artificial spread of the pink bollworm.

Surveys conducted by inspectors of the U.S. Department of Agriculture and officials of state agencies of Mississippi have established that pink bollworm no longer exists in previously regulated areas in Bolivar and Washington counties in Mississippi. Therefore, we are removing these counties from the list of regulated areas in § 301.52-2a. Since there are no longer any areas remaining in Mississippi designated as regulated areas, we are also deleting Mississippi from the list of states quarantined because of pink bollworm.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. Immediate action is necessary to relieve unnecessary restrictions on the interstate movement of regulated articles.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make this rule effective upon publication. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any amendments we are making to the rule as a result of the comments.

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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from specified areas in the state of Mississippi. There are hundreds of small entities that move these articles interstate from nonregulated areas in the United States. However, based on information compiled by the Department, it has been determined that eight small entities move these articles interstate from the previously quarantined areas in Mississippi. Further, we estimate that this action will save approximately $7,000 per year.

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

The regulations in this subpart contain no 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 7 CFR Part 301

Agricultural commodities, Pink bollworm, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR Part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162 and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.52 [Amended]

2. In § 301.52(a) the reference to "Mississippi" is removed.

§ 301.52-2a [Amended]

3. In § 301.52–2a, the reference to Mississippi and all of the material for Mississippi thereunder is removed.

Done at Washington, DC, this 15th day of September, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–21452 Filed 9–19–88; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

7 CFR Parts 1944 and 1965

Form FmHA 1944-3, "Budget and/or Financial Statement"; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a final rule published May 18, 1988 (53 FR 17687). In this final rule, a portion of the amendatory language for the change in 7 CFR Part 1944, Subpart J, § 1944.467(b)(1) was inadvertently omitted. Also, the reference to 7 CFR Part 1965, Subpart A, Exhibit C in amendatory item 2(h) is removed. The intent of this action is to correct these errors.

EFFECTIVE DATE: September 20, 1988.

FOR FURTHER INFORMATION CONTACT: Dale Alling, Senior Loan Specialist, Servicing Branch, Single Family Housing Servicing and Property Management Division, FmHA, USDA, 4th and Independence Avenue SW., Washington DC 20250, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION:

As corrected, the first sentence of the amendatory language to amendment number 5 should read as follows:

PART 1944—[CORRECTED]

§ 1944.467 [Corrected]

1. Part 1944, Subpart J, § 1944.467, introductory paragraph (b)(1) is amended by changing the reference in the first sentence from "Form FmHA 431–3, 'Family Budget'" to "Form 1944–3, 'Budget and/or Financial Statement'."

As corrected, the amendatory language to amendment number 2(h) should read as follows:

PART 1965—[CORRECTED]

§ 1965.12 [Corrected]

2. Part 1965, Subpart A, § 1965.12(f).

Dated: September 7, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88–21276 Filed 9–19–88; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 88–132]

Tuberculosis in Cattle and Bison: State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations governing the interstate movement of cattle and bison because of tuberculosis by raising the designation of the state of Arkansas from a modified acccredited state to an accredited-free state. This action is necessary because we have determined that Arkansas meets the criteria for designation as an accredited-free state.

DATES: Interim rule effective September 20, 1988. Consideration will be given only to comments postmarked or received on or before November 21, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464. Please state that your comments refer to Docket Number 88–132. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Senior Staff Veterinarian, Domestic Programs Support Staff, VS, APHIS, USDA, Room 815, Federal Building, 6505 Belcrest Road Hyattsville, Maryland 20782, (301) 436–8438.

SUPPLEMENTARY INFORMATION:

Background

The "Tuberculosis" regulations (contained in 9 CFR Part 77 and referred to below as the regulations) regulate the interstate movement of cattle and bison because of tuberculosis. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with, or exposed to, tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free states, modified accredited states or nonmodified accredited states. The criteria for determining the status of states (the term state is defined to mean any state, territory, the District of Columbia, or Puerto Rico) or portions of states are contained in a document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," 1985 edition, which has been made part of the regulations by incorporation by reference. The status of either states or portions of states is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis control and eradication program.

Before publication of this interim rule, Arkansas was designated in § 77.1 of the regulations as a modified accredited state. However, Arkansas now meets the requirements for designation as an accredited-free state. Therefore, we are amending the regulations by removing Arkansas from the list of modified accredited states in § 77.1 and adding it to the list of accredited-free states in that section.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. It is necessary to change the regulations so that they accurately reflect the current tuberculosis status of Arkansas as an accredited-free state and thereby provide prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free states.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it

effective less than 30 days after publication of this document in the Federal Register. We will consider comments that are postmarked or received within 60 days of publication of this interim rule in the Federal Register. As soon as possible after the comment period closes, we will publish another document in the Federal Register discussing the comments we receive and any amendments we are making to the rule as a result of the comments.

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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Cattle and bison moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the state of Arkansas may affect the marketability of cattle and bison from the state since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free states. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other states, the impact should not be significant.

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

The regulations in this subpart contain no 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 77

Animal diseases, Bison, Cattle, Transportation, Tuberculosis.

Accordingly, 9 CFR Part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for Part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, paragraph (2) of the definition for "Modified accredited state" is amended by removing "Arkansas".

3. In § 77.1, paragraph (2) of the definition for "Accredited-free state" is amended by adding "Arkansas" immediately before "Colorado".

Done at Washington, DC, this 15th day of September, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–21451 Filed 9–19–88; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 78

[Docket No. 88–134]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Puerto Rico from Class Free to Class A. We have determined that Puerto Rico now meets the standards for Class A status. This action places certain restrictions on the interstate movement of cattle from Puerto Rico.

DATES: Interim rule effective September 20, 1988. Consideration will be given only to comments postmarked or received on or before November 21, 1988.

ADDRESSES: Send an original and three copies of your comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464. Please state that your comments refer to Docket No. 88–134. Comments received may be inspected at Room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Domestic Programs Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301–436–5965.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations contained in 9 CFR Part 78 (referred to below as the regulations) provide a system for classifying states or portions of states according to the rate of brucella infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C status are required to be placed under Federal quarantine.

The brucellosis Class Free status is based on a finding of no known brucellosis in cattle in the state or area for the 12 months preceding classification as Class Free. The Class C status is for states or areas with the highest rate of brucellosis. Class B and Class A fall in between these two extremes. Restrictions on moving cattle interstate are reduced as a state or area moves toward or achieves Class Free status.

The standards for classification of states or areas consist of maintaining: (1) A cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughtering establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds from which infected animals have been sold or received and herds adjacent to infected herds, and having an individual herd plan in effect within a stated number of days after a herd owner is notified of the finding of brucellosis in his or her herd; and (4) minimum

procedural standards for administering the program.

Before the publication of this interim rule, Puerto Rico was classified as Class Free because of a finding of no known brucellosis in cattle for at least 12 months. However, brucellosis has now been diagnosed in three of the approximately 30,000 cattle herds in Puerto Rico, and only one of those herds is being slaughtered. Under these circumstances, Puerto Rico no longer meets the standards for Class Free status.

To attain and maintain Class A status, a state or area must: (1) Maintain a cattle herd infection rate not to exceed 0.25 percent for the 12 months preceding classification as Class A; (2) maintain a 12-consecutive-month MCI reactor prevalence rate not to exceed 1 brucellosis reactor for every 1,000 cattle tested (0.10 percent); and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. After reviewing Puerto Rico's brucellosis program records, we have concluded that Puerto Rico meets the standards for Class A status.

Therefore, we are removing Puerto Rico from the list of Class Free states or areas in § 78.41(a) and adding Puerto Rico to the list of Class A states or areas in § 78.41(b).

Note: The Code of Federal Regulations, Title 9, revised as of January 1, 1988, incorrectly lists Puerto Rico as a Class A state or area in § 78.41(b). Puerto Rico was added to the list of Class Free states or areas in § 78.41(a) on October 2, 1986, by an interim rule published in the **Federal Register** on that same date (51 FR 35205–35206, Docket No. 86–102) and affirmed on February 27, 1987 (52 FR 5939–5940, Docket No. 86–119).

This action will place certain restrictions on the interstate movement of cattle from Puerto Rico.

Emergency Action

James W. Glosser, Administrator, Animal and Plant Health Inspection Service, has determined that an emergency exists that warrants publication of this rule without prior opportunity for public comment. The interstate movement of cattle from Puerto Rico must be immediately restricted to prevent the interstate spread of brucellosis.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this rule effective upon publication of this document in the **Federal Register**. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

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.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle are moved interstate for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Puerto Rico from Class Free to Class A imposes certain testing and other requirements on the interstate movement of cattle from Puerto Rico. However, these requirements will not affect the interstate movement of cattle to recognized slaughtering establishments or quarantined feedlots, or the interstate movement of cattle from certified brucellosis free herds. The change in the brucellosis status of Puerto Rico may decrease the opportunity for other movements of cattle out of Puerto Rico since, in most cases, the cattle would first have to be tested and found negative for brucellosis. However, no cattle are being moved out of Puerto Rico, either interstate or into foreign countries.

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 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 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 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, we are amending 9 CFR Part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (a) is amended by removing "Puerto Rico,".

3. Section 78.41, paragraph (b) is amended by adding "Puerto Rico," immediately after "Oregon,".

Done in Washington, DC, this 15th day of September, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–21453 Filed 9–19–88; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–NM–77–AD; Amdt. 39–6024]

Airworthiness Directives; Boeing Model 727 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which requires inspection, and modification, if necessary, of main landing gear door actuators. This amendment is prompted by reports of door actuators failing to unlock due to failure of the pivot trunnions. This condition, if not corrected, could lead to inability to retract or extend the main landing gear.

EFFECTIVE DATE: November 1, 1988.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box

3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires inspection, and modification, if necessary, of main landing gear door actuators on Boeing Model 727 series airplanes, was published in the Federal Register on July 5, 1988 (53 FR 25172).

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

The Air Transport Association (ATA) of America provided comments from several of its member operators:

Two operators suggested that the proposed inspections should only be required for pivots manufactured in a specific batch, since the pivots found cracked appear to be from one manufacturing batch. These operators stated that inspection and replacement of pivots from other batches should not be necessary. The FAA does not agree. There is evidence that pivots found cracked are not identified with a specific batch number; therefore, all pivots must be considered suspect.

Other operators noted that the actuator manufacturer has indicated that there will be a long lead time in obtaining replacement parts. These operators plan to replace the pivots initially, instead of performing the repetitive inspections; therefore, they requested that the proposed AD be revised to provide for longer initial and repetitive inspection times to enable them to replace undamaged pivots with improved pivots during the initial or first repetitive inspection. The FAA does not concur with this suggestion. While the FAA understands the desire on the part of an operator to take this action, replacement is not required by this AD. The FAA does not anticipate a high percentage of cracked or broken pivots, which would require replacement. Further, supplies are expected to adequately meet the demand for replacement parts.

Another operator requested that the proposal be revised to provide for a longer compliance time and repetitive inspection intervals to more closely match its regular maintenance schedule. The FAA does not concur. The compliance times were established based on parts availability and known maintenance intervals. No data justifying longer compliance times has been provided by the commenter.

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

It is estimated that 1,246 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required initial inspection, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $99,680. In addition, the required repetitive inspections will take 2 manhours per airplane every 800 flight cycles, which is approximately 1,040 flight hours or .35 years. The average cost associated with the repetitive inspections is approximately $285,000 per year.

The regulations adopted herein will have not 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.

For the reason discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Boeing Model 727 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 727 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent jamming of the main landing gear door actuator caused by fracturing of the pivot trunnion, accomplish the following:

A. With the next 1,600 flight cycles after the effective date of this AD, accomplish the visual inspection of the main landing gear door actuator pivots in accordance with Boeing Service Bulletin 727-32-0358, dated May 31, 1988. Repeat this inspection at intervals not to exceed 800 flight cycles.

B. If any of the pivot trunnion shafts are found loose or missing during the inspection performed in accordance with paragraph A., above, prior to further flight, replace the pivot in accordance with Boeing Service Bulletin 727-32-0358, date May 31, 1988.

C. Accomplishing the pivot replacement with a part number 3-3141-54 pivot, in accordance with Sargent Controls Service Bulletin 7-3141-32-06, Revision 1, dated November 2, 1987, constitutes terminating action for the initial and repetitive inspections required by paragraph A., above.

D. An alternate means of compliance or adjustment of the compliance time, which provides and acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 1, 1988.

Issued in Seattle, Washington, on September 13, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-21350 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-84-AD, Amdt. 39-6022]

Airworthiness Directives; McDonnell Douglas Model DC-9-81, -82, -83, -87, and MD-88 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas DC-9-81, DC-9-82, DC-9-83, DC-9-87, and MD-88 series airplanes, which requires the inspection and modification of the power feeder cable installation. This amendment is prompted by reports of generator power feeder cables electrically shorting to the airplane structure. This condition, if not corrected, could lead to a fire on board the airplane below the cabin floor.

EFFECTIVE DATE: October 31, 1988.

ADDRESS: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication and Training, C1-L65 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Alan T. Shinseki, Aerospace Engineer, Systems & Equipment Branch, ANM-132L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5343.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) which requires the inspection and modification of the generator power feeder cable installation on certain McDonnell Douglas DC-9-80 series airplanes was published in the **Federal Register** on June 8, 1988 (53 FR 21849). The comment period for the proposal closed on July 15, 1988.

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

The Air Transport Association (ATA) of America, on behalf of its member operators, requested that the FAA revise the provisions of the proposed rule to include the accomplishment of an additional service bulletin, not yet released, as an alternate action to that of compliance with Service Bulletin 24-100. The FAA has determined that this concern has been addressed by paragraph C. of the proposed rule which defines provisions for alternate means of compliance; therefore, specific alternate action to Service Bulletin 24-100 has not been incorporated in this amendment.

The ATA also requested that the compliance time be extended to 18 months, in order that operators have adequate time to schedule work during a main base visit, and to obtain and install the required modification kits. The FAA does not concur. The FAA has determined that a 12-month compliance requirement is appropriate, based on the nature of the unsafe condition addressed, the availability of parts from the manufacturer, and the anticipated effective date of this final rule.

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

It is estimated that 300 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The modification parts are being provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $384,000.

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.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, McDonnell Douglas Model DC-9-81, DC-9-82, DC-9-83, DC-9-87, and MD-88 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8-81, -82, -83, -87, and MD-88 airplanes, certificated in any category, as listed in McDonnell Douglas Model MD-80 Service Bulletins 24-94, Revision 1, dated May 28, 1987, and 24-100, dated March 30, 1988. Compliance required within 12 months after the effective date of this airworthiness directive (AD), unless previously accomplished.

To eliminate a potential source of fire ignition from the generator power feeder cable electrically shorting, accomplish the following:

A. For airplanes identified in McDonnell Douglas MD-80 Service Bulletin 24-94, Revision 1, dated May 28, 1987: Inspect for power feeder cable damage, and repair the cable, if necessary; then modify the cable installation, in accordance with the Accomplishment Instructions of that service bulletin.

B. For airplanes identified in McDonnell Douglas MD-80 Service Bulletin 24-100, dated March 30, 1988: Modify the power feeder cable installation, in accordance with the Accomplishment Instruction of that service bulletin.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and the send it to the Los Angeles Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon requests to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

This amendment becomes effective October 31, 1988.

Issued in Seattle, Washington, on September 12, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-21353 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-45-AD; Amdt. 39-6023]

Airworthiness Directives; Mitsubishi Heavy Industries, Limited, Model YS-11/11A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to the Mitsubishi Heavy Industries, Limited (MHI), Model YS-11/11A series airplanes, which currently requires replacement of the vertical stabilizer front spar fitting attachment bolts. This amendment adds a requirement to replace the attaching washers and nuts, and to inspect certain vertical stabilizer-to-fuselage attachment fittings for cracks and corrosion. This action is prompted by a report of a cracked lug and corrosion found in the vertical stabilizer front spar fuselage side fitting. Failure of the attachment fittings could lead to the structural failure of the vertical stabilizer and loss of control of the airplane.

EFFECTIVE DATE: November 1, 1988.

ADDRESSES: The applicable service information may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aircraft Works, YS-11 Technical Publications, Service Department, 10, Oye-Cho, Minato-Ku, Nagoya, Japan. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Don Dirian, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-123L, FAA, Northwest Mountain Region, 3229 E. Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5234.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 86-03-05, Amendment 39-5233 (51 FR 4304; February 4, 1986), applicable to Model on model YS-11/11A series airplanes to require replacement of certain attachment hardware and inspection of vertical stabilizer-to-fuselage attachment fittings for cracks and corrosion, was published in the **Federal Register** on February 8, 1988 (53 FR 3600).

Interested persons have been afforded an opportunity to participate in the making of this amendment.

No comments were received in response to the proposal.

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

It is estimated that 51 airplanes of U.S. registry would be affected by this AD, that it would take approximately 11 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $22,440.

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.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because of the minimal cost of compliance per airplane ($440). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD 86-03-05, Amendment 39-5233, (51 FR 4304; February 4, 1986), with the following new airworthiness directive:

Mitsubishi Heavy Industries, Ltd. (formerly Nihon Aeroplane Manufacturing Company (NAMC)): Applies to all Model YS-11/11A series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the vertical stabilizer front spar-to-fuselage fittings, accomplish the following:

A. Within 600 hours time-in-service after the effective date of this AD or within 4 months after the effective date of this AD, whichever occurs first, visually inspect the vertical stabilizer front spar fuselage side fittings, Part Number (P/N) 01-38101-11/12, for cracked lugs, in accordance with Paragraph 2., "Instructions," of NAMC YS-11 Alert Service Bulletin (SB) A53-71, dated May 23, 1986. Repeat this inspection at intervals not to exceed 1,000 hours time-in-service.

B. If any crack is found in fitting P/N 01-38101-11/12 during the inspections required by paragraph A., above: Prior to further flight, remove that fitting from the airplane and accomplish the inspections, corrosion treatment, and replacement of parts, as necessary, in accordance with Paragraph 2., "Instructions," of NAMC YS-11 Service Bulletin 53-70, dated May 23, 1986. Once this has been accomplished, the required repetitive inspections may be discontinued.

C. If no cracking is found in fitting P/N 01-38101-11/12 during the inspections required by paragraph A., above: Within 6,000 hours time-in-service after the effective date of this AD, or by January 1, 1990, whichever occurs first, accomplish the inspections, corrosion treatment, and replacement of parts, as necessary, in accordance with paragraph 2., "Instructions," of NAMC YS-11 Service Bulletin 53-70, dated May 23, 1986. Once this

has been accomplished, the required repetitive inspections may be discontinued.

D. The repetitive inspections required by paragraph A., above, may be terminated if the vertical stabilizer front spar fuselage side fitting P/N 01-38101-11/12 has been given corrosion prevent treatment after September 1, 1985, or once it has been replaced by fitting P/N 01-38101-21/22.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded throught an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon requests to the Mitsubishi Heavy Industries, Ltd., Nagoya Aircraft Works, YS-11 Technical Publications, Service Department, 10, Oye-Cho, Minato-ku, Nagoya, Japan. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California.

This amendment supersedes AD 86-03-05, Amendment 39-5233.

This amendment becomes effective November 1, 1988.

Issued in Seattle, Washington, on September 13, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-21351 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-131-AD; Amdt. 39-6025]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 (MD-80) Series Airplanes and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes, which requires a one-time inspection and replacement, if necessary, of certain clamps that secure the engine eighth and thirteenth stage pneumatic manifold end caps. This amendment is prompted by a report that a thirteenth stage pneumatic manifold end cap separated and penetrated through the upper cowl door of the No. 1 engine, due to failure of a defective attachment clamp. If defective clamps in this location are not removed, an uncontained release of an end cap may occur, which would result in damage to the engine nacelle and could cause injury to persons on the ground.

EFFECTIVE DATE: October 11, 1988.

ADDRESSES: There is no applicable service information currently available.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Baitoo, Aerospace Engineer, Propulsion Branch (ANM-140L), FAA, Northwest Mountain Region, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5245.

SUPPLEMENTARY INFORMATION: McDonnell Douglas Corporation has recently advised the FAA of damage sustained to the engine cowl of a Model DC-9-80 series airplane, due to failure of an engine thirteenth stage pneumatic manifold end cap clamp. The damage occurred while performing an engine run on a pre-delivered airplane. The clamp, Janitrol part number (P/N) 14J93-350, secures the engine eighth and thirteenth stage pneumatic manifold end cap, P/N 14J27-350. Failure of this clamp caused the end cap to separate and penetrate through the upper cowl door of the No. 1 engine.

Inspection of the failed clamp revealed a complete fracture of one of the three 120° V-band retainer segments. Fracture occurred along one of the two inside radii of the segment.

As a result of this clamp failure, McDonnell Douglas performed a thorough inspection of all pre-delivered Model DC-9-80 series airplanes and Model MD-88 airplanes. Inspection revealed at least ten additional clamps showing signs of cracks in the V-band retainer segments. McDonnell Douglas has issued All Operator Wire MD-80-COM-10/KAC, dated August 27, 1988, alerting affected operators of this problem.

The FAA has determined that this problem is confined to certain clamps improperly heat treated during manufacture in March 1988. If defective clamps are not removed, a similar uncontained release of an end cap may occur, which would result in damage to the engine nacelle and could cause injury to persons on the ground.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time inspection of clamps, Janitrol P/N 14J93-350, which secure the engine eighth and thirteenth stage pneumatic manifold end caps, and replacement of the defective clamps with airworthy clamps.

Additionally, this procedure must be accomplished any time a clamp is installed at these locations in the future.

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

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-80 (MD-80) series airplanes and Model MD-88 airplanes, certificated in any category, equipped with Janitrol P/N 14J93-350 clamps manufactured after March 1, 1988, including, but not limited to the following airplane factory serial numbers:

49462, 49463, 49464, 49509, 49559, 49560, 49561, 49562, 49563, 49564, 49565, 49566, 49571, 49572, 49573, 49577, 49578, 49579, 49583, 49584, 49585, 49586, 49592, 49593, 49604, 49605, 49617, 49619, 49620, 49621, 49622, 49623, 49624, 49625, 49644, 49645, 49646, 49657, 49658, 49661, 49667, 49668, 49669, 49670, 49671, 49672, 49701, 49702, 49703, 49704, 49705, 49707, 49711, 49712, 49389

Note: Additionally, airplanes other than those listed above are affected by this AD, if suspect clamps were installed on engine eighth or thirteenth stage pneumatic manifold end caps as replacement parts.

Compliance required as indicated, unless previously accomplished.

To prevent uncontained separation of engine pneumatic manifold end caps, accomplish the following:

A. Within 25 days after the effective date of this AD, inspect both engines' eighth and thirteenth stage pneumatic manifold end cap clamps, Janitrol P/N 14J93-350, for identification markings, and accomplish the following:

Note: Refer to McDonnell Douglas DC-9 Master Illustrated Parts Catalog 36-10-00, Figure 1A, Item 105, for locations of clamps.

1. Clamps with the number "5T400" and a date stamp, or the number "89513", appearing next to Janitrol P/N 14J93-350 are acceptable, and no further action is necessary.

2. Clamps with the number "63367" appearing next to Janitrol P/N 14J93-350 must be removed prior to further flight, and replaced with airworthy clamps.

3. Clamps with the number "5T400" appearing next to Janitrol P/N 14J93-350, and without a date stamp, must be removed prior to further flight, and replaced with airworthy clamps.

B. Prior to installation of any eighth or thirteenth stage pneumatic manifold end cap clamp, Janitrol P/N 14J93-350, perform the inspection required by paragraph A., above. Do not install any clamp having the number "63367", or the number "5T400" and no date stamp, appearing next to Janitrol P/N 14J93-350.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

This amendment becomes effective October 11, 1988.

Issued in Seattle, Washington, on September 13, 1988.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-21352 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 379 and 399

[Docket No. 80982-8182]

Revisions to the Commodity Control List Based on COCOM Review; Electronics and Precision Instruments

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule amends 15 CFR Part 379, Supplement No. 3 and a number of Export Control Commodity Numbers on the CCL in the category of electronics and precision instruments (Commodity Group 5 on the CCL). These revisions have resulted from a review of strategic controls maintained by the U.S. and certain allied countries through the Coordinating Committee (COCOM). Such multilateral controls restrict the availability of strategic items to controlled countries.

Following interagency deliberations and with the concurrence of the Department of Defense, the Department of Commerce has determined under the provisions of the Export Administration Act of 1979, as amended that this rule is necessary to protect U.S. national security interests.

EFFECTIVE DATE: This rule is effective September 15, 1988.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature on ECCNs 1501A, 1502A, 1519A, 1520A, 1526A, 1567A and 1568A, call Monty Baltas, Telecommunications Technology Center, Telephone: (202) 377-0730.

For questions of a technical nature on ECCNs 1510A and 1595A, call Sandy Dhir, Capital Goods Technology Center, Telephone: (202) 377-8550.

For questions of a technical nature on ECCNs 1522A, 1529A, 1537A, 1541A, 1544A, 1545A, 1548A, 1564A, and 1588A, call Robert Anstead, Electronic Components Technology Center, Telephone: (202) 377-1641.

For questions of a technical nature on ECCN 1534A, call Raj Dheer, Computer Systems Technology Center, Telephone: (202) 377-0708.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule implements regulatory changes based on COCOM review. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Comments should be submitted to Joan Maguire, Office of

Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 379 and 399

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, Parts 379 and 399 of the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citations for Parts 379 and 399 continue to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 100–418 of August 23, 1988 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36891, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 379—AMENDED

Supplement No. 3 to Part 379 [Amended]

2. In Supplement No. 3 to Part 379, "Computer Software," paragraph (a)(3)(ii) is amended by revising the phrase "described in ECCN 1565A(h)(1)(i) (A) to (J) and (M)" to read "described in ECCN 1565A(h)(1)(i) (A) to (J) or (M) or (h)(2)(vi)"; paragraphs (b)(1) (i) and (ii) are amended by revising the phrase " 'High-level language' 'development systems' designed for" to read " 'Development systems' employing 'high-level language' and designed for"; the introductory text of Advisory Note 10 is amended by revising the phrase "exported under the provisions of ECCN 1529, Advisory Note 5" to read "exported under the provisions of ECCN 1533, Advisory Note 6"; paragraph (a)(3)(i) of Advisory Note 10 is amended by revising the phrase "ECCN 1529, Advisory Note 3" to read "ECCN 1533, Advisory Note 6".

PART 399—AMENDED

Supplement No. 1 to § 399.1, Commodity Group 5 [Amended]

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1501A is amended by revising the *GFW Eligibility* paragraph; by revising the phrase "136 MHz with 720 channels" in paragraph (a)(2)(ii) to read "137 MHz with 760 channels"; . by adding a *Note* and a *Technical Note* after paragraph (a)(4); by revising the phrase "and/or" in paragraphs (b)(1)(ii) and (b)(2) to read "or"; by revising the word "micron" in paragraphs (b)(1)(ii) and (b)(2) to read "micrometer"; by revising Note 1 (formerly *Reserved*) following paragraph (b)(1)(v), reserving Note 2, and adding a Note 3; by adding a *Note* after paragraph (b)(3), Technical Note 2 after paragraph (b)(5) and a Note after paragraph (c)(1); by revising paragraph (c) introductory text to read as set forth below; by revising the reference to "db" that appears in paragraph (e) of the Technical Note following paragraph (c)(2)(iii) to read "dB"; by removing the Note following paragraph (c)(2)(viii); by amending Note 1 by adding a new paragraph (g); by revising Advisory Notes 1, 2 and 3; and by removing Advisory Notes 4, 5 and 6 and the Advisory Note for the People's Republic of China.

501A Navigation, direction finding, radar and airborne communication equipment.

* * * * *

GFW Eligibility: Commodities that meet technical specifications described in Advisory Notes 1 and 2 and paragraphs (a) and (b) of Advisory Note 3 regardless of end-use, subject to the prohibitions contained in § 371.2(c).

* * * * *

(a) * * *

(4) * * *

Note.—This paragraph (a) does not control airborne communication equipment that is not controlled by paragraph (a)(4) and that:

(a) Is needed to equip "civil aircraft"; or

(b) Is normal standard equipment incorporated in "civil aircraft".

Technical Note 1.: The term "civil aircraft" is understood to include only those types of "civil aircraft" that are listed by designation in published airworthiness certification lists by the civil aviation authorities to fly commercial civil internal and external routes or for legitimate civil, private or business use.

(b) * * *

(1) * * *

(v) * * *

Notes.—1. Paragraph (b)(1)(ii) does not control Loran-C equipment having all of the following characteristics:

(a) It has been in normal civil use for a period of more than one year;

(b) It is standard commercial equipment that is:

(1) Needed to equip "civil aircraft"; *or*

(2) Incorporated in "civil aircraft";

(c) It is equivalent in all characteristics and performances to standard equipment of aircraft not subject to control;

(d) It is in conformity with ICAO standards;

(e) It is not designed to make use of hyperbolic grids at frequencies higher than 3 MHz;

(f) It does not contain electronic equipment that:

(1) Can compute the position of the aircraft in one coordinate system when furnished position information in another coordinate system (*i.e.*, "coordinate conversion equipment");

(2) Could not be shipped under the provisions of ECCN 1565A; and

(3) Has been in normal civil use for a period of less than one year.

2. [Reserved]

3. Direction finding equipment specially designed for search and rescue purposes and operating at a frequency of 121.5 MHz or 243 MHz is not covered by paragraph (b)(1). This exclusion also applies to personal locator beacons operating in this form that may also have an additional channel selectable for voice mode only.

(3) * * *

Note.—Paragraph (b)(3) of this ECCN does not control equipment, other than single side band equipment, operating at frequencies up to 157 MHz and employing a loop system or a system employing a number of spaced vertical aerials uniformly disposed around the circumference of a circle, excluding electronically commutated types.

* * * * *

(5) * * *

Technical Note 2: By "coordinate conversion equipment" is meant electronic equipment designed to compute the position of the aircraft in one coordinate system when furnished position information in another coordinate system.

(c) Radar equipment, as follows, and specially designed components, specialized testing, calibrating and training/simulating equipment: (For Lidar equipment, see ECN 1522A.)

(1) * * *

Note.—This ECCN 1501A does not control airborne civil weather radar conforming to international standards for civil weather radars provided they do not include any of the following:

(a) Phased array antennas;

(b) "Frequency agility";

(c) "Spread spectrum"; or

(d) Any signal processing specially designed for tracking of vehicles.

(2) * * *

(viii) * * *

Note.—See also paragraphs (b) and (h) * * *

Note 1.—* * *

(g) Global positioning satellite receivers listed in paragraphs (b) (4) and (5) of this ECCN 1501A that have all of the following characteristics:

(1) Capable only of processing the Ll channel (also called the Standard positioning Service (SPS) channel);

(2) Capable of only the Short-Term Code (Coarse Acquisition Code (C/A code)) with short term generation cycle;

(3) No decryption capabilities;

(4) Including no cesium beam standards; *and*

(5) Including no null steerable antenna.

Note 2.—* * *

(Advisory) Note 1: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of navigation equipment controlled by paragraph (b)(1)(i) of this ECCN, provided that it is to be installed in civil aircraft or helicopters and is normal standard equipment of a type installed in civil aircraft or helicopters. Applications for licenses issued by virtue of this Advisory Note should include identification of aircraft for which the equipment is intended.

(Advisory) Note 2: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of standard commercial airborne equipment listed in paragraph (b)(1)(iii) of this ECCN needed to equip "civil aircraft" or as normal standard equipment incorporated in "civil aircraft" being exported for civil commercial use, provided that such equipment is equivalent in all characteristics and performance to standard equipment of aircraft not subject to control, and that are frequency-modulated radio altimeters that have been in normal civil use for a period of more than one year. Applications for licenses issued by virtue of this Note should include identification of aircraft for which the equipment is intended.

(Advisory) Note 3: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of the following:

(a) Radar equipment controlled for export only by paragraphs (c)(2) (i), (ii), or (iii) of this ECCN, provided that both of the following conditions are met:

(1) It is specially designed for the surveillance and coordination of airfield surface traffic; *and*

(2) It is to be installed at airports operating scheduled commercial flights;

(b) Radar equipment controlled for export only by paragraphs (c)(2) (ii) or (iii) of this ECCN, or both, provided that all the following conditions are met:

(1) It operates at a frequency of not more than 1.5 GHz and has a peak output power from the transmitter not greater than 5 MW; or operating at a frequency within the range of 1.5 to 3.5 GHz and having a peak output power not greater than 2.5 MW;

(2) It has an 80% or better probability of detection for a 10 sq. meter target at a free space range of 270 nautical miles;

(3) It has a pulse repetition frequency exceeding 300 pulses per second;

(4) It is to be installed for air traffic control of scheduled international commercial flights;

(c) Radar equipment controlled for export only by paragraph (c)(2) (iv) or (v) of this ECCN, provided that it is to be installed for air traffic control purposes in international airports and has been in normal civil use for a period of not less than three years;

(d) Radar equipment controlled for export by paragraph (c)(2)(vi) of this ECCN, provided that it is specially designed for marine, harbor or meteorological use, or has been in normal civil use for not less than three years;

(e) Radar equipment controlled for export only by paragraphs (c)(2)(vii) of this ECCN, provided that it is specially designed for marine (or harbor) use, or radar equipment controlled for export only by paragraph (c)(2) (vii) or (viii) of this ECCN, or both, provided that it is specially designed for meteorological observation.

4. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1502A is amended by adding Note 5 as set forth below and by removing Advisory Note 5 for The People's Republic of China.

1502A Communication, detection or tracking equipment of a kind using ultra-violet radiation, infrared radiation or ultrasonic waves, and specially designed components therefor.

Note.—* * *

Controls for ECCN 1502A

* * * * *

List of Equipment Controlled by ECCN 1502A

* * * * *

Note 5.—This ECCN 1502A does not control:

(a) Infrared thermal imaging equipment having all the following characteristics:

(1) The detector is a single element;

(2) The detector is neither a charge coupled device (CCD) nor an integrate-while-scan device;

(3) The detector is either:

(i) Not cooled; *or*

(ii) Cooled by using a liquid nitrogen Dewar vessel; and

(Note.—This paragraph (a) does not release from control Joule-Thompson coolers, cooling engines or thermo electric coolers.)

(4) The equipment:

(i) Is non-ruggedized, medical equipment; or

(ii) Has both of the following:

(A) A resolution not exceeding 22,500 resolvable elements; and

(B) A Noise Equivalent Temperature Difference (NETD) (or temperature sensitivity) of no less than 0.1° C;

(b) Infrared viewing equipment having all the following characteristics:

(1) The detector is a pyroelectric vidicon without reticle;

(2) The equipment is designed for fire fighting and buried body detection; *and*

(3) The optimal sensitivity is in the wavelength range from 8 to 14 micrometers.

Note.—Nothing in paragraphs (a) and (b) releases any technical data from export control.

5. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1510A is amended by revising the words "Advisory Notes 6 or 7" that appear in the GFW Eligibility paragraph to read "Advisory Note 6"; by revising paragraph (a)(2) to read as set forth below; and by removing Note 7 and redesignating (Advisory) Note 8 as new (Advisory) Note 7.

1510A Marine or terrestrial acoustic or ultrasonic systems or equipment specially designed for positioning surface vessels or underwater vehicles, or for detecting or locating underwater or subterranean objects or features, and specially designed components of such systems or equipment, including but not limited to hydrophones, transducers, beacons, towed hydrophone arrays, beamformers and geophones (except moving coil or moving magnet electro-magnetic geophones), except those systems or equipment listed below.

* * * * *

List of Systems and Equipment Controlled by ECCN 1510A

* * * * *

(a) * * *

(2) Passive (receiving, whether or not related in normal application to separate active equipment) acoustic hydrophones or transducers having all of the following characteristics:

(i) Independently mounted or configured and not reasonably capable of assembly by the user into a towed hydrophone array;

(ii) Incorporating sensitive elements made of piezoelectric ceramics or crystal:

(A) With a sensitivity no better than −180 dB (reference 1 volt per micropascal) when not designed for operation at depths of more than 100 m and not acceleration compensated;

(B) With a sensitivity no better than −192 dB (reference 1 volt per micropascal) when not designed for operation at depths of more than 100 m;

(C) With a sensitivity no better than −204 dB (reference 1 volt per micropascal) when not designed for operation at depths of more than 1000 m;

* * * * *

6. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1519A is amended by revising the heading, the "List of Equipment Controlled by ECCN 1519A," the Notes and the Advisory Notes to read as follows:

1519A "Telecommunication transmission equipment" and measuring and test equipment, and specially designed components and accessories therefor.

(a) "Telecommunication transmission equipment" employing digital techniques (including the digital processing of analog signals) and having at least one of the following characteristics:

(1) Designed for a total digital transfer rate that, at the highest multiplex level, exceeds:

(i) 45 million bit/s (including when designed for underwater use); or

(ii) 8.5 million bit/s for stored program controlled digital crossconnection equipment;

Note.—The maximum of 45 million bit/s for the highest multiplex level does not preclude total digital transfer rates of maximally a factor two (2 times) higher for:

(a) Line terminating equipment;

(b) Intermediate amplifier equipment;

(c) Repeater equipment;

(d) Regenerator equipment; *or*

(e) Translation encoders (transcoders);

(2) Designed for a "data signalling rate" that exceeds:

(i) 1,200 bit/s when:

(A) Employing an automatic error detection and correction system; *and*

(B) Retransmission is not required for correction;

(ii) 9,600 bit/s when using the "bandwidth of one voice channel"; *or*

(iii) 64,000 bit/s when using baseband;

Note.—For statistical multiplexers that satisfy the definitions of either "data (message) switching" or "stored program controlled circuit switching," and for the definitions of these terms, see ECCN 1567A.

(b) Electronic measuring or test equipment specially designed for the equipment controlled for export by paragraph (a)(1) above.

Technical Note: Definitions of terms—

"Bandwidth of one voice channel"—

In the case of data communication equipment designed to operate in one voice channel of 3,100 Hz, as defined in CCITT Recommendation G.151;

"Data signalling rate"—

As defined in ITU Recommendation 53-36, taking into account that, for nonbinary modulation, 'baud' and 'bit per second' are not equal. Bits for coding, checking and synchronization functions are to be included.

Note.—When determining the "data signalling rate," servicing and administrative channels shall be excluded.

"Telecommunication transmission equipment"—

For the purpose of this ECCN, telecommunication transmission equipment is:

(a) Categorized as the following equipment, or as combinations of the following equipment:

(1) Line terminating equipment;

(2) Intermediate amplifier equipment;

(3) Repeater equipment;

(4) Regenerator equipment;

(5) Translation encoders (transcoders);

(6) Multiplex equipment;

(7) Modulators/demodulators (modems);

(8) Transmultiplex equipment (see CCITT Rec. G701); *or*

(9) "Stored program controlled" digital crossconnection equipment; *and*

(b) Designed for use in single or multi-channel communication via:

(1) Wire (line);

(2) Coaxial cable;

(3) Optical fiber cable; *or*

(4) Radio.

Notes.—1. Nothing in this ECCN 1519A authorizes the export of technical data for the development or production of equipment employing digital transmission techniques for operation at a total digital transfer rate at the highest multiplex level exceeding 8.5 million bit/s;

2. This ECCN 1519A does not control:

(a) Telemetering, telecommand and telesignalling equipment designed for industrial purposes, together with data transmission equipment not intended for the transmission of written or printed text;

Note.—Telemetering, telecommand and telesignalling equipment consists of:

(a) Sensing heads for the conversion of information into electrical signals;

(b) The systems used for the long-distance transmission of these electrical signals; *and*

(c) The process used to translate electrical signals into coded data (telemetering), into control signals (telecommand) and into display signals (telesignalling);

(b) Facsimile equipment that is not controlled for export by ECCN 1527A; *or*

(c) Equipment employing exclusively the direct current transmission technique.

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following communication, measuring or test equipment:

(a) "Telecommunication transmission equipment" provided it is:

(1) Intended for general commercial traffic in a civil communication system;

(2) Designed for operation at a total digital transfer rate at the highest multiplex level of 140 million bit/s or less;

(3) Installed under the supervision of the seller in a permanent circuit; *and*

(4) To be operated by the civilian authorities of the importing country;

(b) Measuring and/or test equipment necessary for the use (i.e., installation, operation and maintenance) of equipment exported under the conditions of this Note, provided:

(1) It is designed for use with communication transmission equipment operating at a "data signalling rate" of 140 million bit/s or less; *and*

(2) It will be supplied in the minimum quantity required for the transmission equipment eligible for Advisory Note treatment;

Note.—Where possible, built-in test equipment (BITE) will be provided for installation or maintenance of transmission equipment eligible for export under this Advisory Note to this ECCN rather than individual test equipment;

Notes.—1. For communication equipment using optical fiber as the communication medium, the transmission wavelength must not exceed 1,370 nm.

2. [Reserved]

(Advisory) Note 4 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of modems and multiplexers controlled for export by paragraph (a)(2) of the "List of Equipment Controlled by ECCN 1519A" designed for operation at "data signalling rates" of 19,200 bit/s or less.

7. In Supplement No. 1 to § 399.1 (the Commodity Control List) Commodity Group 5 (Electronics and Precision Instruments), ECCN 1520A is amended by adding a Note after the heading; by revising the words "Advisory Notes 1, 2, 3, 4 or 5" that appear in the *GFW Eligibility* paragraph to read "Advisory Notes 1 or 2"; by revising the introductory text to paragraph (a); by adding new paragraphs (a)(5) through (a)(7) after paragraph (a)(4) and before the Note to read as set forth below; by revising the Note that appears after paragraph (a)(4) and redesignating it as Note 1 and by adding a new Note 2 to read as set forth below; by removing (Advisory) Notes 1, 3 and 5; by redesignating (Advisory) Notes 2 and 4 and (Advisory) Note 6 for the People's Republic of China as (Advisory) Notes 1 and 2 and (Advisory) Note 3 for the People's Republic of China; and by revising the (Advisory) Note 3 for the People's Republic of China to read as set forth below.

ECCN 1520A Radio relay communication equipment, specially designed test equipment, and specially designed components and accessories therefor.

Note.—For "specially designed software," see Supp. No. 3 to Part 379.

* * * * *

List of Equipment Controlled by ECCN 1520A

* * * * *

(a) Radio relay communication equipment designed for use at frequencies exceeding 960 MHz, *except* when having any of the following, sets of characteristics:

* * * * *

(5) The equipment is specially designed for the transmission of television signals that:

(i) Are between camera and studio or between studio and television transmitter; *and*

(ii) Do not exceed a line-of-sight distance with respect to any one installation;

(6) The equipment is specially designed to be installed and operated in communication satellite earth stations using:

(i) INTELSAT;

(ii) MARISAT;

(iii) EUTELSAT; *or*

(iv) INMARSAT;

(7) The equipment is tropospheric scatter communication equipment that:

(i) Is designed for civil fixed use;

(ii) Operates at fixed frequencies of 2.7 GHz or less;

(iii) Uses frequency modulation; *and*

(iv) Has a power amplifier output of 10 kW or less;

* * * * *

Note 1.—Nothing in the above shall be construed as permitting the export of technical data for equipment employing quadrature-amplitude-modulation techniques, except technical data for installation, operation or maintenance.

Note 2.—Nothing in the above shall be construed as permitting the export of technical data for equipment released by paragraph (a)(6) of this ECCN, other than technical data for installation, operation or maintenance.

(b) * * *

Advisory Notes: * * *

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following radio relay communication equipment:

(a) Digital microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 19.7 GHz with a capacity of up to 1,920 voice channels of 3.1 kHz or four television channels of 6 MHz maximum nominal bandwidth and associated sound channels;

(b) Ground communication radio equipment for use with temporarily fixed services operated by the civilian authorities and designed to be used at fixed frequencies not exceeding 20 GHz;

(c) Radio transmission media simulators/channel estimators designed for the testing of equipment covered by paragraph (a) or (b) of this Advisory Note;

(d) Power amplifiers not exceeding 10 W and 6/4-GHz-transmitters/receivers for communication satellites;

(e) Equipment specially designed to receive civil meteorological data, provided it has all of the following characteristics:

(1) The equipment is specially designed to receive and process Weather Facsimile (WEFAX) or receive and process meteorological data from civil weather satellites, such as:

GOES (Geostationary Operating Environmental Satellite),

NOAA (National Oceanic and Atmospheric Administration) polar orbiting satellites, or the ARGOS meteorological satellite;

(2) "Frequency agility" techniques are not incorporated; *and*

(3) The weather satellite ground system frequencies do not exceed 1,750 MHz.

(4) The equipment or systems are designed and used for fixed civil meteorological applications.

8. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1522A is amended by removing the *GFW Eligibility* paragraph; by adding a Note after paragraph (a)(x) to read as set forth below; by revising the "and" that appears between "surveying" and "meteorological" in paragraph (b)(xii) to read "or"; by revising the parenthetical clause that appears after Note 2 to read as set forth below; by revising Note 4 (formerly [Reserved]) to read as set forth below; by removing (Advisory) Note 6; by redesignating (Advisory) Note 5 as new (Advisory) Note 6 and by reserving (Advisory) Note 5; by adding a paragraph (f) to (Advisory) Note 8 for the People's Republic of China as set forth below.

ECCN 1522A "Lasers" and "equipment containing lasers".

* * * * *

List of "Lasers" and "Equipment Containing Lasers" Controlled by ECCN 1522A

* * * * *

(a) * * *

(x) * * *

Note.—Paragraph (a) does not control semiconductor "lasers" having:

(1) An output wavelength no longer than 1,000 nm; and

(2)A continuous wave (CW) output power not exceeding 100 mW.

* * * * *

Note 2.—* * * (See ECCN 1564A.)

* * * * *

Note 4.—For the status of optical fiber and optical preform characterization equipment that contains lasers, see ECCN 1353A.

* * * * *

(Advisory) Note 8 for the People's Republic of China: * * *

(f) Minimum quantities of semiconductor "lasers" designed and destined for use with a civilian fiber optic communication system that would be either decontrolled for export or eligible for export under an Advisory Note for the People's Republic of China under ECCNs 1519A or 1526A, having an output wavelength no longer than 1,370 nm and a power output not exceeding 100 mW CW.

9. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1526A is amended by revising the heading, the title of the "List," and paragraphs (a), (c)(1) and (2) and (d)(2) as set forth below; by redesignating paragraphs (c)(3) and (4) as paragraphs (c)(4) and (5) and by adding a new paragraph (c)(3) before the Technical Note following paragraph (c)(2) to read as set forth below; by removing (Advisory) Note 4 and redesignating (Advisory) Note 5 as new (Advisory) Note 4; and by amending newly redesignated (Advisory) Note 4 by revising the references to "(a)(2), (b), (c)(1), (2) and (3), and (f)" in the introductory text to read "(a), (b), (c)(1) to (4) or (f)" and by revising paragraphs (c) and (d) as set forth below.

1526A Optical fibers, optical cables and other cables and components and accessories.

* * * * *

List of Commodities Controlled by ECCN 1526A

* * * * *

(a) Unarmored or single-armored ocean cable having an attenuation of 1.62 dB/km (3.0 dB per nautical mile) or less, measured at a frequency of 600 kHz;

* * * * *

(c) * * *

(1) The optical fiber is designed for single mode light propagation;

(2) The optical fiber:

(i) Is designed for multimode light propagation; *and*

(ii) Has an attenuation of less than 1.0 dB/km at a wavelength of 1300 nm; *or*

(3) Optical fibers capable of withstanding a "proof test" tensile strength of 1.1×10^9 N/m ^{2} or more;

Technical Note: * * *

* * * * *

(d) * * *

(2) Modified structurally or by coating to have either:

(i) A "beat length" of more than 50 cm (low birefringence), *except* if designed for operation at wavelengths of less than 650 nm; or

(ii) A "beat length" of less than 5 cm (high birefringence);

Technical Note: * * *

* * * * *

(Advisory) Note 4: * * *

(c) The optical fibers specially designed for the underwater use:

(i) Are not controlled for export under paragraph (c)(1) of this ECCN, and

(ii) Have performance characteristics inferior to those described in paragraph (c)(2) or (c)(3); *and*

(d) Connectors and couplers controlled by paragraph (f) are not:

(i) Fiber-optic bulkhead or hull penetration connectors, specially designed for use in ships or vessels; *or*

(ii) Wavelength division multiplex type fiber-optic couplers.

* * * * *

10. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1529A is amended by revising the words "Advisory Notes 2 or 3" that appear in the *GFW Eligibility* paragraph to read "Advisory Note 2"; by revising paragraph (a)(2) as set forth below; by redesignating the "Note" following "Note 2" under paragraph (b)(4) as a "Note" following "Note 1"

under paragraph (b)(4); by removing the phrase "but not including changes in range or polarity" from the parenthetical note in paragraph (f) introductory text and by removing the clause following "second;" in paragraph (f)(3); by amending the first sentence of Technical Note 2 after the word "above" to read "involve the automatic measurement of equivalent circuit parameters over a range of frequencies."; by adding a Technical Note 8 as set forth below; by removing (Advisory) Note 2 and redesignating (Advisory) Note 3 and (Advisory) Note 4 for the People's Republic of China as new (Advisory) Note 2 and (Advisory) Note 3 for the People's Republic of China; by revising the reference to "Advisory Note 4 to ECCN 1565A" in paragraph (b) of newly redesignated (Advisory) Note 2 to read "Advisory Note 6 to ECCN 1565A"; by revising "measurement or microwave devise" in the third sentence of Technical Note 3 to read "measurement of microwave device"; by revising paragraphs (c) through (i), removing paragraph (j), redesignating paragraphs (k) and (l) as new paragraphs (j) and (k), revising new paragraph (k), and by adding a new paragraph (l) to (Advisory) Note 3, as set forth below.

1529A Electronic equipment for testing, measuring (e.g., time interval measurement), calibrating or counting, or for microprocessor/ microcomputer development.

* * * * *

List of Equipment Controlled by ECCN 1529A

* * * * *

(a) * * *

(2) Containing frequency standards having any of the following characteristics:

(i) Designed for mobile use and having a long-term drift (ageing) over 24 hours or more of 1 part in 10^{9} or better;

(ii) Designed for fixed ground use and having a long term drift (ageing) over 24 hours or more of 5 parts in 10^{10} or better; *or*

(iii) A short-term drift (stability) over a period from 1 to 100 seconds of 1 part in 10^{12} or better;

* * * * *

Technical Notes: * * *

8. "Pulse frequency profiling" is the capability of measuring the changes of frequency (or phase) within a pulse as a function of time; such changes in frequency would be present in a transmitted pulse-compression radar pulse ("chirp radar"). This profiling may be achieved by internal or external gating. "Pulse frequency profiling" is not intended to include "frequency modulation tolerance" while it is being frequency modulated and is of interest to the communication field. The ability to perform measurement of the time interval of the pulse itself (pulse width) as opposed to frequency measurements within a pulse is covered under time interval instruments in paragraph (d) of the "List of Equipment Controlled by ECCN 1529A."

* * * * *

(Advisory) Note 3 for the People's Republic of China: * * *

(c) Noise meters, power meters, microwave bridges and noise generators controlled for export by paragraphs (b)(1) or (b)(3)(iv) of the "List of Equipment Controlled by ECCN 1529A" for use at frequencies not exceeding 26.5 GHz;

(d) "Swept frequency network analyzers" for the automatic measurement of complex equivalent circuit parameters over a range of frequencies where the maximum frequency does not exceed 20 GHz;

(e) Instruments in which the functions can be controlled by the injection of digitally coded electrical signals from an external source where the maximum frequency does not exceed 20 GHz;

(f) Instruments incorporating computing facilities with "user-accessible programability" controlled by paragraph (b)(4) of the "List of Equipment Controlled by ECCN 1529A";

(g) Digital test instruments with "user-accessible programability" controlled by paragraph (b)(5) of this ECCN 1529A, required for the use (installation, operation or maintenance) of microcircuits or computers exported to the People's Republic of China under Advisory Notes to ECCNs 1564A or 1565A;

(h) Microprocessor and microcomputer development instruments for microcircuits that are either decontrolled for export or exportable to the People's Republic of China under Advisory Notes of ECCN 1564A;

(i) Digital counters not having any of the following characteristics:

(1) Capable of performing frequency measurements above 20 GHz;

(2) Capable of measuring either the frequency or the change in phase or frequency within a pulse ("pulse frequency profiling"), using either internally or externally gated sampling intervals of 100 ns or less; *or*

(3) Capable of measuring burst frequencies exceeding 250 MHz for a burst duration of less than 2 ms;

(j) Instruments controlled by paragraph (f) of this ECCN, not capable of more than 1,000 independent measurements per second;

(k) Transient recorders, not capable of sampling single input signals at successive intervals of less than 10 ns;

(l) PROM programers controlled by paragraph (b)(6) of this ECCN 1529A.

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1534A is amended by adding a Note after paragraph (b) to read as set forth below; by removing the parenthetical note appearing at the end of paragraph (c); by removing Advisory Note 2; and by redesignating the existing Advisory Note 1 as an unnumbered Advisory Note.

1534A Flatbed microdensitometers (except cathode-ray types) having any of the characteristics in the List below, and specially designed components therefor.

* * * * *

List of Flatbed Microdensitometers Controlled by ECCN 1534A

* * * * *

(b) * * *

Note.—Paragraph (b) of this ECCN does not control equipment with a spatial resolution not better (less) than 2 micrometers and a density resolution not better (less) than 0.01 density unit.

* * * * *

12. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1537A is amended by revising the words "Advisory Notes 1 through 4" that appear in the GFW Eligibility paragraph to read "Advisory Notes 1 through 3"; by revising paragraph (c) introductory text to read "Waveguide components, as follows:"; by revising paragraphs (i), (k) and (l) to read as set forth below; by revising Advisory Note 4 and redesignating it as "Note" 4; by removing Note 5 and (Advisory) Note 6; by revising Note 7 and redesignating it as Note 5; by redesignating the (Advisory) Note 8 for the People's Republic of China as (Advisory) Note 6 for the People's Republic of China; and by adding an (Advisory) Note 7 for the People's Republic of China, reading as follows:

1537A Microwave, including millimetric wave, equipment, including parametric amplifiers, capable of operating at frequencies over 1 GHz (other than microwave equipment controlled for export by ECCNs 1501A,1517A, 1520A, or 1529A.

* * * * *

List of Equipment Controlled by ECCN 1537A

* * * * *

(i) Microwave assemblies and sub-assemblies capable of being used at frequencies above 3 GHz and having circuits fabricated by the same processes used in integrated circuit technology, which include active circuit elements. (For acoustic wave devices, see ECCN 1586A.) (For integrated circuits, see also ECCN 1564A.)

* * * * *

(k) Amplifiers, *except* parametric or paramagnetic amplifiers having any of the following characteristics:

(1) They are specially designed for medical applications;

(2) They are specially designed for use in "simple educational devices" and operate at industrial, scientific or medical (ISM) frequencies; *or*

(3) They have an output power of not more than 10 W and are specially designed for:

(a) Industrial or civilian intrusion detection and alarm systems;

(b) Traffic or industrial movement control and counting systems;

(c) Environmental pollution of air or water detection systems; *or*

(d) "Simple educational devices";

Technical Note: "Simple educational devices" are defined as devices designed for use in teaching basic scientific principles and demonstrating the operation of those principles in educational institutions.

Note: See also ECCN 1521A.

(l) Modulators using PIN (positive-intrinsic-negative) transistor technology.

Note: See also ECCN 1544A.

* * * * *

Advisory Notes: * * *

Advisory Note 3. * * *

Note 4. Paragraph (g) of the "List of Equipment Controlled by ECCN 1537A" does not control duplexers and phase shifters specifically designed for use in civil television systems or in other civil radar or communication systems not covered by other ECCNS on the Commodity Control List identified by the code letter "A," nor covered by the International Traffic in Arms Regulations, by 10 CFR Part 110 or by 10 CFR Part 810.

Note 5. Nothing in the following permits the export of technical data, except the minimum technical data for the use (i.e., installation, operation and maintenance), of the following equipment:

Paragraphs (j) and (k) of the "List of Equipment Controlled by ECCN 1537A" do not control microwave assemblies, sub-assemblies or amplifiers (or combinations thereof) having all of the following characteristics:

(a) Fixed tuned at the time of manufacture to operate only within the ITU satellite broadcasting band from 11.7 to 12.5 GHz;

(b) Not capable of being retuned to a new frequency band by the user; *and*

(c) Specially designed for use with, or in, civil television receivers.

(Advisory) Note 6 for the People's Republic of China: * * *

(Advisory) Note 7 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of amplifiers, controlled for export by paragraph (k) of the "List," when designed for use with signal analyzers described in Note 3 to ECCN 1553A and designed for a maximum operating frequency not exceeding 2 GHz, provided these amplifiers are not radiation hardened or "space-qualified."

Note: The term "space-qualified" used in this ECCN 1537A refers to products that are stated by the manufacturer as designed and tested to meet the special electrical, mechanical or environmental requirements for use in rockets, satellites or high-altitude flight systems operating at altitudes of 100 km or more.

13. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1541A is amended by removing the *GFW Eligibility* paragraph and the Advisory Note and by revising paragraph (b) to read as follows:

1541A Cathode-ray tubes.

* * * * *

List of Cathode-ray Tubes Controlled by ECCN 1541A

* * * * *

(b) With traveling wave or distributed deflection structure using delay lines, or incorporating other techniques to minimize mismatch of fast phenomena signals to the deflection structure, *except* when using segmented plate (sectioned Y-plate) structures;

* * * * *

14. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1544A is amended by removing the *GFW Eligibility* paragraph, paragraph (g) and (Advisory) Note 2; by revising the reference to "paragraph (d)" appearing in Note 2 following paragraph (e), to read "paragraph (e)"; by redesignating Note 3 that appears after (Advisory) Note 2 as Note 2, and by adding a new Note 3 after newly designated Note 2 to read as follows:

1544A Semiconductor diodes and dice and wafers therefor.

* * * * *

List of Semiconductor Diodes and Dice and Wafers Therefor Controlled by ECCN 1544A

* * * * *

Note 2: For photodiodes * * *

Note 3: For light emitting diodes, see ECCN 1522A.

* * * * *

15. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1545A is amended by revising paragraph (a)(5) to read as set forth below and by removing (Advisory) Note 2.

1545A Transistors and dice and wafers therefor (for phototransistors, see ECCN 1548A).

* * * * *

List of Transistors and Dice and Wafers Therefor Controlled by ECCN 1545A

(a) * * *

(5) Being majority carrier-type transistors, including but not limited to junction field-effect transistors (FETs) and metal-oxide semiconductor transistors (MOS), *except* field-effect transistors having any of the following characteristics:

(i) A maximum power dissipation of no more than 6 W an "operating frequency" not exceeding 1 GHz;

(ii) A maximum power dissipation of no more than 1 W and an "operating frequency" not exceeding 2 GHz; *or*

(iii) Designed for audio frequency applications;

* * * * *

16. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1548A is amended by revising paragraph (b) to read as set forth below and by adding a Technical Note at the end of the entry to read as set forth below.

1548A Photosensitive components, including linear and focal plane arrays, and dice and wafers therefor.

* * * * *

(b) Semiconductor photodiodes and phototransistors with a response time constant of 95 ns or less measured at the operating temperature for which the time constant reaches a minimum, *except* semiconductor photodiodes that are not "space qualified" with a response time constant of 0.5 ns or more and with a peak sensitivity at a wavelength neither longer than 920 nm nor shorter than 300 nm.

* * * * *

Technical Note: The term "space qualified" used in this ECCN refers to products that are stated by the manufacturer as designed and tested to meet the special electrical, mechanical or environmental requirements for use in rockets, satellites or high-altitude flight systems operating at altitudes of 100 km or more.

17. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1564A is amended by revising the heading as set forth below; revising the words "(Advisory) Notes 3 and 4" that appear in the *GFW Eligibility* paragraph to read "(Advisory) Note 3"; by revising paragraph (d)(2)(C)(b) to read as set forth below; by adding new paragraphs (d)(2)(C)(c) and revising the text that appears before the semicolon in paragraph (d)(2)(D)(e)(4)(A) to read as set forth below; by removing and

reserving (Advisory) Note 3; by redesignating (Advisory) Notes 4, 5 and 6 and (Advisory) Note 7 for the People's Republic of China as new (Advisory) Notes 3, 4 and 5 and (Advisory) Note 6 for the People's Republic of China; and by adding a paragraph (k) to the new (Advisory) Note 6 for the People's Republic of China as set forth below.

1564A "Assemblies" of electronic components, "modules", printed circuit boards with mounted components, "substrates" and integrated circuits, including packages therefor.

* * * * *

(d) * * *

(2) * * *

(C) * * *

(b) Hermetically sealed dual in-line cases; *or*

(c) Non-hermetically sealed cases; *and*

* * * * *

(D) * * *

(e) * * *

(4) * * *

(A) A read only storage (ROM) of more than 8,192 byte;

* * * * *

(Advisory) Note 6 for the People's Republic of China: * * *

(k) Sample and hold integrated circuits exceeding the limits of paragraph (d)(2)(D)(p)(1) and (2) of the "List of Equipment Controlled by ECCN 1564A" with an acquisition time of no less than 500 nanoseconds.

18. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended by revising Technical Note 2; by revising paragraphs (a), (b) (1) and (2), and (b)(3)(iii) through (vi); by removing and reserving Advisory Note 3; by adding to Advisory Note 4 a paragraph (b)(3) and a NOTE following paragraph (e)(1); revising paragraphs (e) (3) through (8), and paragraph (f)(2); removing and reserving paragraph (h); and revising paragraph (m); by removing and reserving Advisory Note 5; by amending Advisory Note 6 by removing the word "and" that appears at the end of paragraph (c)(1); adding "and" at the end of paragraph (c)(2) before the semicolon; adding a new paragraph (c)(3) and a NOTE following paragraph (g)(1); revising paragraphs (g) (3), (4), (6) and (7) and paragraph (h)(2); revising paragraph (m); by amending Advisory Note 7 by removing the word "and" that appears at the end of paragaph (b)(1); revising paragraph (b)(2) and adding paragraph (b)(3) and a Note following paragraph (e)(1); revising (e) (3), (4), (6) and (7); adding a paragraph (e)(8), revising paragraph (f)(2); revising paragraph (l), as set forth below; and by removing and reserving Advisory Note 13.

1567A Stored program controlled communication switching equipment or systems, and specially designed components therefor for the use of these equipment or systems.

(See also Part 379 for controls on technical data.)

* * * * *

Technical Notes:

1. * * *

2. "Digital computers" when:

(a) "Embedded" in stored program controlled communication switching equipment or systems are to be regarded as specially designed components therefor;

(b) "Incorporated" in stored program controlled communication switching equipment or systems are covered by this ECCN 1567A provided they are the standard models customarily supplied by Western manufacturers of the stored program controlled communication switching equipment or systems; *or*

(c) "Associated" with stored program controlled communication switching equipment or systems are covered by ECCN 1565A.

* * * * *

List of Stored Program Controlled Communications Switching Equipment or Systems, and Specially Designed Components Therefor for the Use of these Equipment or Systems Controlled by ECCN 1567A

(a) Communication equipment or systems for "data (message) switching" including those for "local area networks" or for "wide area networks", *except* "data (message) switching" equipment or systems, provided:

Note: For "data (message) switching" equipment or systems for "local area networks" that can be used in conjunction with electronic computers, see ECCN 1565A.

(1) The equipment or systems are designed for fixed civil use according to the requirements of either:

(i) CCITT Recommendations F.1 to F.79 for store-and-forward systems (Volume II—Fascicle II.4, VIIth plenary assembly, 10th–21st November, 1980); *or*

(ii) ICAO Recommendations for store-and-forward civil aviation communication networks (Annex 10 to the Convention on International Civil Aviation, including all amendments agreed up to and including 14th December, 1981);

(2) The number, type and characteristics of such equipment or systems are normal for the application;

(3) Such equipment or systems will be limited as follows:

(i) The maximum "data signalling rate" of any circuit does not exceed 4,800 bit/s; *and*

(ii) The sum of the individual "data signalling rates" of all circuits does not exceed 27,500 bit/s;

(4) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(i) ECCN 1565A(f);

(ii) ECCN 1565A(h)(1)(i) (A) to (J), (L) or (M); *or*

(iii) ECCN 15656A(h)(1)(ii).

(b) * * *

(1) Key telephone systems provided that:

(i) Access to an external connection is obtained by pressing a special button (key) on a telephone, rather than by dial or key-pad as on a "PABX";

(ii) They are not designed to be upgraded to "private automatic branch exchanges" ("PABXs");

(2) "Stored program controlled circuit switching" equipment or systems, provided:

(i) The equipment or systems are designed for fixed civil use in "stored program controlled telegraph circuit switching" for data;

(ii) The number, type and characteristics of such equipment or systems are normal for the application;

(iii) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(a) ECCN 1565A(f);

(b) ECCN 1565A(h)(1)(i) (A) to (K), or (M); *or*

(c) ECCN 1565A(h)(1)(ii);

(iv) The equipment or systems do not have either of the following features:

(a) Multi-level call pre-emption including overriding or seizing of busy subscriber lines, "trunk circuits" or switches *or*

Note: This does not preclude single level call pre-emption (e.g. executive override).

(b) "Common channel signalling";

(v) The maximum internal bit rate per channel does not exceed 9,600 bit/s;

(vi) The telegraph circuits, which may be telephone circuits, may carry any type of telegraph or telex signal compatible with a voice channel bandwidth of 3,100 Hz as defined in CCITT Recommendation G.151.

(3) * * *

(iii) "Communication channels" or "terminal devices" used for administrative and control purposes:

(a) Are fully dedicated to these purposes; *and*

(b) Do not exceed a maximum "data signalling rate" of 9,600 bit/s;

(iv) Voice channels are limited to 3,100 Hz as defined in CCITT Recommendation G.151;

(v) [Reserved.]

(vi) The "PABXs" do not have either of the following features:

(a) Multi-level call pre-emption, including overriding or seizing of busy subscriber lines, "trunk circuits" or switches: *or*

Note: This does not preclude single level call pre-emption (e.g. executive override).

(b) "Common channel signalling".

(vii) [Reserved]

(viii) [Reserved]

* * * * *

Advisory Note 3: [Reserved.]

Advisory Note 4:

(b) * * *

(3) Do not support any form of Integrated Services Digital Network (ISDN);

* * * * *

(e) * * *

(1) * * *

Note: This does not preclude single level call preemption (e.g., executive override).

(2) * * *

(3) Dynamic adaptive routing;

(4) Interconnections that are specially designed for multi-RF channel radio equipment controlled by ECCN 1531A (d) or (e) or specially designed for multi-RF channel cellular radio equipment;

(5) Digital subscriber line interfaces;

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(a)(2);

(7) *Reserved; or*

(8) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; *and*

(ii) Does all the following:

(a) Receives data from the nodes; *and*

(b) Processes these data in order to:

(1) Control traffic; *and*

(2) Directionalize paths;

(f) * * *

(2) Do not exceed a maximum "data signalling rate" of 9,600 bit/s;

(g) * * *

(h) [Reserved]

* * * * *

(m) Licenses to export commodities covered by this Advisory Note 4 must be accompanied by a statement identifying:

(1) The equipment or system to be provided;

(2) The intended application, including the number of lines, number of trunks and traffic load;

(3) The operating authority; *and*

(4) The location of the equipment or system.

* * * * *

Advisory Note 5: [Reserved]

Advisory Note 6: * * *

(c) * * *

(3) Do not support any form of Integrated Services Digital Network (ISDN);

* * * * *

(g) * * *

(1) * * *

Note: This does not preclude single level call preemption (e.g., executive override).

(2) * * *

(3) Dynamic adaptive routing;

(4) Interconnections that are specially designed for multi-RF channel radio equipment controlled by ECCN 1531A (d) or (e) or specially designed for multi-RF channel cellular radio equipment;

(5) * * *

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(a)(2);

(7) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; *and*

(ii) Does all the following:

(a) Receives data from the nodes; *and*

(b) Processes these data in order to:

(1) Control traffic; *and*

(2) Directionalize paths;

(h) * * *

(2) Do not exceed a maximum "data signalling rate" of 9,600 bit/s;

* * * * *

(m) Licenses to export commodities covered by this Advisory Note 6 must be accompanied by a statement identifying:

(1) The equipment or system to be provided;

(2) The intended application, including the number of lines; number of trunks and traffic load;

(3) The operating authority; *and*

(4) The location of the equipment or system.

* * * * *

Advisory Note 7: * * *

(b) * * *

(2) Will be operated in the importing country by a civil operating authority who has furnished to the supplier a signed statement certifying that the equipment or systems will be used for the specified end-use at a specified location only; *and*

(3) Do not support any form of Integrated Services Digital Network (ISDN);

* * * * *

(e) * * *

(1) * * *

Note: This does not preclude single level call preemption (e.g., executive override).

(2) * * *

(3) Dynamic adaptive routing;

(4) Interconnections that are specially designed for multi-RF channel radio equipment controlled by ECCN 1531A (d) or (e) or specially designed for multi-RF channel cellular radio equipment;

(5) * * *

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(a)(2);

(7) Reserved; or

(8) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; *and*

(ii) Does all the following:

(a) Receives data from the nodes; *and*

(b) Processes these data in order to:

(1) Control traffic; *and*

(2) Directionalize paths;

(f) * * *

* * * * *

(2) Do not exceed a maximum "data signalling rate" of 9,600 bit/s;

* * * * *

(l) Licenses to export commodities covered by this Advisory Note 7 must be accompanied by a statement identifying:

(1) The equipment or system to be provided;

(2) The intended application, including the number of lines, number of trunks and traffic load;

(3) The operating authority; *and*

(4) The location of the equipment or system.

* * * * *

19. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1568A is revised to read as follows:

1568A Analog-to-digital and digital-to-analog converters, position encoders and transducers, and specially designed components and test equipment therefor.

Note: For digital voltmeters or counters, see ECCN 1529A.

Controls for ECCN 1568A

Unit: Report instruments and equipment in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: EE.

Reason for Control: National security; nuclear non-proliferation; foreign policy.

Special Licenses Available: None available for commodities under foreign policy controls for nuclear weapons delivery purposes (§ 376.18(c)). See Part 373 for special licenses available for other commodities defined in ECCN 1568A.

Technical Data: Export of certain related technical data require a validated license to all destinations except Canada (see § 379.4(d)(20)).

List of Equipment Controlled by ECCN 1568A

(a) Electrical input type analog-to-digital converters having any of the following characteristics:

(1) A conversion rate of more than 200,000 complete conversions per second at rated accuracy;

(2) An accuracy in excess of 1 part in more than 10,000 of full scale over the

specified operating temperature range; *or*

(3) A figure of merit 1 x 10^8 or more (derived from the number of complete conversions per second divided by the accuracy);

(b) Electrical input type digital-to-analog converters having any of the following characteristics:

(1) A maximum "settling time" of less than 3 microseconds for voltage output devices and less than 250 ns for current output devices;

(2) An accuracy in excess of 1 part in more than 10,000 of full scale over the specified operating temperature range;

(3) A figure of merit (defined as the reciprocal of the product of the maximum "settling time" in seconds and the accuracy) of more than 2 x 10^9 for voltage output converters or 1 x 10^{10} for current output converters;

(c) Solid-state synchro-to-digital or digital-to-synchro converters and resolver-to-digital or digital-to-resolver converters (including multipole resolvers) having a resolution of better than ± 1 part in 5,000 per full synchro revolution for single speed synchro systems or ± 1 part in 40,000 for dual speed systems;

(d) Mechanical input type position encoders and transducers, as follows, excluding complex servo-follower systems:

(1) Rotary types having:

(i) A resolution of better than 1 part in 265,000 of full scale; *or*

(ii) An accuracy better than ± 2.5 arc-seconds.

(2) Linear displacement types having a resolution of better than 5 micrometers;

Technical Note: Paragraph (d) of the "List of Equipment Controlled by ECCN 1568A" includes absolute and incremental shaft position encoders, linear displacement encoders and inductosyns.

(e) Any equipment described above that is designed to operate below 218 K (−55°C) or above 398K (+125°C);

Technical Note: "Settling time" is defined as the time required for the output to come within one-half bit of the final value when switching between any two levels of the converter.

(Advisory) Note for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of analog-to-digital or digital-to-analog converters, as follows:

(a) Analog-to-digital converters with more than a 200 ns conversion time to a maximum resolution of 12 bit;

(b) Digital-to-analog converters with more than 200 ns "settling time" for voltage output and a maximum resolution of 12 bit; *or*

(c) Digital-to-analog converters with more than 25 ns "settling time" for current output and a maximum resolution of 12 bit.

20. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1588A is amended by removing the *GFW Eligibility* paragraph and the Advisory Note and by adding a Note following the Note at the end of paragraph (b)(2), to read as follows:

1588A Materials composed of crystals having spinel, hexagonal, orthorhombic or garnet crystal structures; thin film devices; assembles of the foregoing; and devices containing them.

* * * * *

(b) * * *

(2) * * *

Note: For machinery and equipment * * *

Note: Paragraph(b) of this ECCN does not control single aperture forms provided that they have:

(a) A switching time equal to or more than 0.24 microsecond; *and*

(b) A maximum dimension of 0.30 mm (12 mils) or more.

* * * * *

21. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1595A is amended by revising the heading of the entry to read as set forth below; by adding the "List of Equipment Controlled by ECCN 1595A" after the *Technical Data* paragraph to read as set forth below, and by removing the Advisory Note.

1595A Gravity meters (gravimeters,) gravity gradiometers and specially designed components therefor, except those items listed in paragraphs (a) and (b) below.

* * * * *

List of Equipment Controlled by ECCN 1595A

Gravity meters (gravimeters), gravity gradiometers and specially designed components therefor, *except:*

(a) Gravity meters for land use having any of the following characteristics:

(1) Static accuracies of not less than 100 microgal; *or*

(2) Being of the Worden type;

(b) Marine gravimetric systems having any of the following characteristics:

(1) Static accuracies of 1 milligal or more; or

(2) An in-service (operational) accuracy of 1 milligal or more with a time to steady state registration of two minutes or greater under any combination of attendant corrective compensations and motional influences.

Dated: September 14, 1988.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 88-21316 Filed 9-15-88; 4:02 pm]

BILLING CODE 3510-DT-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-88-1847; FR-2554]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by adding the mortgage limits for Orange County, Florida and the Indianapolis, Indiana MSA; and adding "high-cost" mortgage limits for Tompkins County, New York; Beaufort County, South Carolina; and Elkhart County, Indiana. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: September 20, 1988.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, Room 9160; telephone (202) 755-6880; 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. (1710-1749), authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination

manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On March 3, 1988 (53 FR 6922), the Department published its most recent annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and their applicable limits for each area. (See also April 12, 1988, 53 FR 11997.) Amendments to the annual listing were published March 28, 1988 (53 FR 9869), April 25, 1988 (53 FR 13405), June 1, 1988 (53 FR 19897), and August 1, 1988 (53 FR 28871).

This Document

Today's document increases high-cost mortgage amounts for Orange County, Florida and the Indianapolis, Indiana MSA; and adds "high-cost" mortgage limits for Tompkins County, New York; Beaufort County, South Carolina; and Elkhart County, Indiana.

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under section 203(b) or 234(c) of the National Housing Act.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Orange County, Florida has a one-family limit of $76,700. The combination home and lot loan limit for Orange County is $76,700 x .80, or $61,360.

B. *Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Orange County, Florida has a one-family limit of $76,700. The lot-only loan limit for Orange County is $76,700 x .20, or $15,340.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam, and Hawaii are as follows:

1. For manufactured homes: $56,700. (40,500 × 140%).

2. For combination manufactured homes and lots: 75,600. ($54,000 × 140%).

3. For lots only: $18,900. (13,500 × 140%).

II. Title II: Updating of FHA Sections 203(b), 234(c), and 214 Area Wide Mortgage Limits

Region IV.—HUD Field Office—Orlando Office

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Orange County, FL	$76,700	86,350	$104,950	$121,100

Region IV.—HUD Field Office-Columbia Office

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Beaufort County, SC	$94,050	$105,900	$128,700	148,500

Region II.—HUD Field Office—Albany Office

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Tompkins County, NY	$86,300	$97,200	118,100	$136,250

Region V.—HUD Field Office-Indianapolis Office

Market area designation and local	1-family and condo unit	2-family	3-family	4-family
Elkhart County, IN	$76,450	$86,150	$104,650	$120,750
Indianapolis, IN MSA	$89,300	$100,550	$122,200	$141,000
Boone County, Hamilton County, Hancock County, Hendricks County, Johnson County, Marion County, Shelby County, Morgan County.				

Date: September 9, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-21340 Filed 9-19-88; 8:45 am]

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Office of the Secretary

24 CFR Parts 813, 887, and 888

[Docket No. R-88-1332; FR-2170]

Section 8 Housing Vouchers; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; correction.

SUMMARY: HUD is correcting errors in the Housing Voucher Program final rule published on September 6, 1988, at 53 FR 34372.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Housing Voucher Division, Room 6122, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6477. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: The following corrections are made to the Housing Voucher Program final rule published on September 6, 1988, at 53 FR 34372.

§ 887.7 [Corrected]

1. In § 887.7 in the definition of "housing assistance plan" on page 34389, column 3, lines 9 and 12, change "§ 570.303(c)" to "570.306".

2. In § 887.7, in the definition of "utility allowance" on page 34390, column 2, line 9 change "§ 887.353" to "887.101" and at line 19, change "pro rate" to "pro rata".

§ 887.209 [Corrected]

3. In § 887.209(c)(2)(v), on page 34399, column 2, line 7, change "copy of" to "copy to".

§ 887.351 [Corrected]

4. In § 887.351(b)(2) on page 34403, column 1, line 7, change "rent of" to "rent or".

§ 887.403 [Corrected]

5. In § 887.403(a) on page 34404, column 3, line 7, remove "of paragraph".

6. In § 887.403(b)(5) on page 34405, column 1, line 1, change "Breaches and" to "Breaches an".

§ 887.461 [Corrected]

7. In the heading to § 887.461 on page 34406, column 2, change "(IRG)" to "(IGR)".

§ 887.467 [Corrected]

8. In § 887.467(g) on page 34407, column 3, line 13, insert "must" after "also".

§ 887.489 [Corrected]

9. In § 887.489 on page 34408, column 2, line 5, change "§ 887.489" to § 887.491".

§ 887.491 [Corrected]

10. In § 887.491(a) on page 34408, column 3, line 2, change "; and" to ".".

§ 887.511 [Corrected]

11. In § 887.511(a)(2) on page 34409, column 2, line 7, insert "an" before "owner".

§ 887.565 [Corrected]

12. In § 887.565(e) on page 34410, column 3, line 11, insert "and" before "must".

§ 813.109 [Corrected]

13. Section 813.109(a)(2) beginning on page 34412, column 2, is correctly revised to read as follows:

§ 813.109 Initial determination, verification, and reexamination of family income and composition.

(a) *Responsibility for initial determination and reexamination.* The Owner or PHA shall be responsible for determination of eligibility for admission, for determination of Annual Income, Adjusted Income, and Total Tenant Payment, and for reexamination of Family income and composition at least annually, as provided in pertinent program regulations and handbooks (see *e.g.,* Part 880, Subpart F and Part 881, Subpart F, which, for purposes of this part shall apply, as appropriate, to projects developed under Part 885; Part 882, Subparts B and E; Part 883, Subpart G; Part 884, Subpart B; Part 886, Subparts A and C; and Part 887, Subpart H). As used in this part, the "effective date" of an examination or reexamination refers to

(1) In the case of an examination for admission, the effective date of the initial occupancy; and

(2) In the case of a reexamination of an existing tenant, the effective date of the redetermined housing assistance payment with respect to the Housing Voucher Program (Part 887) and the effective date of the redetermined Total Tenant Payment for all other programs.

* * * * *

§ 888.111 [Corrected]

14. In § 888.111 on page 34413, column 3, line 14, remove "(Part 882, Subpart G)".

Date: September 14, 1988.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 88-21345 Filed 9-19-88; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8230]

Income Tax; Taxable Years Beginning After December 31, 1953; Deductibility of Employee Awards

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final income tax regulations relating to the deductibility by employers of expenses for awards to employees. These regulations reflect the changes to the applicable tax law made by the Economic Recovery Tax Act of 1981. Additional changes relating to the deductibility by employers of expenses for awards to employees were made by the Tax Reform Act of 1986. These changes are not reflected in these final regulations but will be the subject of a separate notice of proposed rulemaking.

DATES: These final regulations are effective for taxable years ending on or after August 13, 1981.

FOR FURTHER INFORMATION CONTACT: Christopher J. Wilson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) or telephone 202-566-4336 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1982, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 274(b) of the Code. The amendments were proposed to conform the regulations to section 265 of the Economic Recovery Tax Act of 1981 (95 Stat. 265). A public hearing was held on June 2, 1983. After consideration of all comments regarding the proposed amendments, those amendments are

adopted as revised by this Treasury decision.

General Information

Section 274(b) was added to the Code by the Revenue Act of 1962. Basically, section 274(b) provides that no deduction for business gifts shall be allowed to the extent that the total expense for gifts given during the taxable year exceeds $25 with respect to any person. The term "gift," for purposes of section 274(b), has, in general, the same meaning as that term has under section 102 of the Code. Prior to the changes made by the Tax Reform Act of 1986, three exceptions to the term "gift" were provided in section 274(b) (*i.e.*, although an item is a gift under section 102, that item, for purposes of section 274(b), was not treated as a gift and hence was not denied deductibility by section 274(b)). Under present law, the first two exceptions to the term "gift" are retained. The third exception (effective January 1, 1987) is now the subject of new section 274(j). These final regulations apply only with respect to situations where the former exception to section 274(b) would have been applicable.

Explanation of Provisions

The proposed regulations reflected the modification by the Economic Recovery Tax Act of 1981 of the third exception to the term "gift" (*i.e.*, the exception within certain dollar limitations for awards of tangible personal property). The 1981 Act (a) expanded the purposes for which excepted awards may be given to include productivity awards, (b) raised from $100 to $400 the maximum amount deductible for an award other than a qualified plan award, (c) provided for the deduction of the maximum amount in cases in which the maximum is exceeded, and (d) provided more generous dollar limitations on the deduction for qualified plan awards.

Furthermore, the proposed regulations clarified two aspects of the existing regulations under section 274(b). First, they excluded certain items from the term "tangible personal property." Second, they provided that an award from an employer to an employee must be given by reason of the employee's achievement.

The focus of the comments on the proposed regulations related to the clarifying amendment to the term "tangible personal property." Specifically, numerous commentators objected to the provision in the proposed regulations that would impose a limitation on the number of items among which an award recipient may choose. It was argued that an award satisfying all statutory limitations provided in section 274(b) should be deductible without regard to any limitation on the selection available to the award recipient because having the right to choose does not make the item chosen intangible personal property. Also, several commentators objected to the exclusion of all gift certificates from the term "tangible personal property." It was suggested that a nonegotiable gift certificate conferring only the right to receive tangible personal property should qualify as tangible personal property for purposes of section 274(b) because that kind of gift certificate merely facilitates the giving of tangible personal property. Those suggested changes have been made.

Special Analyses

The Commissioner of Internal Revenue has determined that this final regulation is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

The Commissioner of Internal Revenue has concluded that this final regulation is interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, this final regulation is a regulation not subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these final regulations is Robert H. Ginsburgh, formerly of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these final regulations, both on matters of substance and style.

List of Subjects in 26 CFR Parts 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Part 1 are hereby adopted as set forth below:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.274–3 is amended as set forth below:

a. Paragraph (b)(2) is amended by adding paragraph (b)(2)(iv) immediately after paragraph (b)(2)(iii), by revising paragraph (b)(2)(iii) and the flush material that follows new paragraph (b)(2)(iv), and by republishing the paragraph (b)(2) introductory text to read as set forth below.

b. Paragraphs (d), (e), and (f) are redesignated as paragraphs (e), (f), and (g) respectively, and the last sentence of paragraph (e)(2) is amended by inserting "(e)(1)" in place of "(d)(1)".

c. New Paragraph (d) is added to read as set forth below.

§ 1.274–3 Disallowance of deduction for gifts.

* * * * *

(b) *Gift defined.* * * *

(2) *Items not treated as gifts.* The term "gift," for purposes of this section, does not include the following:

* * * * *

(iii) In the case of a taxable year of a taxpayer ending on or after August 13, 1981, an item of tangible personal property which is awarded before January 1, 1987, to an employee of the taxpayer by reason of the employee's length of service (including an award upon retirement), productivity, or safety achievement, but only to the extent that—

(A) The cost of the item to the taxpayer does not exceed $400; or

(B) The item is a qualified plan award (as defined in paragraph (d) of this section); or

(iv) In the case of a taxable year of a taxpayer ending before August 13, 1981, an item of tangible personal property having a cost to the taxpayer not in excess of $100 which is awarded to an employee of the taxpayer by reason of the employee's length of service (including an award upon retirement) or safety achievement.

For purposes of paragraphs (b)(2) (iii) and (iv) of this section, the term "tangible personal property" does not include cash or any gift certificate other than a nonnegotiable gift certificate conferring only the right to receive tangible personal property. Thus, for example, if a nonnegotiable gift certificate entitles an employee to choose between selecting an item of merchandise or receiving cash or reducing the balance due on his account with the issuer of the gift certificate, the gift certificate is not tangible personal property for purposes of this section. To the extent that an item is not treated as a gift for purposes of this section, the deductibility of the expense of the item is not governed by this section, and the taxpayer need not take such item into account in determining whether the $25 limitation on gifts to any individual has been exceeded. For example, if an

employee receives by reason of his length of service a gift of an item of tangible personal property that costs the employer $450, the deductibility of only $50 ($450 minus $400) is governed by this section, and the employer takes the $50 into account for purposes of the $25 limitation on gifts to that employee. The fact that an item is wholly or partially excepted from the applicability of this section has no effect in determining whether the value of the item is includible in the gross income of the recipient. For rules relating to the taxability to the recipient of any item described in this subparagraph, see sections 61, 74, and 102 and the regulations thereunder. For rules relating to the deductibility of employee achievement awards awarded after December 31, 1986, see section 274 (j).

(d) *Qualified plan award.*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph the term "qualified plan award," for purposes of this section, means an item of tangible personal property that is awarded to an employee by reason of the employee's length of service (including retirement), productivity, or safety achievement, and that is awarded pursuant to a permanent, written award plan or program of the taxpayer that does not discriminate as to eligibility or benefits in favor of employees who are officers, shareholders, or highly compensated employees. The "permanency" of an award plan shall be determined from all the facts and circumstances of the particular case, including the taxpayer's ability to continue to make the awards as required by the award plan. Although the taxpayer may reserve the right to change or to terminate an award plan, the actual termination of the award plan for any reason other than business necessity within a few years after it has taken effect may be evidence that the award plan from its inception was not a "permanent" award plan. Whether or not an award plan is discriminatory shall be determined from all the facts and circumstances of the particular case. An award plan may fail to qualify because it is discriminatory in its actual operation even though the written provisions of the award plan are not discriminatory.

(2) *Items not treated as qualified plan awards.* The term "qualified plan award," for purposes of this section, does not include an item qualifying under paragraph (d)(1) of this section to the extent that the cost of the item exceeds $1,600. In addition, that term does not include any items qualifying under paragraph (d)(1) of this section if the average cost of all items (whether or not tangible personal property) awarded during the taxable year by the taxpayer under any plan described in paragraph (d)(1) of this section exceeds $400. The average cost of those items shall be computed by dividing (i) the sum of the costs for those items (including amounts in excess of the $1,600 limitation) by (ii) the total number of those items.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: August 15, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88-20912 Filed 9-19-88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-88-68]

Drawbridge Operation Regulations; Cambridge Creek, Cambridge, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule with request for comments.

SUMMARY: At the request of the Maryland Department of Transportation, State Highway Administration, the Coast Guard is issuing a temporary rule amending the regulations that govern the operation of the drawbridge across Cambridge Creek, mile 0.1, in Cambridge, Maryland. This amendment limits the number of bridge openings during daytime hours when cleaning and painting on the drawspan will be taking place. This action, which is necessary to protect the environment during repair operations, still provides for the reasonable needs of navigation.

DATES: This temporary rule is effective from September 26, 1988, until October 26, 1988, unless amended or terminated before that date.

Comments concerning this rule must be received on or before September 25, 1988.

ADDRESSES: Comments should be mailed to Commander(ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at Room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rule. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine whether the temporary rule should be amended in light of those comments.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LCDR Robin K. Kutz, Project Attorney.

Discussion of Temporary Rule

At the request of the Maryland Department of Transportation, State Highway Administration, the Coast Guard is issuing a temporary rule governing the operation of the drawbridge across Cambridge Creek, mile 0.1, at Cambridge, Maryland. The Maryland Department of Transportation has stated that closed periods will be necessary during daylight hours in order to clean and paint the bridge. They have requested that the draw remain closed Monday through Friday, from 8:30 a.m. to 3 p.m. and from 4 p.m. to 6 p.m., except Federal holidays.

The purpose of these restrictions is to allow the contractor to collect paint debris, to prevent accidental paint spillage onto boats, and to minimize the amount of waste introduced into the environment. Work is scheduled to begin on September 26, 1988, and to be completed by October 26, 1988. Currently, the drawbridge opens on signal from 6 a.m. to 8 p.m., except that from 12 noon to 1 p.m., Monday through Friday, it remains closed. The bridge also need not be opened from 8 p.m. to 6 a.m., daily. The Maryland Department of Transportation has notified local commercial and recreational vessel owners of the work to be done on the bridge through articles in the Cambridge, Maryland newspaper. According to the Department, the proposed restrictive schedule has been

met with little opposition. Local vessel operators may be inconvenienced by the closed periods, but they will be able to pass through the bridge from 6 a.m. to 8:30 a.m., from 3 p.m. to 4 p.m., and again from 6 p.m. to 8 p.m. Therefore, these temporary restrictions will not unreasonably restrict their use of the creek.

Economic Assessment and Certification

This temporary rule is considered to be non-major under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

While the temporary rule may have some economic impact on commercial navigation, the impact is expected to be minimal. Therefore, a full regulatory evaluation is considered unnecessary. This conclusion is based on the fact that the closed periods have been coordinated with the times and numbers of bridge openings assessed during the study of the bridge logs for 1986 and 1987. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is temporarily amended to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation in Part 117 continues to read as follows:

Authority: 33 U.S.C. 449; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Section 117.549 is revised to read as follows:

§ 117.549 Cambridge Harbor.

The draw of the S342 bridge, mile 0.1 at Cambridge, shall open on signal from 6 a.m. to 8 p.m.; except that, from 8:30 a.m. to 3 p.m. and from 4 p.m. to 6 p.m., Mondays through Friday, except Federal holidays, the draw need not be opened. The draw need not be opened from 8 p.m. to 6 a.m. This temporary rule is effective from September 26, 1988, until October 26, 1988, unless sooner amended or terminated.

Dated: August 30, 1988.

W.J. Ecker,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 88–21349 Filed 9–19–88; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 166

[CGD 88–034]

RIN 2115–AC81

Port Access Routes, Approach to Mobile, AL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adjusting a portion of the western boundary of the Mobile Ship Channel Safety Fairway in the approach to Mobile, Alabama. The adjustment was requested to free a portion of a Federal leaseblock from fairway structure restrictions. A port access route study, conducted by the Coast Guard, concluded that the adjustment is necessary and can be made without adversely affecting the purpose for which the fairway was established.

EFFECTIVE DATE: September 20, 1988.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Project Manager, Short Range Aids to Navigation Division, Office of Navigation Safety and Waterway Services, telephone (202) 267–0415 between 7:30 a.m. and 3:00 p.m. Monday Friday, except holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) concerning the fairway adjustment in this rule was published on July 1, 1988 (53 FR 24959). Interested parties were given until August 1, 1988, to submit comments. Two comments were received and a public hearing was not held.

Regulatory Information Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Drafting Information

The principal persons involved in drafting this rulemaking are: Margie G. Hegy, Project Manager, Office of Navigation Safety and Waterway Services. Coast Guard Headquarters; and Christena G. Green, Project Counsel, Office of Chief Counsel, Coast Guard Headquarters.

Background

The Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1223, authorizes the Secretary of the Department in which the Coast Guard is operating to establish traffic separation schemes and shipping safety fairways, where necesssary, to provide safe access routes for vessels proceeding to or from United States ports.

The PWSA also authorizes the Secretary to adjust the location or limits of designated shipping safety fairways in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise. The adjustment, however, cannot adversely affect the purpose for which the existing designation was made and the need for which continues.

A shipping safety fairway is an area in which no fixed structures, temporary or permanent, are permitted. Shipping safety fairways are routing measures which provide safe port access routes for vessels where the primary risk to vessels is collision with offshore structures. Vessel use of shipping safety fairways is voluntary and the direction of traffic flow within a shipping safety fairway may be recommended. Shipping safety fairways may inhibit exploration for and exploitation of mineral resources in the designated area.

Before, establishing or adjusting a shipping safety fairway, the 1978 amendments to the PWSA require the Coast Guard to conduct a port access route study, taking into account all other uses of the area under consideration and ensuring that the interests of all affected parties are considered. These uses include, as appropriate, the exploration for, or exploitation, of, oil, gas or other mineral resources; the construction or operation of deepwater ports or other structures; the establishment or operation of marine or estuarine sanctuaries; and activities involving recreational or commercial fishing. Publication of a notice of study advises all bidders in future lease sales that occupancy rights within the study area may be restricted by a routing measure developed as a result of the study. In the interest of promoting a multiple use approach to offshore waters, the Coast Guard, as far as practicable, will minimize impacts on other uses of the area. Once a shipping safety fairway is designated under the authority of the PWSA, however, the paramount right of navigation is recognized within the designated area.

The Coast Guard studied this area in 1979 (44 FR 224543), and the Study Results were published on October 8, 1981, (46 FR 49989). The Coast Guard concluded that the fairway network in the Gulf of Mexico was effective, and recommended only minor changes, none or which modified the Mobile Ship Channel Safety Fairway.

On August 5, 1985, Texaco Producing Inc. (TPI) requested that the Coast Guard adjust the southernmost four miles of the western boundary of the Mobile Ship Channel Safety Fairway to accommodate a proposed drilling and production site.

In response to this request, the Eighth Coast Guard District announced a port access route study (51 FR 6923), the results of which were published in a Notice of Proposed Rulemaking (53 FR 24959) on July 1, 1988. The Coast Guard found that TPI's need could not be reasonably accommodated without adjustment to the fairway.

The portion of the Mobile Ship Channel Safety Fairway examined during the port access route study was the flared seaward end. This section is two miles wide at its northen end and flares to five and one-half miles at its southern end where it joins with four other fairways to form a junction area. The Mobile Outer Bar Entrance Channel (Bar Channel), which is 42 feet deep, 600 feet wide and approximately 8 miles in length, is near the center of this section of the fairway. The Mobile Entrance Lighted Whistle Buoy (herinafter referred to as the sea bouy), is located at the seaward end of the Bar Channel. This sea bouy is used by mariners to line up with the channel entrance and is a reference point for the boarding of pilots.

The adjustment changes the last four miles of the western boundary. The U.S. Army Corps of Engineers (COE) has a planned three-phase project to deepen and widen the Bar Channel. The first phase will deepen the channel to 47 feet and maintain the current width of 600 feet. This phase will be completed in 1990. Two additional phases will deepen the channel to 57 feet and widen it to 800 feet. In conjunction with the first phase of this project, the sea buoy will be relocated approximately .575 nautical miles seaward along the entrance channel range to 30°07'33" N latitude and 88°04'06" W longitude.

The Coast Guard concluded that there is a continuing need for the fairway and that the adjustment is feasible and will not adversely affect the original purpose of the fairway. The adjusted fairway is greater than two miles wide and will continue to provide a safe area for vessel manuevering and embarking and debarking pilots.

Comments were received from Exxon Company, U.S.A. and Pennzoil Exploration and Production Company. Both companies support modification of the fairway because it will open an area presently within the fairway to exploration and production and will not adversely affect the original purpose of the fairway. Exxon Company stated its belief that the modification is consistent with the purpose and intent of the discretionary authority provided in the PWSA to reconcile the need for safe access routes with the needs of other reasonable uses.

As recommended by the study, relocation of the sea buoy will occur simultaneously with the fairway adjustment. This will move the reference point for vessels that require pilotage and shift the navigational maneuvering of deep-draft vessels further seaward, providing an adequate safety margin.

The adjustment will free portions of state and federal leaseblocks from fairway structure restrictions and open this area to mineral exploration and production. Because this rulemaking relieves a restriction, the rule will be made effective in less than 30 days.

Regulatory Evaluation

The regulation is considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). This regulation was preceded by a port access route study which considered a variety of issues including its economic impact. No adverse economic data was disclosed by the study.

Adjustment of the western boundary of the existing fairway will provide a number of advantages. TPI will recover an estimated 106 billion cubic feet (BCF) of additional gas reserves. Potential drilling and completion problems will be minimized.

The data presented by TPI has been verified by the Minerals Management Service (MMS). The Department of the Interior supports the fairway adjustment because the administration attaches a high priority to the development of domestic oil and gas resources and analysis indicates substantial natural gas resources are at stake. The recovery of domestic oil and gas resources will benefit both the Federal and State of Alabama economies. TPI estimates that the additional 106 BCF of natural gas will result in over 45 million dollars in royalty and tax revenues to the Federal Government and the State of Alabama over a period of 20 years.

The economic impact of the fairway adjustment on vessel traffic will be negligible. The principle economic impact of the adjustment will be the projected increase in recovery of gas resources.

The economic impact of this adjustment is expected to be so minimal that further regulatory evaluation is unnecessary.

Environmental Impact

This action has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation, in accordance with section 2.B.2.c. of Commandant Instruction (COMDTINST) M16475.1B.

Regulatory Flexibility

The impact of this fairway adjustment is expected to be minimal and the Coast Guard certifies that is will not have a significant economic impact on a substantial number of small entities.

Federalism

This rulemaking has been analyzed in accordance with the principles and criteria contained in the Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warant the preparation of a Federalism Assesment.

List of Subjects in 33 CFR Part 166

Anchorage grounds, Marine safety, Navigation (water), Waterways, Shipping Safety Fairways.

In considration of the foregoing, Part 166 of Title 33 of the Code of Federal Regulations is amended as follows:

PART 166—[AMENDED]

1. The authority citation for Part 166 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

2. Section 166.200 is amended by revising paragraph (d)(39)(i) to read as follows:

§ 166.200 Shipping safety fairways and anchorage areas, Gulf of Mexico.

* * * * *

(d) * * *

(39) *Mobile Safety Fairway*—(i) *Moble Ship Channel Safety Fairway.* The areas between rhumb lines joining points at:

Latitude	Longitude
30°28'46" N	88°03'24" W
30°38'14" N	88°02'42" W
30°31'59" N	88°02'00" W

Latitude	Longitude
30°31'59" N	88°04'59" W

and rhumb lines joining points at:

Latitude	Longitude
30°31'00" N	88°05'30" W
30°31'00" N	88°01'54" W
30°26'55" N	88°01'26" W
30°16'35" N	88°02'45" W
30°14'09" N	88°03'34" W
30°10'36" N	88°03'53" W
30°08'10" N	88°04'40" W
30°07'15" N	88°06'54" W

and rhumb lines joining points at:

Latitude	Longitude
30°39'55" N	88°01'15" W
30°37'06" N	88°01'23" W
30°26'11" N	88°00'11" W
30°16'18" N	88°01'35" W
30°13'52" N	88°01'12" W
30°13'14" N	88°01'12" W
30°10'36" N	88°01'35" W
30°08'04" N	88°00'36" W

* * * * *

Dated: August 5, 1988.

R.T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 88-21348 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL-3450-2]

Ocean Dumping; Designation of a Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) today designates four dredged material disposal sites located offshore of Arecibo, Mayaguez, Ponce, and Yabucoa, Puerto Rico, for the disposal of dredged material removed from the Arecibo, Mayaguez, Ponce, and Yabucoa harbors, respectively. This action is necessary to provide acceptable ocean dumping sites for the current and future disposal of dredged material. These final site designations do not authorize any actual disposal of dredged material. Authorization to ocean dump dredged material at the sites is granted only by permit and other administrative proceedings conducted by the U.S. Army Corps of Engineers (COE).

EFFECTIVE DATE: These designations shall become effective on October 20, 1988.

ADDRESS: Mario P. Del Vicario, Chief, Marine and Wetlands Protection Branch, EPA, Region II, 26 Federal Plaza, Room 837, New York, New York 10278-0090.

The file supporting this proposed designation is available for public inspection at the above address.

The draft and final environmental impact statements for the designation of the Arecibo, Mayaguez, Ponce, and Yabucoa dredged material disposal sites evaluate the environmental impacts associated with the site designations. These documents are available for public review at the following locations:

U.S. Environmental Protection Agency, Environmental Impacts Branch, 26 Federal Plaza, Room 500, New York, New York 10278-0090

U.S. Environmental Protection Agency, Caribbean Field Office, 1413 Avenida Fernandez Juncos—Stop 20, Santurce, Puerto Rico

U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2904 (Rear), 401 M Street SW., Washington, DC 20460

U.S. Army Corps of Engineers, Jacksonville District Office, 400 W. Bay Street, Jacksonville, Florida 32232

U.S. Army Corps of Engineers, San Juan Area Office, 400 Avenida Fernandez Juncos, San Juan, Puerto Rico

Puerto Rico Department of Natural Resources, Oficina 204, Centro Gubernamental, Avenida Rotarios, Arecibo, Puerto Rico

Puerto Rico Department of Natural Resources, Oficina A, Centro Commercial, 2 Alturas de Mayaguez Carr., Mayaguez, Puerto Rico

Puerto Rico Department of Natural Resources, 5 Calle Celenia, Humacao, Puerto Rico

Puerto Rico Department of Natural Resources, Hospital Sub-Regional, Ponce, Puerto Rico

FOR FURTHER INFORMATION CONTACT: Mario P. Del Vicario, Chief, Marine and Wetlands Protection Branch, EPA Region II, 26 Federal Plaza, Room 837, New York, New York 10278-0090 (212) 264-5170

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean dumping sites for dredged material to the Regional Administrator of the EPA Region in which the site is located. These site designations are being made pursuant to that authority.

Section 103 of the Act gives authority to the Secretary of the Army to issue dredged material disposal permits. Such permits are evaluated according to criteria promulgated in the EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, Part 227) and are reviewed by EPA for concurrence before issuance. In all cases, a need for ocean disposal must be established before issuance of a disposal permit. Section 103 of the Act also requires the Secretary to use recommended sites designated by EPA to the maximum extent feasible.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in Part 228. A list of "Approved Interim and Final Ocean Dumping Sites", including the interim sites for Arecibo, Mayaguez, and Ponce, was published on January 11, 1977 (42 FR 2461 *et seq.*). The interim site for Yabucoa was added to the list on May 11, 1979 (44 FR 27662).

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to build into Agency decision-making processes careful consideration of all environmental aspects of proposed actions. Although NEPA does not apply to EPA activities of this type, EPA has voluntarily made a commitment to prepare EISs in connection with ocean dumping site designations (39 FR 16186; May 7, 1974).

The EPA has prepared a Final EIS entitled *Final Environmental Impact Statement for the Designation of Ocean Dredged Material Disposal Sites for Arecibo, Mayaguez, Ponce, and Yabucoa, Puerto Rico.* On May 27, 1988, a notice of availability of the EIS for public review and comment was published in the **Federal Register**. The comment period closed on July 11, 1988. Comment letters were received from the Commonwealth of Puerto Rico, Environmental Quality Board, and the Department of Natural Resources, stating that they had no objections or further comments regarding the Final EIS. The State Office of Historic Preservation requested that they be

provided with the locations of the proposed disposal sites on U.S.G.S. quadrangles. They were advised that this information is not available since the sites are located offshore of the area covered by the quadrangles. Subsequently, they responded that they had no further concerns. The Puerto Rico Electric Power Authority agreed with the selection of the sites, but suggested that they be enlarged to accommodate dredging projects from nearby harbors. However, the scope of the EIS for these site designations did not incorporate expanding the sites. Need for modification and/or expansion of the sites to accommodate dredging in harbors other than those identified in the EIS is considered a separate action.

The Proposed Rule for these designations was published on May 24, 1988, and the comment period closed on July 8, 1988. The Caribbean Fishery Management Council requested an additional 60 days to review the Proposed Rule, but no further comments were received.

The action discussed in the EIS is the designation for continuing use of four ocean disposal sites for dredged material. The purpose of this designation is to provide an environmentally acceptable location for the ocean disposal of dredged material. Ocean disposal at the sites will only be allowed on a case-by-case basis after the U.S. Army Corps of Engineers (COE), Jacksonville District, has issued a permit authorizing disposal. EPA reviews the public notice announcing a complete permit application and provides comments on the proposed action prior to permit issuance. The EIS discusses the need for site designation and examines ocean disposal sites and alternatives to the proposed action. Three sites were examined for Arecibo (the interim site and two alternate sites); at all other locations, four sites were evaluated (the interim site and three alternate sites). Land-based disposal alternatives were examined in some detail in the draft EIS and will be re-examined during decision-making on individual permit applications for the ocean dumping of dredged material.

The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation and includes the results of a disposal site environmental study completed in 1984. All activities associated with these final site designations were, or are, being conducted in accordance with the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Site Designations

The first site is located approximately 1.5 nautical miles north of Arecibo harbor, Puerto Rico, and occupies an area of approximately 1 square nautical mile. Water depths within the site range from 101 to 417 meters. The corner coordinates of the site are as follows:

18°31'00" N., 66°43'47" W.
18°31'00" N., 66°42'45" W.
18°30'00" N., 66°42'45" W.
18°30'00" N., 66°43'47" W.

The second site is located approximately 6 nautical miles west of Mayaguez harbor, Puerto Rico, and occupies an area of approximately 1 square nautical mile. Water depths within the site range from 351 to 384 meters. The corner coordinates of the site are as follows:

18°15'30" N., 67°16'13" W.
18°15'30" N., 67°15'11" W.
18°14'30" N., 67°15'11" W.
18°14'30" N., 67°16'13" W.

The third site is located approximately 4.5 nautical miles south of Ponce harbor, Puerto Rico, and occupies an area of approximately 1 square nautical mile. Water depths within the site range from 329 to 457 meters. The corner coordinates of the sites are as follows:

17°54'00" N., 66°37'43" W.
17°54'00" N., 66°36'41" W.
17°53'00" N., 66°36'41" W.
17°53'00" N., 66°37'43" W.

The fourth site is located approximately 6 nautical miles east of Yabucoa harbor, Puerto Rico, and occupies an area of approximately 1 square nautical mile. Water depths within the site range from 549 to 914 meters. The corner coordinates of the site are as follows:

18°03'42" N., 65°42'49" W.
18°03'42" N., 65°41'47" W.
18°02'42" N., 65°41'47" W.
18°02'42" N., 65°42'49" W.

Use of the sites will be restricted to the disposal of dredged material associated with maintenance dredging projects originating within Arecibo, Mayaguez, Ponce and Yabucoa harbors. Continued use of a site will be restricted or terminated if disposal operations at the site at any time cause unacceptable adverse impacts.

D. Regulatory Requirements

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep temporary perturbations associated with the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at an interim site cause unacceptable adverse impacts, the use of that site will be terminated as soon as a suitable alternate disposal site can be designated. The general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations; while § 228.6 lists eleven specific factors used in evaluating a proposed disposal site to ensure that the general criteria are met.

Normally, EPA chooses sites where the dredged material can be contained within the site after disposal. This is generally feasible in shallow water (10 to 50 meters) environments where valuable natural resources will not be placed at risk. In Puerto Rico, however, shallow water environments typically are inhabited by corals. To avoid direct disposal on coral, deeper water sites are selected. As a consequence of selecting deeper water sites, a portion of the dredged material may be transported outside of the site boundaries; however, the effects of such transport is preferable to disposal on coral reefs.

The four sites designated are acceptable under the five general criteria. The characteristics of the sites are discussed below in terms of the eleven specific factors.

D.1 ARECIBO

D.1.1 Geographical position, depth of water, bottom topography, and distance from coast. (40 CFR 228.6(a)(1))

The Arecibo site is located within the coordinates listed in the previous section of this final rule and is approximately 1 nautical mile north of the nearest coastline. The bottom of the site slopes sharply to the north, with depths ranging from 101 to 417 meters.

D.1.2 Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. (40 CFR 228.6(a)(2))

The Arecibo site is 1 to 2 nautical miles from the nearest significant breeding, spawning, or nursery area of near shore living resources. Because the site is typical of nearby well-flushed open ocean locations, there is no evidence to suggest that the site has any unique importance as feeding or passage areas for biota.

Endangered sea turtles and the brown pelican inhabit coastal Puerto Rico. Available information indicates that these species are most active in the nearshore coastal environment and are only transients in oceanic environments.

Consequently, ocean disposal of dredged material is not expected to adversely affect these species.

D.1.3 Location in relation to beaches and other amenity areas. (40 CFR 228.6(a)(3))

The Arecibo site is about 6 nautical miles from the nearest recreational beach. Because of the decreasing water depth in the westerly direction, dredged material deposited at the site is expected to settle within the confines of the designated site, or a short distance to the west within minimal time subsequent to disposal. Since virtually all dredged material will settle to the bottom near the release point, it is not anticipated that any released material will adversely affect the nearby shoreline. Due to ambient ocean currents, no dredged material is expected to be transported to the beach area should the site be used for disposal.

D.1.4 Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any. (40 CFR 228.6(a)(4))

The Arecibo site is expected to receive approximately 150,000 cubic yards of sandy dredged material once every 3 to 5 years. The material will be obtained during the maintenance dredging of navigational channels and berthing areas in Arecibo harbor. Dumping would occur from hopper dredges or barges, depending on the availability of equipment at the time of dredging.

D.1.5 Feasibility of surveillance and monitoring. (40 CFR 228.6(a)(5))

Surveillance is the responsibility of the U.S. Coast Guard, while monitoring activities are the responsibility of EPA and the COE. Because of its proximity to the shore, surveillance by shipriders, helicopters, or other vessels could be implemented at the Arecibo site. Water depths are not sufficient to impede either water quality sampling or benthic sampling during monitoring activities. The site could be monitored by ocean-going vessels. EPA has conducted monitoring and research activities in, and near, the proposed site.

D.1.6. Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. (40 CFR 228.6(a)(6))

The waters near the Arecibo site are characterized by weak (3 to 5 cm/s) westerly subsurface currents. Because of the decreasing water depth in the westerly direction, dredged materials are expected to settle out within the dump site or a short distance to the west within a short time following disposal. Dispersal and horizontal mixing of the water column are weak because of the low current speeds. The dispersal, horizontal transport, and vertical mixing characteristics of the site are such that dumped dredged material is likely to remain within the confines of the site.

D.1.7 Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). (40 CFR 228.6(a)(7))

A total of 584,477 cubic yards of dredged material has been previously disposed of at the Arecibo interim site. In 1984, a survey cruise detected a higher percentage of silty sand at the Arecibo site than in nearby sediments. Because the site has historically been used for dumping, it is presumed that the difference in sediment types is the result of previous dumping activities. Historical disposal of dredged material at the interim Arecibo site has not resulted in substantial adverse effects to biotic resources of the ocean or to other uses of the marine environment. The fauna of the site are more typical of those inhabiting sandy sediments than those inhabiting silty sediments (see D.1.9). Dredged material deposited at the proposed Arecibo site will bury benthic organisms. The effect of burial is expected to be temporary, because the site is inhabited by species that have either survived previous disposal or have recolonized the site after disposal. The deposited material will accumulate on the sea floor, but is not likely to interfere with other uses of the ocean. Impacts of dredged material disposal will be primarily limited to the sea floor.

D.1.8 Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. (40 CFR 228.6(a)(8))

There are no expected impacts on any of these factors. There are no designated shipping lanes within the coordinates of the site. Fishing areas are located east and south of the proposed site, but ocean currents would transport dredged material away from these areas. No dredged materials are expected to be transported toward shore-based recreational areas. No mineral extraction or desalination operations would be impacted. No fish or shellfish culture operations exist or are planned near the dumpsite. The site does not contain any known areas of special scientific importance.

D.1.9 The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. (40 CFR 228.6(a)(9))

Water quality at the Arecibo site is good, typical of the well-flushed open ocean conditions in Puerto Rican coastal areas. The water is optically clear with little suspended material, and there is no evidence of organic enrichment or eutrophication. Oxygen concentrations are high and nutrient concentrations are low.

Species composition of benthic organisms at the site reflects the increased sand content found in the sediments at the disposal site. Among polychaete worms and crustaceans inhabiting the site, the percentage of species and individuals of ecological types suited to sandy environments is higher at the proposed site than at nearby locations. The fauna at the site are well-adapted to recolonize after future disposal operations.

D.1.10 Potential for the development or recruitment of nuisance species in the disposal site. (40 CFR 228.6(a)(10))

Previous disposal at the Arecibo site has not caused development of nuisance species at the site. There are no known components in the dedged material which would attract or recruit nuisance species at the site. In the unlikely event that pathogens were contained in the dedged material, it is considered improbable that they could survive and reproduce in the cold, 100- to 400-meter depth environment of the sea floor at the site.

D.1.11 Existence at or in close proximity to the site of any significant natural or cultural features of historical importance. (40 CFR 228.6(a)(11))

No such areas have been identified at the Arecibo site or in areas likely to be affected by dedged material disposal at the site.

D.2 MAYAGUEZ

D.2.1 Geographical position, depth of water, bottom topography, and distance from coast. (40 CFR 228.6(a)(1))

The site is located at the coordinates listed in the previous section of this final rule and is approximately 3.5 nautical miles west of the nearest coastline. The bottom of the site slopes slightly in a westerly direction from 351 to 384 meters.

D.2.2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. (40 CFR 228.6(a)(2))

The Mayaguez site is at least 3 nautical miles from the nearest significant breeding, spawning, or nursery area of nearshore living resources. Because the site is typical of nearby well-flushed open ocean locations, there is no evidence to suggest that the proposed site has any unique importance as feeding or passage areas for biota.

Endangered sea turtles and the brown pelican inhabit coastal Puerto Rico. Available information indicates that these species are most active in the nearshore coastal environment and are only transients in oceanic environments. Consequently, oceanic dredged material disposal is not expected to adversely affect these species.

D.2.3 Location in relation to beaches and other amenity areas. (40 CFR 228.6(a)(3))

The Mayaguez site is approximately 4 nautical miles from the nearest recreational beach. Modeling of the movement of the dredged material disposed of at the proposed Mayaguez site indicates that the material would not be transported to the shoreline.

D.2.4 Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any (40 CFR 228.6(a)(4))

Approximately 53,500 cubic yards of mixed sand, silt, and clay dredged material is expected to be disposed of at the Mayaguez site once every 2 years. The material will be obtained during maintenance dredging of navigational channels and berthing areas in Mayaguez harbor. The dumping would occur primarily from hopper dredges.

D.2.5 Feasibility of surveillance and monitoring. (40 CFR 228.6(a)(5))

Surveillance is the responsibility of the U.S. Coast Guard, while monitoring activities are the responsibility of EPA and the COE. Because of its proximity to the shore, surveillance by shipriders, helicopters, or other vessels could be implemented at the Mayaguez site. Water depths are not sufficient to impede either water quality sampling or benthic sampling during monitoring activities. The site could be monitored by ocean-going vessels. EPA has conducted monitoring and research activities in, and near, the site.

D.2.6 Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. (40 CFR 228.6(a)(6))

The waters near the Mayaguez site are characterized by weak (15 cm/s) southwesterly subsurface currents. The dredged materials are expected to be deposited within the dumpsite or within 1.5 nautical miles southwest of the dumpsite within a short time following disposal. Horizontal mixing of the water column is not sufficient to cause significant dispersal of the dredged material.

D.2.7 Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). (40 CFR 228.6(a)(7))

Previous dredged material disposal has occurred at a nearby interim disposal site. There are no other current or previous discharges at or near the site. There has been no known dumping of dredged material at the Mayaguez site. A 1984 survey cruise detected no difference in species composition of bottom fauna between the designated site and nearby areas, including the interim site.

Dredged material disposed of at the Mazyaguez site will be deposited on the sea floor at and near the site. Benthic organisms will be buried by this action. However, due to the relatively fine nature of the dredged material, recolonization of the site subsequent to disposal will likely be accomplished in a short time period. Impacts of dredged material disposal will be primarily limited to the sea floor.

D.2.8 Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. (40 CFR 228.6(a)(8))

There are no designated shipping lanes within the coordinates of the site. Fishing will not be impacted since the disposal of dredged materials at the proposed site would not damage coral reefs or their associated fish or shellfish assemblages. No dredged materials are expected to be transported towards shore-based recreational areas. No mineral extraction proposals, or desalination plants would be impacted. There are no fish or shellfish culture operations near the Mayaguez site. The site does not contain any known areas of special scientific importance.

D.2.9 The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. (40 CFR 228.6(a)(9))

Water quality at the Mayaguez site is good, typical of well-flushed open water conditions in Puerto Rican coastal areas. The water is optically clear with little suspended material, and there is no evidence of organic enrichment or eutrophication. Oxygen concentrations are high and nutrient concentrations are low.

Benthic organisms at the site are primarily deposit feeders, an ecological type well-adapted to living in the high turbidity that might be caused by dredged material disposal.

D.2.10 Potential for the development or recruitment of nuisance species in the disposal site. (40 CFR 228.6(a)(10))

There are no known components in the dredged material which would attract or recruit nuisance species at the site. In the unlikely event that pathogens were contained in the dredged material, it is considered improbable that they could survive and reproduce in the deep ocean waters. The dredged material to be disposed of would be similar in nature to that existing at the site, and would result in a similar fauna at the site.

D.2.11 Existence at or in close proximity to the site of any significant natural or cultural features of historical importance. (40 CFR 228.6(a)(11))

Although there is a shipwreck within 1 nautical mile of the Mayaguez site, predominant currents are expected to carry dredged material away from this location. Other known shipwrecks in the area are unlikely to be affected by dredged material disposal.

D.3 PONCE

D.3.1 Geographical position, depth of water, bottom topography, and distance from coast. (40 CFR 228.6(a)(1))

The Ponce site is located within the coordinates listed in the previous section of this final rule and is approximately 4 nautical miles south of the nearest coastline. The bottom of the site slopes from 329 to 457 meters in a southwesterly direction.

D.3.2 Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. (40 CFR 228.6(a)(2))

The Ponce site is at least 4 nautical miles from the nearest significant breeding, spawning, or nursery area of nearshore living resources. Because the

site is typical of nearby well-flushed open ocean locations, there is no evidence to suggest that the site has any unique importance as feeding or passage areas for biota.

Endangered sea turtles and the brown pelican inhabit coastal Puerto Rico. Available information indicates that these species are most active in the nearshore coastal environment and are only transient in oceanic environments. Consequently, oceanic dredged material disposal is not expected to adversely affect these species.

D.3.3 Location in relation to beaches and other amenity areas. (40 CFR 228.6(a)(3))

The Ponce site is several nautical miles from the nearest recreational beach. Modeling of the movement of dredged material at the Ponce site indicates that the prevailing ocean currents would not transport dredged material to the shore.

D.3.4 Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any. (40 CFR 228.6(a)(4))

Between 250,000 and 290,000 cubic yards of silty dredged material is expected to be disposed of at the Ponce site once every 2 years. The material will be obtained during maintenance dredging of navigational channels and berthing areas in Ponce harbor. The disposal would occur primarily from clamshell unloading of scows, but hopper dredges might be used if available.

D.3.5 Feasibility of surveillance and monitoring. (40 CFR 228.6(a)(5))

Surveillance is the responsibility of the U.S. Coast Guard, while monitoring activities are the responsibility of EPA and the COE. Because of its proximity to the shore, surveillance by shipriders, helicopters, or other vessels could be implemented at the Ponce site. Water depths are not sufficient to impede either water quality sampling or monitoring activities. Benthic sampling at deep water sites presents logistic difficulties. However, techniques have been devised to resolve these problems, and previous sampling activities at the site have been successful. The site could be monitored by ocean-going vessels. EPA has conducted monitoring and research activities in, and near, the proposed site.

D.3.6 Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. (40 CFR 228.6(a)(6))

The waters near the Ponce site are characterized by weak (5 to 10 cm/s) west-northwesterly subsurface currents. Because of the fine nature of the dredged material, transport over considerable distances, potentially up to 10 nautical miles, may occur before the material settles to the sea floor. However, significant transport occurs only at depths in excess of 300 meters. Any transport in the direction of the coastline would be limited since dredged material would settle out as shallower water is encountered. Of the alternatives considered, the designated site has the least potential for dispersion to affect nearshore areas that may contain coral reefs. Fine dredged materials may be transported great distances over a long period of time. However, although the water column is not dispersive in nature, the material is laterally dispersed over a wide area as well. Consequently, desposition at any one location will be minimal.

D.3.7 Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). (40 CFR 228.6(a)(7))

Previous dredged material disposal has occurred at a nearby interim disposal site. There are no other current or previous discharges at or near the site.

There has been no known dumping of dredged material at the Ponce site. A 1984 survey cruise detected no difference in bottom fauna or sediments between the designated site and nearby areas, including the interim site.

Dredged material disposal at the Ponce site will be widely distributed over the sea floor. Thus, only thin layers of dredged material will be deposited at any given location. Deposition of this material is therefore expected to have only minimal impacts on the benthic biota and physical environment at the site.

D.3.8 Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. (40 CFR 228.6(a)(8))

There are no designated shipping lanes within the coordinates of the site. Although dispersal will occur over a wide area, it is not expected that disposal of dredged material at the site would damage coral reefs or their associated fish or shellfish assemblages. No mineral extraction or desalination operations would be impacted. There are no fish or shellfish culture operations near the designated Ponce site. No known areas of scientific importance area located near the site.

D.3.9 The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. (40 CFR 228.6(a)(9))

Water quality at the Ponce site is good, typical of the well-flushed open water conditions in Puerto Rican coastal areas. The water is optically clear with little suspended material, and there is no evidence of organic enrichment or eutrophication. Oxygen concentrations are high and nutrient concentrations are low.

Benthic organisms at the site are primarily deposit feeders, an ecological type well-adapted to living in the high turbidity that might be caused by dredged material disposal. It is not likely that use of the site will have a detrimental effect on benthic communities because of the wide dispersal of the material.

D.3.10 Potential for the development or recruitment of nuisance species in the disposal site. (40 CFR 228.6(a)(10))

There are no known components in the dredged material which would attract or recruit nuisance species at the site. In the unlikely event that pathogens were contained in the dredged material, it is considered improbable that they could survive and reproduce in the deep ocean waters. The dredged material to be disposed of would be similar in nature to that existing at the site, and would result in a similar fauna at the site.

D.3.11 Existence at or in close proximity to the site of any significant natural or cultural features of historical importance. (40 CFR 228.6(a)(11))

No such features have been identified at the Ponce site or in areas that will be affected by disposal at the site.

D.4 YABUCOA

D.4.1 Geographical position, depth of water, bottom topography, and distance from coast. (40 CFR 228.6(a)(1))

The site is located at the coordinates listed in the previous section of this final rule and is approximately 4.5 nautical miles east of the nearest coastline. The bottom of the site slopes sharply to the southeast, with depths ranging from 548 to 914 meters.

D.4.2 Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases. (40 CFR 228.6(a)(2))

The Yabucoa site is at least 4 nautical miles from the nearest significant breeding, swawning, or nursery area of nearshore living resources. Because the site is typical of nearby well-flushed open ocean locations, there is no evidence to suggest that the site has any unique importance as feeding or passage areas for biota.

Endangered sea turtles and the brown pelican inhabit coastal Puerto Rico. Available information indicates that these species are most active in the nearshore coastal environment and are only transient in oceanic environments. Consequently, oceanic dredged material disposal is not expected to adversely affect these species.

D.4.3 Location in relation to beaches and other amenity areas. (40 CFR 228.6(a)(3))

The Yabucoa site is 4 to 5 nautical miles from the nearest recreational beach. Modeling of dispersion of the dredged material at the Yabucoa site indicated that the material would not be transported to the shoreline.

D.4.4 Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any. (40 CFR 228.6(a)(4))

Approximately 150,000 cubic yards of predominantly silty dredged material mixed with some sand is expected to be disposed of at the Yabucoa site once every 3 to 5 years. The material will be obtained during maintenance dredging of navigational channels and berthing areas in Yabucoa harbor. The dumping would occur primarily from clamshell unloading of scows, but hopper dredges might be used if available.

D.4.5 Feasibility of surveillance and monitoring. (40 CFR 228.6(a)(5))

Surveillance is the responsibility of the U.S. Coast Guard, while monitoring activities are the responsibility of EPA and the COE. Because of its proximity to the shore, surveillance by shipriders, helicopters, or other vessels could be implemented at the Yabucoa site. Water depths are not sufficient to impede either water quality sampling or monitoring activities. Benthic sampling at deep water sites presents logistic difficulties. However, techniques have been devised to resolve these problems, and previous sampling activities at the site have been successful. The site could be monitored by oceangoing vessels. EPA has conducted monitoring and research activities in, and near, the designated site.

D.4.6 Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any. (40 CFR 228.6(a)(6))

The waters near the Yabucoa site are characterized by moderate (15 cm/s) west-southwesterly subsurface currents. Because of the fine nature of the dredged material, transport over considerable distances, potentially up to 10 nautical miles, may be expected before settling occurs. Significant transport only occurs at depths in excess of 300 meters. Any transport in the direction of the coastline would be limited since dredged material would settle out as shallower water is encountered. Fine dredged material may be transported great distances over a long period of time. However, although the water column is not dispersive in nature, the material is laterally dispersed over a wide area as well. Consequently, deposition at any one location will be minimal.

D.4.7 Existence and effects of current and previous discharges and dumping in the area (including cumulative effects). (40 CFR 228.6(a)(7))

Previous dredged material disposal has occurred at a nearby interim site. There are no other current or previous discharges at or near the site. There has been no known dumping of dredged material at the designated Yabucoa site. A 1984 survey cruise detected no difference in bottom fauna or sediments between the designated site and nearby areas, including the interim site.

Dredged material disposal at the Yabucoa site will be widely distributed over the sea floor. Thus, only thin layers of dredged material will be deposited at any given location. Deposition of this material is therefore expected to have only minimal impacts on the benthic biota and physical environment at the site. Impacts of dredged material will be primarily limited to the sea floor.

D.4.8 Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. (40 CFR 228.6(a)(8))

There are no designated shipping lanes within the coordinates of the designated site. Although dredged material will be dispersed over a wide area, it is not expected that disposal of dredged material at the site would damage coral reefs or their associated fish or shellfish assemblages. No mineral extraction or desalination operations would be impacted. There are no fish or shellfish culture operations near the site. The site contains no known areas of scientific importance.

D.4.9 The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys. (40 CFR 228.6(a)(9))

Water quality at the designated Yabucoa site is good, typical of the well-flushed open water conditions in Puerto Rican coastal areas. The water is optically clear with little suspended material, and there is no evidence of organic enrichment or eutrophication. Oxygen concentrations are high and nutrient concentrations are low.

Benthic organisms at the site are primarily deposit feeders, an ecological type well-adapted to living in the high turbidity that might be caused by dredged material disposal. It is not likely that use of the proposed site will have a detrimental effect on benthic communities because of the wide dispersal of the material.

D.4.10 Potential for the development or recruitment of nuisance species in the disposal site. (40 CFR 228.6(a)(10))

There are no known components in the dredged material which would attract or recruit nuisance species at the site. In the unlikely event that pathogens were contained in the dredged material, it is considered improbable that they could survive and reproduce in the deep ocean waters. The dredged material to be disposed of would be similar in nature to that existing at the site, and would result in a similar fauna at the site.

D.4.11 Existence at or in close proximity to the site of any significant natural or cultural features of historical importance. (40 CFR 228.6(a)(11))

One shipwreck has been identified near the interim site for Yabucoa. Due to prevailing currents, use of the designated site will have no effect on this feature.

E. Action

The EIS concludes that the sites may appropriately be designated for use. The sites are compatible with the general criteria and specific factors used for site evaluation.

The designation of the Arecibo, Mayaguez, Ponce, and Yabucoa sites as EPA approved Ocean Dumping Sites is being published as final rulemaking. Management of these sites has been

delegated to the Regional Administrator, EPA Region II.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at a site may commence, the COE must evalaute a permit application according to EPA's ocean dumping criteria. EPA has the right to disapprove the actual dumping if it determines that environmental concerns under the Act have not been met.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities, because the site designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects that would result in its classification as a major rule under the Executive Order. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This Final Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: September 9, 1988.

William J. Muszynski,

Acting Regional Administrator.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

§ 228.12 [Amended]

2. Section 228.12 is amended by removing the following entries from the "dredged material site" list in paragraph (a)(3): Arecibo Harbor, PR; Mayaguez Harbor, PR; and Ponce Harbor, PR; and by adding paragraphs (b) (56), (57), (58), and (59) to read as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b)(56) Arecibo Harbor, PR Dredged Material Disposal Site—Region II.

Location: 18°31'00" N., 66°43'47" W.; 18°31'00" N., 66°42'45" W.; 18°30'00" N., 66°42'45" W.; 18°30'00" N., 66°43'47" W.

Size: Approximately 1 square nautical mile.

Depth: Ranges from 101 to 417 meters.

Primary Use: Dredged material disposal.

Period of Use: Continuing Use.

Restrictions: Disposal shall be limited to dredged material from Arecibo Harbor, PR.

(b)(57) Mayaguez Harbor, PR Dredged Material Disposal Site—Region II.

Location: 18°15'30" N., 67°16'13" W.; 18°15'30" N., 67°15'11" W.; 18°14'30" N., 67°15'11" W.; 18°14'30" N., 67°16'13" N.

Size: Approximately 1 square nautical mile.

Depth: Ranges from 351 to 384 meters.

Primary Use: Dredged material disposal.

Period of Use: Continuing Use.

Restrictions: Disposal shall be limited to dredged material from Mayaguez Harbor, PR.

(b)(58) Ponce Harbor, PR Dredged Material Disposal Site—Region II.

Location: 17°54'00" N., 66°37'43" W.; 17°54'00" N., 66°36'41" W.; 17°53'00" N., 66°36'41" W.; 17°53'00" N., 66°37'43" W.

Size: Approximately 1 square nautical mile.

Depth: Ranges from 329 to 457 meters.

Primary Use: Dredged material disposal.

Period of Use: Continuing Use.

Restrictions: Disposal shall be limited to dredged material from Ponce Harbor, PR.

(b)(59) Yabucoa Harbor, PR Dredged Material Disposal Site—Region II.

Location: 18°03'42" N., 65°42'49" W.; 18°03'42" N., 65°41'47" W.; 18°02'42" N., 65°41'47" W.; 18°02'42" N., 65°42'49" N.

Size: Approximately 1 square nautical mile.

Depth: Ranges from 549 to 914 meters.

Primary Use: Dredged material disposal.

Period of Use: Continuing Use.

Restrictions: Disposal shall be limited to dredged material from Yabucoa Harbor, PR.

[FR Doc. 88-21395 Filed 9-19-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF STATE

48 CFR Ch. 6

[108.874]

Acquisition Regulation; Establishment; Correction

AGENCY: Office of the Procurement Executive.

ACTION: Final rule and interim final rule with request for comment; correction.

SUMMARY: The Department of State is correcting errors in the Department of State Acquisition Regulation (DOSAR), which appeared in the Federal Register on July 11, 1988 (53 FR 26158).

FOR FURTHER INFORMATION CONTACT: James Tyckoski, Office of the Procurement Executive, telephone (703) 875-7046.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-15466 beginning on page 26158 in the issue of Monday, July 11, 1988, make the following corrections:

604.7001 [Corrected]

1. On page 26164, first column, in section 604.7001, in the fourth line, "fill" should read "file".

606.101-70 [Corrected]

2. On page 26165, second column, in section 606.101-70, in the second line, "posts exempt" should read "posts may exempt".

609.404 [Corrected]

3. On page 26166, first column, section "609.40" is designated as "609.404".

609.406-3 [Corrected]

4. On page 26166, third column, in paragraph 609.406-3(a)(2)(iii), in the second line, "if all" should read "of all".

5. On page 26167, first column, in paragraph 609.406-3(b)(6), in the fifth and sixth lines, "FAR 9.406-3(b)" should read "FAR 9.406-3(b).".

614.201-7-20 [Corrected]

6. On page 26168, first column, the table of contents for Part 614, in the sixth line, "614.201-7-20" is designated as "614.201-7-70".

614.406 [Corrected]

7. On page 26168, first column, in the table of contents for Part 614, in the fifteenth line, "Mistakes of bids." should read "Mistakes in bids.".

601.603-70 [Corrected]

8. On page 26169, first column, in section 616.102-70, in the first line, "601.603-70(b)(12)(ii)," should read "601.603-70(b)(1)(ii).".

616.603-2 [Corrected]

9. On page 26169, second column, in section 616.603-2, in the fourth line, "for definitization of" should read "to definitize".

625.903 [Corrected]

10. On page 26172, third column, in the table of contents for Part 625, in the section title in the third line of the column, "Conditions for omissions." should read "Conditions for omission.".

634.001-70 [Corrected]

11. On page 26175, third column, in section 634.001-70, in the third line, "FAR 34.002." should read "FAR 34.001.".

652.202-70 [Corrected]

12. On page 26177, third column, in section 652.202-70, in the first line, "604.201-70," should read "602.201-70,".

652.242-72 [Corrected]

13. On page 26180, second column, in section 652.242-72, in the nineteenth and twentieth lines of paragraph (c) of the clause, "in the packing case," should read "in packing case".

670.102 [Corrected]

14. On page 26188, third column, in paragraph 670.102(b)(3), in the third line, "48 CFR Ch. 7," should read "(48 CFR Ch. 7),".

List of Subjects in 48 CFR Ch. 6

Government procurement.

Dated: September 9, 1988.

John J. Conway,

Procurement Executive.

FR Doc. 88-21423 Filed 9-19-88; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 70617-7148]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Notice of allowable surf clam fishing time.

SUMMARY: NOAA issues this notice to increase the allowable fishing time to 48 hours for the fourth quarter of 1988 for vessels harvesting surf clams in the Mid-Atlantic Area of the exclusive economic zone. This action will provide flexibility to operators in the use of fishing time during the period. The intended effect is to match fishing effort to the available quota for the area.

EFFECTIVE DATES: October 2 through December 31, 1988.

FOR FURTHER INFORMATION CONTACT: Jack Terrill, 508-281-3600, ext. 252.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at 50 CFR 652.22(a)(3) a provision allowing the Director, Northeast Region, NMFS, (Regional Director) to revise allowable fishing times to allow fishing for surf clams throughout the year with a minimum of changes of fishing times. Based on an analysis of 1987 quarterly fishing effort and comments from industry, the Regional Director decided to allocate 36 hours of fishing time for surf clams in the Mid-Atlantic Area for each quarter of 1988 (52 FR 49019, December 29, 1987). To insure attainment of the quarterly quota, adjustments to the number of trips in the next quarter would be made when more complete catch information was available. This had been requested by the surf clam industry as a solution to prevent disruption of processing schedules resulting from adjustments made mid-quarter.

The Regional Director has decided to increase the allocated fishing time from 36 to 48 hours for the fourth quarter of 1988. That time must be in the form of eight trips of up to 6 hours duration each, which must be scheduled with 10 days advance written notice to the Surf Clam Coordinator, NMFS, 2 State Fish Pier, Gloucester, MA 01930. Trips must be scheduled during the normal daily and weekly fishing times established in 50 CFR 652.22(a)(1)-(3).

This action is taken to ensure the attainment of the 1988 annual quota of 2,695,000 bushels. As of August 30, 1988, the harvest of surf clams from the Mid-Atlantic Area was 1,682,000 bushels. Failure to allocate additional fishing time would result in a projected surplus of 120,000 bushels. The additional fishing time allowed by this action should result in the taking of this surplus and reduce the likelihood of any carryover to the next year.

Other Matters

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with E.O. 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: September 14, 1988.

Ann D. Terbush,

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

[FR Doc. 88-21432 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 71146-8001]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the Central Regulatory Area of the Gulf of Alaska to further retention of sablefish by U.S. vessels trawling for other species of groundfish. This action, authorized by provisions of the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP), is being taken because the amount of sablefish assigned to trawl gear will be taken by September 15, 1988.

DATES: Effective September 15, 1988. Comments will be accepted through September 30, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK. 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the Gulf of Alaska within the U.S. exclusive economic zone under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR Parts 611 and 672. Section 672.2 defines the regulatory areas and districts of the Gulf of Alaska.

In 1988, the total allowable catch (TAC) for sablefish in the Central Regulatory Area was set at 12,540 metric tons (mt). Of this amount, 20 percent, 2,510 mt, was assigned to trawl gear (53 FR 890, January 14, 1988).

The Regional Director has determined from catch-to-date and current harvest rates that this amount will be reached by September 15, 1988. Under §672.24(b)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any area or district will be reached, further catches of sablefish must be treated as prohibited species in that area or district for the remainder of

the year by persons using that type of gear. Since the share of the TAC assigned to trawl gear in the Central Regulatory Area will be reached, further sablefish catches must be treated as prohibited species after 12:00 noon, ADT, on September 15, 1988.

Public comments on the necessity for this action are invited for a period of 15 days after the effective date of this notice. Public comments on this notice of closure may be submitted to the Regional Director at the address above until September 30, 1988. If written comments are received which oppose or protest this action, the Secretary will reconsider the necessity of this action, and, as soon as practicable after that reconsideration, will either publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received, or modify or rescind the adjustment.

Classification

This action is taken under the authority of 50 CFR 672.24 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 15, 1988.

Richard H. Schaefer,

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

[FR Doc. 88-21441 Filed 9-15-88; 3:58 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 182
Tuesday, September 20, 1988

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 31; Doc. No. 5955S]

General Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice for the purpose of withdrawing a Notice of Proposed Rulemaking (NPRM) amending the General Crop Insurance Regulations with respect to a claim for indemnity when the information provided by the policyholder on the acreage report results in a lower preminum than is determined to be due. FCIC has determined that comments received in response to the NPRM indicate that further review is necessary in order to propose an equitable solution to this matter.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, C.D. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: On Friday, June 24, 1988, FCIC published an NPRM in the **Federal Register** at 53 FR 23770, which proposed to revise Section 9.d of the General Crop Insurance Regulations (7 CFR 401.8(d)9.d.) to include reference to crops with a dollar based guarantee, and to change the reduction in guarantee when the information provided by the policyholder on the acreage report results in a lower premium than is determined to be due.

Comments were received from the Crop Hail Actuarail Association (CHIAA) which indicated the presence of potential difficulties and inequitabilities if the rule were to be implemented. Upon review, FCIC has determined that such comment has merit and has scheduled a further review before issuing such proposed rule. Therefore we believe that the proposed rule published at 53 FR 23770 should be, and is hereby, withdrawn.

Done in Washington, DC, on September 14, 1988.

Edward D. Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-21405 Filed 9-19-88; 8:45 am]
BILLING CODE 3410-08-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, Delegations of Authority, and Acquisition of Control; Procedures Regarding Publication of Notices Filed Under the Change in Bank Control Act

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is proposing to amend Part 303 of Title 12, Code of Federal Regulations ("CFR"), primarily to implement certain amendments to the Change in Bank Control Act ("CBCA") made by section 1360 of the Anti-Drug Abuse Act of 1986, Pub. L. 99-570. Under the proposal, the FDIC may waive the newspaper publication or comment solicitation requirements of 12 CFR 303.4(b)(2)(ii) or may act on a proposed change in control prior to the expiration of the public comment period only if the FDIC makes a written finding that newspaper publication or comment solicitation would seriously threaten the safety or soundness of the bank to be acquired. The proposal also provides that, in other circumstances, the FDIC may, for good cause, shorten the public comment period to a period of not less than 10 days. The proposal would also provide for publication and solicitation of comment in situations in which notice has not been filed pursuant to the CBCA.

DATE: Comments must be received on or before November 21, 1988.

ADDRESS: Comments on the proposed rulemaking should be sent to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, or delivered to Room 6108 at the same address betweeen the hours of 9:00 a.m. and 5:00 p.m. on business days. Comments will be available for photocopying and inspection between 9:00 a.m. and 5:00 p.m. on business days at the Office of the Executive Secretary.

FOR FURTHER INFORMATION CONTACT: Katharine H. Haygood, Senior Attorney, (202) 898-3732, Claude A. Rollin, Attorney, (202) 898-3985, Legal Division; or Karl Krichbaum, Section Chief, Applications Section, (202) 898-6758, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The proposal would not create any new reporting or recordkeeping requirements, nor would it modify and existing reporting or recordkeeping requirements.

Discussion

On October 27, 1986, the President signed into law the Anti-Drug Abuse Act of 1986, Pub. L. 99-570. Section 1360 of this Act (hereinafter the "statutory amendment") makes several amendments to the CBCA that necessitate a revision of the FDIC's implementing regulations.

Prior to the statutory amendment, the CBCA did not require notice to, or solicitation of comments from, the public in connection with a change in bank control notice filed under the CBCA. The FDIC's regulation did, however, require persons seeking to acquire a bank to publish an announcement and, as part of that announcement, to solicit public comment on the proposed acquisition (see 12 CFR 303.4(b)(2)(i)).

The statutory amendment provides that the appropriate federal banking agency shall, within a reasonable period, publish notice of, and solicit comments on, a proposed acquisition. The FDIC believes that its pre-existing regulation, requiring acquiring persons to publish notice of, and solicit comments on, the proposed acquisition within specified time periods (generally within 20 days of acceptance of the notice by the FDIC), satisfies the basic publication requirements of the statutory amendment. For this reason, the FDIC is not proposing to change the

existing basic requirements for pubication or solicitation of comments regarding the proposed acquisition.

The statutory amendment also provides that the FDIC may waive the required publication and solicitation of comments only if the FDIC determines in writing that such publication or solicitation would seriously threaten the safety or soundness of the bank to be acquired. The FDIC's pre-existing regulation, however, provides that the FDIC may, in circumstances requiring prompt action and for good cause, (1) waive the publication requirement, (2) waive or shorten the public comment period, or (3) act on a proposed change in control prior to the expiration of the public comment period.

The FDIC is proposing to amend its regulation to bring it into conformance with the statutory standard for waiver of the publication and comment solicitation requirements. The proposed change would allow waiver of publication or comment solicitation only if the FDIC determines in writing that publication of comment solicitation would seriously threaten the safety or soundness of the bank to be acquired. The FDIC is also proposing to apply this same standard in determining whether to act on a proposed change in control prior to the expiration of the public comment period. It is explicitly recognized that one situation in which publication or comment solicitation could seriously threaten the safety or soundness of the bank to be acquired is when the FDIC must act immediately in order to prevent the probable failure of the bank to the acquired. In addition, the proposal provides the FDIC with limited descretion to shorten the public comment period in circumstances not affecting the safety or soundness of the bank to be acquired. The proposal provides that the FDIC may shorten the public comment period, to not less than ten days, if there is good cause for such action; good cause will exist only if FDIC determines that there are circumstances beyond the control of the acquiring persons which warrant such action.

Although the FDIC believes that the current time frames conform with the statutory mandate to publish and solicit comment within a reasonable period, the FDIC is also considering amending the time period within which acquiring persons must publish notice of a proposed acquisition. Paragraph (b)(2)(i) of the current regulation provides, in relevant part, that the acquiring persons must publish notice of a proposed acquisition within ten days after receiving confirmation that the appropriate FDIC regional office has accepted the change in bank control notice filed under the CBCA, and such notice must include the date of acceptance. The FDIC is considering amending this provision to permit publication of such a prior notice up to ten days prior to the filing of the change in bank control notice but no later than ten days after the notice is accepted by the appropriate FDIC regional office. It is contemplated that publication prior to acceptance of the notice would be permitted only with the prior consent of the FDIC. Although the FDIC has not yet determined that it is appropriate to make such an amendment, the FDIC is interested in receiving comments on the question of whether it would be appropriate to amend the time period in the above-noted manner.

The FDIC is also proposing changes at § 303.4(b)(5) (i) and (ii) which would apply to acquisitions which do not comply with the CBCA. For instance, this situation could occur when notice of an acquisition is filed subsequent to the acquisition. Such notices do not technically fall within the CBCA since the CBCA speaks only of notices filed prior to acquisition and in conformity with the CBCA. The proposed amendment would provide regulatory guidance where the FDIC deems such publication and comment to be advisable.

Regulatory Flexibility Act

The Board of Directors of the FDIC hereby certifies that the proposed amendments will not, if promulgated, have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The proposed amendments do not impose any additional regulatory burden on banks of any size. In light of the above-noted certification, the Regulatory Flexibility Act requirements (at 5 U.S.C. 603 and 604) to prepare initial and final regulatory flexibility analyses do not apply to the proposal.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations, Bank deposit insurance, Banks, Banking, Federal Deposit Insurance Corporation.

For the reasons stated in this notice, and pursuant to the FDIC's authority under section 13 of the Change in Bank Control Act (12 U.S.C. 1817(j)(13)), the FDIC proposes to amend 12 CFR Part 303 as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 reads as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(j), 1818, 1819, ("7th" and "10th"), 1828, 1829; 15 U.S.C. 1607.

2. Section 303.4 is amended by revising paragraph (b)(3) and adding paragraph (b)(6) to read as follows:

§ 303.4 Change in bank control.

* * * * *

(b) * * *

(3)(i) In acting upon a proposed change in control, the FDIC shall consider all public comments received within twenty days following the required newspaper publication. At the FDIC's option, comments received after this twenty-day period may be, but need not be, considered.

(ii) If the FDIC determines in writing that the newspaper publication or comment solicitation requirements of this paragraph would seriously threaten the safety or soundness of the bank to be acquired, including situations where the FDIC must act immediately in order to prevent the probable failure of the bank to be acquired, then the FDIC may,

(a) Waive the publication requirement,

(B) Waive the public comment solicitation requirement, or

(C) Act on the proposed change in control prior to the expiration of the public comment period.

(iii) In other circumstances, for good cause, the FDIC may shorten the public comment period to a period of not less than 10 days. Such good cause will exist only if the FDIC determines that circumstances beyond the control of the acquiring person or persons warrant a shorter period.

* * * * *

(6)(i) Whenever notice of a proposed acquisition of control is not filed in accordance with the Change in Bank Control Act of 1978 and these regulations, the acquiring person(s) shall, within ten days of being so directed by the FDIC, publish an announcement of the acquisition of control in the business section of a newspaper having general circulation in the community in which the home office of the bank involved is located. In a community in which there is no daily or weekly community newspaper, the required newspaper announcement may be published in a county-wide newspaper (in the county in which the

bank's home office is located) or, if there is no county-wide newspaper, in a state-wide newspaper.

(ii) The newspaper announcement shall contain the name(s) of the acquirer(s), the name of the bank involved, and the date of the acquisition of the stock. The announcement shall also contain a statement indicating that the FDIC is currently reviewing the acquisition of control. The announcement shall also state that any person wishing to comment on the change in control may do so by submitting written comments to the Regional Director of the FDIC at (give address of the regional office) within twenty days following the required newspaper publication.

By Order of the Board of Directors.

Dated at Washington DC, this 13th day of September, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-21363 Filed 9-19-88; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-118-AD]

Airworthiness Directives; Aerospatiale Model ATR-42-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to Aerospatiale Model ATR-42-300 series airplanes, which would require modification of the engine and propeller control cables by adding a sealing sheath and protective sleeve, and installation of a deflector on the engine aft upper cowling below the zone ventilation air inlet. This proposal is prompted by reports of accumulation of water in the engine and propeller control cables causing corrosion and/or the formation of ice in the cables. This condition, if not corrected, could lead to malfunction of the engine and propeller controls.

DATES: Comments must be received no later than November 16, 1988.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-118-AD 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-118-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direction Générale de L'Aviation Civile (DGAC) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain Aerospatiale Model ATR-42-300 series airplanes.

There have been numerous reports of water accumulating in the engine and propeller control cables causing corrosion. Some of this moisture enters through air inlets on the engine aft upper cowling. Under certain weather conditions, ice has formed in the cables. This condition, if not corrected, could lead to malfunction of the engine and propeller controls.

Aerospatiale has issued Service Bulletin ATR42-76-0002, Revision 1, dated May 16, 1988, which describes procedures for modification of the engine and propeller control cables. The service bulletin refers to Teleflex Syneravia Service Bulletin Number TFX 76.076 for modification details and procedures. This modification provides a sealing sheath and a protective sleeve on the cables.

Aerospatiale has also issued Service Bulletin ATR42-54-0008, Revision 1, dated March 25, 1988, which describes procedures for installation of a deflector on the engine aft upper cowling below the zone ventilation air inlet, to prevent water entering the cowling through the zone ventilation air inlet and subsequently entering the engine and propeller sliding controls.

The French DGAC has classified both service bulletins as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require modification of the engine and propeller control cables, including the installation of drain holes, and installation of a deflector on the engine aft upper cowling below the zone ventilation air inlet, in accordance with the service bulletins previously mentioned.

It is estimated that 35 airplanes of U.S. registry would be affected by this AD, that it would take approximately 18 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $25,200.

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($720). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of 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) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR42-300 series airplanes, as listed in Aerospatiale Service Bulletins ATR42-76-0002, Revision 1, dated May 16, 1988 and ATR42-54-0008, Revision 1, dated March 25, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent malfunction of the engine and propeller controls, accomplish the following:

A. Within 60 days after the effective date of this AD, modify engine and propeller push-pull control cables on left and right engines by adding a sealing sheath and protective sleeve, in accordance with Aerospatiale Service Bulletin ATR42-76-0002, Revision 1, dated May 16, 1988.

Note.—Aerospatiale Service Bulletin ATR42-76-0002, dated May 16, 1988, references Teleflex Syneravia Service Bulletin Number TFX 76.076 for the accomplishment instructions for modification of the engine and propeller push pull control cables.

B. Within 60 days after the effective date of this AD, install a deflector on the engine aft upper cowling below the zone ventilation air inlet on the left and right engines, in accordance with Aerospatiale Service Bulletin ATR42-54-0008, Revision 1, dated March 25, 1988.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 13, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-21355 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-115-AD]

Airworthiness Directives; Boeing Model 737-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 737-300 series airplanes, which would require modification or replacement of the autopilot mode control panel (MCP). This proposal is prompted by reports of undetected airplane altitude changes caused by uncommanded changes in the altitude select window of the autopilot MCP. This condition, if not corrected, could result in the airplane flying at an unassigned altitude.

DATES: Comments must be received no later than November 16, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-115-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124; and Honeywell Incorporated, Sperry Commercial Flight Systems Group, P.O. Box 21111, Phoenix, Arizona 85036, Attn: Customer Services, Air Transport Systems Division. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Habbestad, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-1942. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-115-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been approximately 18 reports of uncommanded altitude changes in the autopilot MCP altitude select window on certain Boeing Model 737–300 series airplanes equipped with Honeywell Model SP–300 autopilots. After commanding a change in Altitude (ALT), Indicated Airspeed/Mach (IAS/MACH), and/or Vertical Speed (V/S) on the autopilot mode control panel, an uncommanded change in value can appear in the MCP window, to which the airplane will fly. This uncommanded change occurs predominantly with the altitude window. With the autopilot engaged, the airplane will attempt to fly to the new altitude. It is estimated that the malfunction occurs approximately once in every 2,000 attempts to reset altitude in the altitude select window. This condition, if not corrected, could result in the airplane flying to an unassigned altitude.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–22A1092, dated June 30, 1988, and Honeywell Service Bulletin 21A–1142–16 dated April 22, 1988, which describe installation of an improved Honeywell mode control panel (MCP) and modification of the unit, respectively. The improved units incorporate a monitor to detect unselected altitude changes in the altitude window. If the change occurs, it sets the altitude in the altitude window to 50,000 feet, and activates the visual and aural warnings; the desired altitude in the altitude window can then be reset by using the altitude set knob.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require replacement or modification of the MCP, in accordance with the service bulletins previously mentioned.

It is estimated that 165 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 manhours per airplane to replace the units or 15 manhours per airplane to modify the affected components, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $26,400 to replace the units or $99,000 to modify the affected units.

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

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737–300 series airplanes, equipped with Honeywell Model SP–300 autopilot flight control computers (FCC) and mode control panels (MCP), as listed in Boeing Service Bulletin 737–22A 092, dated June 30, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent undetected changes in airplane altitude caused by uncommanded changes in the autopilot MCP altitude window, accomplish the following:

A. Within eighteen months after the effective date of this AD:

1. Install improved MCP in accordance with Boeing Alert Service Bulletin 737–22A1092, dated June 30, 1988; or

2. Modify the MCP in accordance with Honeywell Service Bulletin 21A–1142–16, dated April 22, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124; and Honeywell Incorporated, Sperry Commercial Flight Systems Group, P.O. Box 21111, Phoenix, Arizona 85036, Attn: Customer Services, Air Transport Systems Division. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on September 13, 1988.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–21354 Filed 9–19–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 80858–8158]

Direct Investment Surveys; Raising Exemption Level for Annual Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth a proposed rule to amend 15 CFR Part 806 by raising the exemption level for the BE–15, Annual Survey of Foreign Direct Investment in the United States. The survey is a mandatory survey conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under authority of the International Investment and Trade in Services Survey Act. Under this proposed rule, the exemption level for the survey—the level below which reports are not

required—would be raised from $10 million to $20 million. This change will reduce the number of respondents that otherwise must report in the survey, thus reducing both the reporting and processing burden. (As noted below, however, BEA is proposing other changes to the survey that do not require a rule change and that may increase the reporting burden, thereby offsetting the reduction in burden due to raising the exemption level.)

DATE: Comments on the proposed rule will receive consideration if submitted in writing on or before November 21, 1988.

ADDRESS: Comments may be mailed to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand delivered to Room 607, Tower Building, 1401 K Street NW., Washington, DC 20005. Comments received will be available for public inspection in Room 607, Tower Building, between 8:00 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523–0659.

SUPPLEMENTARY INFORMATION: The BE–15, Annual Survey of Foreign Direct Investment in the United States, is part of BEA's regular data collection program for foreign direct investment in the United States. The survey is mandatory and is conducted pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108).

The exemption level for a given survey is the level of a U.S. affiliate's assets, sales, or net income below which reporting is not required. (A U.S. affiliate is a U.S. business enterprise in which a foreign person owns or controls, directly or indirectly, 10 percent or more of the voting securities if an incorporated business enterprise or an equivalent interest if an unincorporated business enterprise.) Raising the exemption level lowers the number of reports that otherwise must be filed, thus reducing both the reporting burden on U.S. businesses and the processing burden on BEA.

Under this proposed rule, the exemption level for the BE–15 survey will be raised from $10 million to $20 million. The proposed level of $20 million is the same as that used in the related BE–12, Benchmark Survey of Foreign Direct Investment in the United States—1987, to determine whether a U.S. affiliate must file a long form (Form BE–12(LF)) or a short form (Form BE–12(SF)). The BE–12 is BEA's census of foreign direct investment in the United States and is intended to cover the universe of all U.S. affiliates of foreign direct investors. The BE–15, in contrast, is a sample survey, covering only the larger U.S. affiliates. The sample data from the BE–15 survey will be linked to the universe data from the BE–12 benchmark survey in order to derive universe estimates for nonbenchmark years.

The new rule will be effective with the BE–15 survey covering a U.S. affiliate's 1988 fiscal year. The 1988 forms will be mailed out in March 1989 and will be due May 31, 1989. The last BE–15 survey conducted covered the year 1986. (It should be noted that a BE–15 survey is not conducted in a year, such as 1987, when a BE–12 benchmark survey is conducted.)

BEA is proposing changes to the BE–15 survey form in addition to the raising of the exemption level. These changes, however, do not require rule changes and are not reflected in this proposed rule. They include the combination or deletion of some items on the 1986 BE–15 survey and the addition or substitution of other items that were on the 1987 BE–12(LF) but not on the 1986 BE–15. There are no items on the 1988 BE–15, as proposed, that were not also on the 1987 BE–12(LF).

Most of the items added or substituted are ones that are needed annually for analytical and policy pruposes. The major additions are a breakdown of sales and employment by industry, a breakdown of sales into whether they are goods, investment income, or services, and, for services, a breakdown by transactor. The major substitutions are in the State schedule; in that schedule, two columns that previously collected data by State on acres of land owned and acres of mineral rights owned and leased have been replaced by columns for manufacturing employees and the gross book value of commercial property. A few items, such as those needed for a reconciliation of retained earnings, were added to improve data reliability and reduce followup contact on this and related surveys.

Increase in burden due to adding items to the form will be about offset by reductions in burden due to deletion or combination of items and raising the exemption level. However, BEA estimates that there will be a net increase in burden of 7 percent from 1986, mainly due to natural growth in the universe.

Note: A review of the burden estimate for the 1986 survey and conversations with respondents indicated that BEA had significantly underestimated that burden; thus, the 1986 level has been revised upward from the previous estimate in making this calculation.

The public reporting burden for this collection of information is estimated to vary from 2 to 685 hours per response, with an average of 9 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding the burden estimate, including suggestions for reducing this burden, may be sent to Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Executive Order 12291

BEA has determined that this proposed rule is not "major" as defined in E.O. 12291 because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12612

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the Paperwork Reduction Act. A request to collect this information has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. A copy of the revised survey may be obtained from: Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523–0659. Comments from the public on this collection of

information requirement should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce.

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because it raises the exemption level of the survey, thereby reducing the reporting requirements of small entities. Therefore, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign Direct Investment in the United States, Reporting requirements.

Dated: August 9, 1988.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—[AMENDED]

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and E.O. 11961, as amended.

§ 806.15 [Amended]

2. In § 806.15(i), the exemption level of $10,000,000 is changed to read "$20,000,000."

[FR Doc. 88–21417 Filed 9–19–88; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD8–88–17]

Anchorage Grounds; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering amending the anchorage regulations on the Lower Mississippi River by enlarging anchorages: Lower Sunshine Anchorage and La Place Anchorage. This action is necessary to provide needed additional anchorage space for deep draft vessels.

DATES: Comments must be received on or before October 20, 1988.

ADDRESSES: Comments should be mailed to Commander, Eighth Coast Guard District (oan), Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1141 at the above address. Normal office hours are between 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG J.D. Irino, Project Officer, Commander, Eighth Coast Guard District (oan), Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396, Tel. (504) 589–6234.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice CGD8–88–17 , the specific section of the proposal to which their comments apply, and give reasons for each comment.

Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before the final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are LTJG J.D. Irino, Project Officer, Eighth Coast Guard District Aids to Navigation Branch, and CDR J. A. Unzicker, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Regulation

The U.S. Army Corps of Engineers conducts revetment work along the banks of the Mississippi River to protect against erosion and caving. This work is essential to preserve the levee system. Currently, articulated concrete mattress revetment is used and federal law prohibits vessels from anchoring over this revetment. Members of the maritime community have expressed their concerns that this revetment work has a devastating impact on the amount of available anchorage space. Because of these concerns, the Corps of Engineers was requested to cancel scheduled revetment work in Upper Sunshine Anchorage, mile 166.3 to mile 167.0.

It was determined that reveting the levee system in the vicinity of Sunshine Anchorage was critical and could not be canceled or delayed. In order to identify alternative anchorage sites, an ad hoc group consisting of the Coast Guard, the Corps of Engineers, and River Pilots was formed.

First the group attempted to identify suitable alternative anchorages between mile 167 and mile 226 Lower Mississippi River. There are currently no anchorage sites along this stretch of the river.

Unfortunately, much of this area is already reveted. Numerous sharp bends along this section of the river present an unacceptable hazard for locating anchorage grounds. Next, the group examined locations below the Sunshine Bridge (mile 167.5). No areas could be identified to locate new deep draft anchorage grounds.

Two other existing anchorages were found to be suitable for extension to create additional anchorage space. Lower Sunshine Anchorage could be extended upriver 0.1 mile to mile 166.0. A submerged pipeline is located at mile 166.1. La Place Anchorage could be extended up 0.4 mile to mile 135.4. A facility is located on the river just above this point.

The Coast Guard believes that extending these two anchorages to create an additional 0.5 miles of anchorage space is in the best interest of navigational safety.

This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of part 110.

Economic Assessment and Certification

These proposed regulations are considered to be non major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will extend Lower Sunshine Anchorage upriver 0.1 mile and extend La Place Anchorage upriver 0.4 mile. The added length is not expected to have any significant effect on navigation and therefore it is determined that the impact will be minimal.

Since the impact of this of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it

will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 105–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.195(a) (21) and (25) are revised to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(21) *La Place Anchorage.* An area 0.7 mile in length along the left descending bank of the river, 600 feet wide, extending from mile 134.7 to mile 135.4 above Head of Passes.

* * * * *

(25) *Lower Sunshine Anchorage.* An area 1.0 mile in length along the left descending bank of the river, 800 feet wide, extending from mile 165.0 to mile 166.0 above Head of Passes.

* * * * *

Dated: September 12, 1988.

A.E. Henn,

Captain, U.S. Coast Guard, Chief of Staff, Eighth Coast Guard District.

[FR Doc. 88–21358 Filed 9–19–88; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD5–88–54]

Drawbridge Operation Regulations; Neuse River, New Bern, NC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the North Carolina Department of Transportation, the County of Pamlico, North Carolina, and the County of Craven, North Carolina, the Coast Guard is considering changing the regulations that govern the operation of the drawbridge across the Neuse River at mile 33.7 in New Bern, North Carolina, by further restricting the number of bridge openings during weekday rush hours. This proposal is being made to alleviate vehicular traffic congestion caused by the steady increase in recreational traffic on the Neuse River during the boating season, and the resulting increase in bridge openings during the weekday morning and evening rush hours. The Coast Guard is considering similar changes to the regulations governing the operation of the drawbridge across the Trent River, mile 0.0, on U.S. 70 in New Bern, North Carolina. This action should accommodate the needs of vehicular traffic, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before November 4, 1988.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments and other materials referenced in this notice will be available for inspection and copying at the above address, Room 507, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, at (804) 398–6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended changes to the proposal. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LT Robin K. Kutz, Project Attorney.

Discussion of Proposed Regulations

The North Carolina Department of Transportation, the County of Pamlico, North Carolina, and the County of Craven, North Carolina, have requested that the drawbridge across the Neuse River at mile 33.7 in New Bern, North Carolina, be regulated to restrict openings from 6:30 a.m. to 8:30 a.m. and from 4:00 p.m. to 6:00 p.m., Monday through Friday, with the exception of an opening at 7:30 a.m. and at 5:00 p.m. for any vessels waiting to pass through the bridge. They also have requested preservation of the current requirement that from May 24 to September 8, on Sundays and Federal holidays, drawbridge openings be restricted during certain hours. The current regulation (33 CFR 117.823) restricts bridge openings from 6:30 a.m. to 7:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Friday. From May 24 to September 8, on Sundays and Federal holidays, drawbridge openings are restricted from 2:00 p.m. to 7:00 p.m., except that the draw opens at 4:00 p.m. and at 6:00 p.m. for any vessels waiting to pass. The only change to the regulations will be to extend the weekday morning and afternoon closures from one hour to two hours with openings to occur an hour into each restricted period.

Congressman Walter B. Jones of North Carolina expressed his support for a change in the drawbridge regulations for this bridge in a letter dated April 20, 1988, to the Fifth Coast Guard District Commander.

The request to change the regulations is based on the increase in boating traffic that has been causing vehicular traffic congestion on U.S. 17 during the weekday morning and evening rush hours for motorists traveling to and from the Cherry Point Naval Aviation Depot. According to drawlogs submitted by the North Carolina Department of Transportation, between March 1987 to February 1988, 223 bridge openings occurred during the morning and evening rush hours. The traffic count at the Neuse River bridge has increased from 11,000 vehicles per year in 1966 to 19,100 in 1987. To add to the increasing problem of traffic congestion, when the Trent River bridge on U.S. 70 in close proximity to the Neuse River Bridge is opened for vessel passage, motorists that usually travel across the Trent River bridge detour and cross the Neuse River bridge.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that the proposed regulation will have no effect on commercial navigation or on any industries that depend on waterborne transportation. Because the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Section 117.823(a) is revised to read as follows:

§ 117.823 Neuse River.

(a) The draw of the U.S. 17 bridge, mile 33.7, at New Bern, shall open on signal; except that, the draw need not be opened from 6:30 a.m. to 8:30 a.m. and from 4:00 p.m. to 6:00 p.m., Monday through Friday; however, the draw shall open at 7:30 a.m. and 5:00 p.m. if any vessels are waiting to pass. From May 24 through September 8, on Sundays and Federal holidays, the draw need not be opened from 2:00 p.m. to 7:00 p.m.; except that, the draw shall open at 4:00 p.m. and 6:00 p.m. if any vessels are waiting to pass. Public vessels of the United States, State or local vessels used for public safety, tugs with tows, and vessels in distress shall be passed at any time.

* * * * *

Dated: August 30, 1988.

W.J. Ecker,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 88–21357 Filed 9–19–88; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD5–88–53]

Drawbridge Operation Regulations; Trent River, NC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the requests of the North Carolina Department of Transportation, the County of Craven, North Carolina, and the County of Pamlico, North Carolina, the Coast Guard is considering a change to the regulations governing the drawbridge across the Trent River at mile 0.0 on U.S. 70 in New Bern, North Carolina, by further restricting the number of bridge openings during weekday rush hours. This proposal is being made to alleviate traffic congestion in the vicinity of the bridge during the weekday morning and evening rush hours. The Coast Guard is considering similar changes to the regulations governing the operation of the drawbridge across the Neuse River, mile 33.7, in New Bern, North Carolina. This action should accommodate the needs of vehicular traffic, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before November 4, 1988.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments and other materials referenced in this notice will be available for inspection and copying at the above address, Room 507, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, at (804) 398–6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change to the proposal. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LT Robin K. Kutz, Project Attorney.

Discussion of Proposed Regulations

The North Carolina Department of Transportation, the County of Pamlico, North Carolina, and the County of Craven, North Carolina, have requested that the drawbridge across the Trent River at mile 0.0 in New Bern, North Carolina, be regulated to restrict openings from 6:30 a.m. to 8:30 a.m. and from 4:00 p.m. to 6:00 p.m., Monday through Friday, with the exception of an opening at 7:30 a.m. and at 5:00 p.m. for any vessels waiting to pass through the bridge. They also have requested preservation of the current requirement that drawbridge openings be restricted during certain hours between May 24 and September 8, on Sundays and Federal holidays. The current regulation (33 CFR 117.843) restricts bridge openings from 6:30 a.m. to 7:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Friday. From May 24 through September 8, on Sundays and Federal holidays, drawbridge openings are restricted from 2:00 p.m. to 7:00 p.m., except that the draw opens at 4:00 p.m. and at 6:00 p.m. for any vessels waiting to pass. The only change to the regulations will be to extend the weekday morning and afternoon closures from one hour to two hours, with openings to occur an hour into each restricted period.

Congressman Walter B. Jones of North Carolina expressed his support for a change in the drawbridge regulations for this bridge in a letter dated April 20, 1988, to the Fifth Coast Guard District Commander.

The request to change the regulations is based on the increase in boating traffic that has been causing excessive bridge openings, resulting in increased vehicular traffic congestion. The recent construction of a marina upstream from the Trent River drawbridge is also adding to the increase in bridge openings. The North Carolina Department of Transportation submitted copies of drawlogs for the period March 1987 to February 1988. Review of these logs has revealed that the Trent River drawbridge opened 510 times during the morning and evening rush hours between March 1987 and February 1988. Vehicular traffic has increased from 13,100 vehicles per year in 1966 to 14,000 in 1987. The combination of increased draw openings and vehicular traffic is causing considerable congestion problems on U.S. 70 (Business) and across the Trent River bridge. To add to the problem of traffic congestion on U.S. 70, when the Neuse River bridge on U.S. 17 located in close proximity to the Trent River Bridge is opened for vessel passage, motorists that usually travel across the Neuse River bridge will detour and cross the Trent River bridge.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that the proposed regulation will have no effect on commercial navigation or on any industries that depend on waterborne transportation. Because the economic impact of this proposal is expected to be minimal, the

Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); 33 CFR 117.43.

2. Section 117.843(a) is revised to read as follows:

§ 117.843 Trent River.

(a) The draw of the U.S. 70 bridge, mile 0.0, at New Bern, shall open on signal; except that, the draw need not be opened from 6:30 a.m. to 8:30 a.m. and from 4:00 p.m. to 6:00 p.m., Monday through Friday; however, the draw shall open at 7:30 a.m. and 5:00 p.m. if any vessels are waiting to pass. From May 24 through September 8, on Sundays and Federal holidays, the draw need not be opened from 2:00 p.m. to 7:00 p.m.; except that, the draw shall open at 4:00 p.m. and 6:00 p.m. if any vessels are waiting to pass. Public vessels of the United States, State or local vessels used for public safety, tugs with tows, and vessels in distress shall be passed at any time.

* * * * *

Dated: August 30, 1988.

W.J. Ecker,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 88–21356 Filed 9–19–88; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3428–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Proposed Action on Four Can Coating Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to approve one volatile organic compound (VOC) control rule and to disapprove three VOC control rules which were submitted as revisions to the California State Implementation Plan (SIP) for the Bay Area, Sacramento, San Diego, and South Coast districts. The revisions were submitted to EPA by the California Air Resources Board (CARB) on April 12, 1985, November 12, 1985, February 10, 1986, and June 4, 1986.

All of the rules control VOC emissions from can coating operations. EPA is proposing to approve a Bay Area AQMD regulation which delays the final compliance date for more stringent VOC limits in sheet basecoats and end sealing compounds for one year, until December 31, 1985. This action is consistent with guidance published in 47 FR 10293 which allows extensions until December 31, 1985.

EPA is proposing to disapprove the three remaining rules because they are unjustified relaxations from existing SIP requirements in nonattainment areas. The rules are inconsistent with the Clean Air Act, 40 CFR Part 51, and EPA policy.

DATE: Comments may be submitted to EPA at the address below up to November 4, 1988.

ADDRESSES: Comments on this proposal should be sent to: Regional Administrator, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Air Management Division, State Implementation Plan Section (A–2–3).

Copies of the submitted rules and EPA's evaluation of the submittals are available at the above address for public inspection during normal working hours.

Copies of the submitted rules are also available at CARB's office in Sacramento. Rules of specific districts can be found at the district offices. Below are listed the applicable addresses.

California Air Resources Board, Projects Section, Technical Support Division, 1131 "S" Street, Sacramento, CA 95812.

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

Sacramento County Air Pollution Control District, 9323 Tech Center Drive, Suite 800, Sacramento, CA 95826.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1095.

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731.

FOR FURTHER INFORMATION CONTACT: Morris Goldberg, State Implementation Plan Section, A–2–3, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974–8213, FTS 454–8213.

SUPPLEMENTARY INFORMATION:

Background

This notice proposes approval of one rule which was submitted by the State of California as a SIP revision to a can coating rule. Below is listed the applicable rule and the date it was submitted by the California Air Resources Board (CARB).

April 12, 1985

Bay Area Air Quality Management District

Regulation 8, Rule 11—Metal Container, Closure and Coil Coating

This notice also proposes disapproval of three can coating rules submitted by the State of California. Below are listed the applicable rules and the dates they were submitted by CARB:

November 12, 1985

San Diego County Air Pollution Control District

Rule 67.4—Can and Coil Coating Operations

February 10, 1986

Sacramento County Air Pollution Control District

Rule 452—Can Coating

June 4, 1986

South Coast Air Quality Management District

Rule 1125—Can and Coil Coating Operations

EPA Evaluation

EPA has evaluated the revised can coating rules for consistency with the Clean Air Act, 40 CFR Part 51, and EPA policy. EPA has also evaluated them to determine whether they weaken or strengthen the existing federally approved SIP.

The applicable rules limit the VOC content in can coatings. The rules were revised to either delay or delete the final compliance date for implementation of lower VOC limits in sheet basecoats and/or end sealing compounds.

Revised Bay Area Regulation 8, Rule 11 extended the compliance date for sheet basecoats and for end sealing compounds for one year, until January 1, 1986. Such an extension is consistent

with a **Federal Register** published by EPA on March 10, 1982, at 47 FR 10293. The notice stated that EPA will approve extensions of compliance schedules for the control of VOC from sheet basecoat and end sealing compound coating processes where they will facilitate the expeditious conversion to low solvent technology. These extensions may be granted for a period up to 1985 where an expeditious, legally enforceable compliance program has been developed. This extension is also consistent with the Clean Air Act and EPA's policy on VOC compliance date extensions. This policy sets out two tests which must be met before an extension request may be granted. First, the state must demonstrate that the extension will not interfere with timely attainment and maintenance of the ozone standard and reasonable further progress (RFP) toward attainment. Second, the extension must be consistent with the requirement that RACT be implemented as expeditiously as practicable. During the pendency of this extension the Bay Area had an approved plan and this extension did not interfere with timely attainment or RFP. The March 1982 notice indicates that EPA considers an extension until 1986 under these circumstances expeditious. EPA is thus proposing approval of the Bay Area AQMD rule revision.

South Coast Rule 1125 and Sacramento Rule 452 were revised to extend the final compliance date for sheet basecoats and for all non-beverage cans for two years, until 1987. Revised San Diego Rule 67.4 increased the interim VOC limit for end sealing compounds for fatty food containers from 480 grams per liter (g/l) to 530 g/l, and extended the interim limits for one year, until January 1, 1986.

These three rule revisions represent a significant relaxation of the existing SIP in areas currently not in attainment with the NAAQS. The revised rules either extend the compliance date past the 1985 cut-off date specified in 47 FR 10293 or delete a compliance date and increase the VOC limits. The Districts have not demonstrated that these extensions are consistent with EPA's policy on VOC compliance date extensions. Since these areas do not have adequate demonstrations of timely attainment, EPA can not determine whether or not the extensions will interfere with timely attainment and maintenance, or with RFP. Absent a convincing demonstration of expeditiousness from a state, EPA can not conclude that extensions beyond 1985 for can coating sources are expeditious. EPA is proposing to disapprove these rule relaxations because they are inconsistent with the requirements of the Clean Air Act, 40 CFR Part 51, and EPA policy.

EPA's detailed evaluation of the submitted rules, including policy memoranda, are available at the EPA Region 9 office.

EPA Requirements

EPA's requirements governing proposed SIP revisions are contained in the Clean Air Act (CAA), Section 110 and Part D, 40 CFR Part 51, and various EPA policy memoranda.

The publication of 47 FR 10293 restates the EPA policy to approve extensions of SIP compliance schedules for VOC controls from certain processes in can manufacturing plants. According to this notice, extensions may only be granted to 1985 where an expeditious, legally enforceable compliance program has been developed consistent with reasonable further progress requirements and the ozone control strategy as defined in the SIP and with other applicable provisions of the CAA. EPA is approving the Bay Area AQMD rule revision since the revision meets the criteria outlined in this notice.

Sections 110(a)(2)(A) and 172(a)(1) of the CAA, 40 CFR 51.10, and EPA policy require that SIPs provide for the attainment of the national ambient air quality standards (NAAQS) "as expeditiously as practicable." Section 110(a)(2)(B) of the CAA, 40 CFR 51.12 and 51.13, and EPA policy require that SIPs also insure maintenance of the NAAQS. Section 110(a)(3)(A) of the CAA and 40 CFR 51.6 extend the SIP requirements in Section 110 and 40 CFR Part 51 to SIP revisions.

Before EPA can approve a SIP or a revision to the SIP, it must be demonstrated that such action is adequate to attain and maintain the standards. It is the state's responsibility to provide such a demonstration. If an adequate demonstration is not provided, EPA must disapprove the submission for failure to satisfy the requirements of the CAA.

The State of California has failed to demonstrate that the submitted can coating revisions will provide for attainment and maintenance of the NAAQS as expeditiously as practicable. The State has also not demonstrated that it would be unreasonable to continue to impose the existing SIP limits on the subject sources.

Section 172 of the CAA requires states to adopt regulations which reflect reasonably available control technology (RACT) at a minimum in order to attain and maintain the NAAQS. Although the EPA approved rules may require controls more stringent than RACT, these controls are necessary for the attainment and maintenance of the ozone standard. The revised rules allow increased emissions in areas unlikely to demonstrate attainment of the ozone standard by 1987. EPA is therefore proposing to disapprove the Sacramento, San Diego, and South Coast revisions because they fail to satisfy the requirements of section 172 of the CAA.

EPA Proposed Action

Bay Area Regulation 8, Rule 11 is consistent with the policy set forth in 47 FR 10293. EPA is proposing approval of this rule under section 110 and Part D of the CAA.

The Sacramento, San Diego, and South Coast rules are inconsistent with the Clean Air Act, 40 CFR Part 51, and EPA policy. Under section 110 and Part D of the CAA, EPA is proposing to disapprove as SIP revisions Sacramento County Rule 452, San Diego County Rule 67.4, and South Coast Rule 1125.

Regulatory Process

Today's action imposes no additional requirements on small entities. Therefore, under 5 U.S.C. section 605(b), I certify that today's action will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7642.

Date: August 26, 1987.

John Wise,

Acting Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register September 15, 1988.

[FR Doc. 88–21394 Filed 9–19–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 300

[SW-FRL-3447-6]

National Oil and Hazardous Substances Contingency Plan; The National Priorities Lists; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete a site from the National Priorities List: Request for comments; correction.

SUMMARY: The Environmental Protection Agency (EPA) announced its intent to delete the Mowbray Engineering Company site from the National Priorities List (NPL) and requested public comment in the August 5, 1988, edition of the **Federal Register** on page 29484. The intention of this document is to correct the comment date.

DATE: Comments must be submitted on or before September 27, 1988.

ADDRESSES: Comments may be mailed to Patrick M. Tobin, Director, Waste Management Division, c/o Ralph Jennings, Site Project Manager, 345 Courtland Street NE., Atlanta, Georgia 30365. The Comprehensive information on this site is available through the EPA Regional Docket clerks.

Requests for comprehensive copies of documents should be directed formally to the appropriate Regional Docket Office. The address for the Regional Docket Office is: Gayle Alston, Region IV, USEPA Library, Room G–8, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 347–4216.

FOR FURTHER INFORMATION CONTACT: Patrick M. Tobin, Director, Waste Management Division, c/o Ralph Jennings, Site Project Manager, 345 Courtland Street NE., Atlanta, Georgia 30365 or call (404) 347–2643.

Date: September 2, 1988.

Lee A. DeHihns III,

Acting Regional Administrator.

[FR Doc. 88–21013 Filed 9–19–88; 8:45 am]

BILLING CODE 6560–50–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1815

Change to NASA FAR Supplement Concerning Proposal Evaluators

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a NASA proposal to amend the NASA Federal Acquisition Regulation Supplement (NFS), Chapter 18 of the Federal Acquisition Regulation System in Title 48 of the Code of Federal Regulations. This proposed change requires that non-government proposal evaluators be appointed special government employees before participating in the evaluation process.

DATE: Comments are due not later than October 20, 1988.

ADDRESS: Comments should be addressed to NASA Headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: W. A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453–8923.

SUPPLEMENTARY INFORMATION:

Background

NASA employees generally evaluate solicited proposals submitted to the agency. In some instances, however, it is necessary to disclose the proposal outside the Government to obtain the best possible evaluation. This proposed change to the NASA FAR Supplement (NFS) requires that JPL and other non-government participants in evaluation proceedings be appointed special government employees because these appointees would then be subject to the same conflict of interest statutes and policies that regular Federal employees are subject to, and this would ensure better control and management over the evaluation process.

Individual arrangements are made between NASA and each special government employee. The terms of appointment are flexible and can accommodate considerations related to other employment. Remuneration, if any, may range from reimbursement of expenses to payment for services. Special government employees are authorized under 18 U.S.C. 202.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. This proposed regulation falls in this category. NASA certifies that this regulation 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.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act of 1980.

List of Subjects in 48 CFR Part 1815

Government procurement.

S. J. Evans.

Assistant Administrator for Procurement.

PART 1815—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 1815 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In 1815.413–2, paragraph (b) is revised to read as follows:

1815.413–2 Alternate II

* * * * *

(b) *Policy.* It is NASA policy to have proposals evaluated by the most competent technical and management sources available. When it is necessary to disclose a proposal outside the Government to meet NASA's evaluation needs—

(1) Personnel participating in evaluation proceedings shall be instructed to observe the restrictions in FAR 15.413 and 1815.413.

(2) The requirements in paragraphs (c) and (d) below shall be met.

(3) JPL and other non-government participants in evaluation proceedings shall be appointed as special government employees, except for evaluation proceedings resulting from Board Agency Announcements (1835.016) and unsolicited proposals.

* * * * *

[FR Doc., 88–21426 Filed 9–19–88; 8:45 am]

BILLING CODE 7510–01–M

Notices

Federal Register
Vol. 53, No. 182
Tuesday, September 20, 1988

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.

ACTION

Agency Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

BACKGROUND

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Need and Use

The nomination form is for the Volunteer Recognition Award Program to be administered jointly by ACTION and a non-profit organization, VOLUNTEER. The award will recognize exemplary volunteer service by individuals and groups.

To obtain information about or to submit comments on this proposed information collection, please contact *both*:

Melvin E. Beetle, Clearance Officer, ACTION, Room M-600, 806 Connecticut Ave., NW., Washington, DC 20525, Tel: (202) 634-9321 *and*

James Houser, Desk Officer for ACTION, Office of Management And Budget, New Executive Office Bldg., Room 3002, Washington, DC 20503. Tel: (202) 395-7316

Office of ACTION issuing the Proposal: Office of the Director.

Title of Form: Nomination form for "The President's Volunteer Action Awards".

Type of Request and Respondent's Obligation to Reply: Revision of a currently approved collection, voluntary.

General Description of Respondents: Individuals with Nomination for Awards.

Estimated Response Burden: Overall Figure in Burden Hours—2,500.

Number of respondents by group	Average burden minutes per response	Frequency of response
2,500	60	Annual.

Dated. September 14, 1988.

Melvin E. Beetle,

Clearance Officer, ACTION.

[FR Doc. 88-21390 Filed 9-19-88; 8:45 am]

BILLING CODE 6050-28-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Closed Meeting Rescheduling

In accordance with the Federal Advisory Committee Act, as amended, the U.S. Arms Control and Disarmament Agency announces that the previously announced Wednesday, October 12, 1988, meeting of the President's General Advisory Committee on Arms Control and Disarmament has been rescheduled to Tuesday, October 18, 1988.

The previously announced purpose, authority, and agenda items for this closed meeting are unchanged.

William J. Montgomery,

Committee Management Officer.

[FR Doc. 88-21387 Filed 9-19-88; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Edgecombe-Martin County Electric Membership Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

Notice is hereby given that the Rural Electrification Administration (REA) pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR Part 1500 through 1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of a new headquarters, warehouse, and operations facility in Edgecombe County, North Carolina, by Edgecombe-Martin County Electric Membership Corporation (EMC).

FOR FURTHER INFORMATION CONTACT: Joseph R. Binder, Director, Northeast Area-Electric, Room 0241, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382-1420.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for approval from EMC, required that EMC develop environmental support information reflecting the potential environmental impacts of the project. The information supplied by EMC is contained in a Borrower's Environmental Report (BER) which was a primary source document used by REA to develop its Environmental Assessment (EA). REA has concluded that the EA represents an accurate assessment of the environmental impacts of the proposed project and that the impacts are acceptable.

The proposed project consists of constructing a single story main office building, a warehouse, a vehicle and equipment storage building, a diesel and gasoline fueling facility, and a 90 meter (300 ft) self-supporting radio tower. The proposed facility would be constructed on a 5.4 hectare (ha) (13.4 acre (ac)) site adjoining State Highway 33, approximately 3.2 kilometers (2 miles) south of the city of Tarboro.

REA has concluded that the proposed project will have no effect on prime forest land or rangeland, wetlands or floodplains, threatened or endangered species or critical habitat, and properties listed or eligible for listing in the *National Register of Historic Places.* A maximum of 4.15 ha (10.25 ac) of important farmland would be impacted. No other matters of environmental concern have come to REA's attention.

Alternatives examined for the proposed project included no action, remodeling the existing facility, utilization of vacant facilities in the area, and construction of a new facility. REA determined that there is a need for the proposed project and that constructing the facilities as recommended is an environmentally acceptable alternative for EMC to alleviate crowding and poor access at its present facility and to combine its administrative and construction activities at one location.

Based upon the environmental support information provided, REA prepared an EA concerning the proposed project and its impacts. As a result of its independent evaluation, REA has concluded that approval for EMC to construct the proposed project would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has made a FONSI with respect to the proposed project. The preparation of an environmental impact statement is not necessary.

Copies of REA's EA and FONSI, and EMC's BER can be obtained from or reviewed at the offices of REA in the South Agriculture Building, Room 0250, 14th and Independence Avenue SW., Washington, DC 20250; or at the office of Edgecombe-Martin County Electric Membership Corporation (Jim Kinghorn, General Manager), 201 Wilson Street, Tarboro, North Carolina 27886, during regular business hours.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in final rule related notice to 7 CFR Part 3015 Supart V., this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Dated: September 15, 1988.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc 88-21450 Filed 9-19-88; 8:45 am]

BILLING CODE 3410-15-M

COMMISSION ON CIVIL RIGHTS

Amended Notice of Hearing on Indian Civil Rights Issues; Change of Venue

Notice is hereby given pursuant to the provisions of the United States Commission on Civil Rights Act of 1983, Pub. L. 98-183, 97 Stat. 1304, that a public hearing on Indian civil rights issues before a Subcommittee of the U.S. Commission on Civil Rights has been continued and relocated. The hearing will reconvene on September 29, 1988, at one o'clock p.m., at the Courtyard by Marriott-Phoenix Metrocenter, 9631 North Black Canyon, Phoenix, Arizona 85021.

The purpose of the hearing remains the same as previously published in 53 FR 20881 (June 7, 1988), 53 FR 25524 (July 7, 1988) and 53 FR 26842 (July 15, 1988).

Dated at Washington, DC, September 13, 1988.

William B. Allen,

Chairman.

[FR Doc. 88-21364 Filed 9-19-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Interviewer Record/Follow-up Rocord/Monthly Noncertainty Letters.
Form Number: B-645 (87), B-646 (87).
Type of Request: Extension.
Burden: 4,973 hours.
Average Hours Per Response: 10 minutes.
Needs and Uses: The area sample component collects data from non-employer and newly opened retail and services businesses whose Employer Identification numbers have not yet been subjected to the list sample. Estimates published in the monthly retail trade and the services annual survey reports include data derived through this component.
Affected Public: Businesses or other for-profit. Small business or organizations.
Frequency: Monthly.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 15, 1988.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 88-21418 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-07-M

Senior Executive Service: Performance Review Board; Membership

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
John B. Christian
David L. Edgell
David Farber
Mary Ann T. Knauss
Michael A. Levitt
Eric C. Peterson
Otto J. Wolff

Edward A. McCaw,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 88-21427 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-BS-M

Minority Business Development Agency

Business Development Center Applications: Richmond, VA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $194,118 for the project performance of February 1, 1989 to January 31, 1990. The MBDC will operate in the Richmond, Virginia, Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $165,000 in Federal funds and

a minimum of $29,118 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3-year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

CLOSING DATE: The closing date for applications is October 25, 1988. Applications must be postmarked on or before October 25, 1988.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Room 6723, Washington, DC 20230, 202/377-8275.

FOR FURTHER INFORMATION CONTACT: Willie J. Williams, Regional Director; Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Date: September 9, 1988.

Willie J. Williams,

Regional Director, Washington Regional Office.

[FR Doc. 88-21422 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment and Amendment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Mexico

September 14, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing directives to the Commissioner of Customs establishing and amending limits.

EFFECTIVE DATE: September 21, 1988.

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).

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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) 535-9481. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The Governments of the United States and the United Mexican States agreed to amend the current bilateral textile agreement. The limits for Categories 443 and 650, which are currently filled, will re-open.

A copy of the current agreement, as amended, is available from the Textiles Division, Economic Bureau, U.S. Department of State, (202) 647-1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION. Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 7961, published on March 11, 1988.

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.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

September 14, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on March 7, 1988 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the United Mexican States and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on Sept. 21, 1988, the directive of March 7, 1988 is amended to establish new and amended limits for cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Mexico.

Category	12-month limit [1]
229-F [2]	1,500,000 pounds.
229-O [3]	1,700,000 pounds.
239	515,000 pounds.
345	35,000 dozen.
350	25,000 dozen.
363	6,000,000 numbers.
433	10,000 dozen.
443	96,000 numbers.
447	11,000 dozen.
621	400,000 pounds.
645/646	45,000 dozen.
650	30,000 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

[2] In Category 229-F, only TSUSA numbers 355.3500, 355.4520 and 355.4530.

[3] In Category 229-O, all TSUSA numbers except 355.3500, 355.4520 and 355.4530.

Textile products in Category 239 and 645 which have been exported to the United States prior to January 1, 1988 shall not be subject to this directive.

Textile products in Category 239 and 645 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Import charges already made to Category 229 are to be retained and applied to the limits established in this directive for Categories 229-F and 229-O, as appropriate. Charges already made to Category 646 are to be charged to the newly merged Categories 645/646. Imports amounting to 1,098 dozen and 17,347 pounds shall be charged to

Categories 645 and 239, respectively, for the import period January 1, 1988 through May 31, 1988. Additional charges will be supplied as data become available.

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,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21389 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Korea

September 15, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 22, 1988.

Authority: E.O. 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Kimbang Pham, 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) 566-8041. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limits for certain categories in Groups II and IV are being adjusted for carryforward applied but not used and special carryforward used during the previous agreement period.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 161, published on January 5, 1988.

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.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation Textile Agreements

September 15, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 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 Korea and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on Sept. 22, 1988, the directive of December 30, 1987 is amended further to adjust the restraint limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Korea:

Category	Adjusted 12-mo. limit [1]
342	76,459 dozen.
433/434	17,284 dozen of which not more than 13,165 dozen shall be in Category 433 and not more than 6,768 dozen shall be in Category 434.
636	218,274 dozen.
641	986,964 dozen.
642	82,247 dozen.
647/648	1,188,189 dozen.
845	2,312,744 dozen

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exceptions to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21420 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of Exempt Certification Requirements for Handmade Textile and Apparel Products Exported from Pakistan

September 15, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending exempt certification requirements.

EFFECTIVE DATE: September 22, 1988.

Authority: E.O. 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION: The Governments of the United States and Pakistan agreed that certain handloomed textile products of the cottage industry of Pakistan made from handloomed fabrics and items that are uniquely and historically traditional Pakistani products, also known as "Pakistan Items" may be machine sewn and still qualify for exemption from quota and visa requirements.

A copy of the current bilateral textile agreement is available from the Textiles Division, U.S. Department of State, (202) 647-1998.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see FR 25257, published on June 6, 1983; 50 FR 26028, published on June 24, 1985 and 52 FR 21611, published on June 8, 1987.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation of Textile Agreements

September 15, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on May 27, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive established visa and exempt certification requirements for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products exported from Pakistan.

Effective on Sept. 22, 1988, the directive of March 27, 1983 is amended further to cancel the requirement that certain handloomed textile products of the cottage industry of Pakistan made from handloomed cottage industry fabrics of Pakistan and designated "Pakistan items" may be machine sewn and still qualify for exemption from quota and visa requirements.

You are directed to permit entry into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of handloomed

textile products made from handloomed fabrics which are cut and sewn by the use of treadless or power driven sewing machines and "Pakistan items" made from handloomed fabrics, produced or manufactured in Pakistan and exported from Pakistan on and after September 22, 1988 for which the Government of Pakistan has issued an exempt certification.

Except for "Pakistan items", wearing apparel products handmade from handloomed fabric and towels made from handloomed fabric continue to be subject to quota and visa requirements.

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,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-21419 Filed 9-19-88; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Kansas City Board of Trade; Proposed Amendments Relating to the Sorghum Futures Contract and a Proposal to Recommence Trading in That Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Kansas City Board of Trade ("KCBT" or "Exchange") has submitted for the sorghum futures contract a number of proposed changes in the standards and procedures relating to the delivery of sorghum, including amendments to the delivery points, quality standards, and quality price differentials. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that these proposals are of major economic significance. In addition, the KCBT has submitted a proposal to recommence trading in the sorghum futures contract, which now is dormant within the meaning of Commission Regulation 5.2. On behalf of the Commission, the Division is requesting comment on these proposals.

DATE: Comments must be received on or before October 20, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the amendments to the KCBT sorghum futures contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Exchange submitted proposed amendments to the sorghum futures contract that would:

(1) Provide that the No. 1 yellow sorghum grade be deliverable at a 3-cent-per-bushel premium rather than at par, change the existing discount of 3 cents per bushel for No. 3 yellow sorghum to a 5-cent-per-bushel discount, and establish special maximum levels of damage and foreign matter for No. 3 yellow sorghum. The existing and proposed deliverable grades of sorghum and their corresponding price differentials are shown below:

Grade	Differentials	
	Current	Proposed
	(cents per bushel)	
No. 1 Yellow Sorghum	Par	+3
No. 2 Yellow Sorghum	Par	Par
No. 3 Yellow Sorghum [1]	−3	−5

[1] Under the proposal, No. 3 yellow sorghum tendered on futures contracts shall be subject to a maximum of 7% damage and 10% foreign matter. This compares with the maximum of 10% and 12%, respectively, under the official U.S. grain standards for that grade.

(2) Specify that delivery in satisfaction of futures contracts must be at regular warehouses located in Kansas City, Missouri-Kansas; St. Joseph, Missouri; Atchison, Kansas; and Topeka, Kansas. Delivery at all of these locations would be at par. Current provisions allow delivery only in regular warehouses located in Kansas City, Missouri-Kansas.

(3)Reduce the minimum storage capacity for elevator regularity to 100,000 from 500,000 bushels.

(4) Increase the maximum daily price fluctuation limit for the contract to 15 cents from 10 cents per bushel.

(5) Establish position limits of three (3) million bushels, net long or net short, in the spot month, any single month, and all months combined.

(6) Delete the requirement that delivery of sorghum by regular warehouses, when ordered loaded out by holders of regular warehouse receipts, be with rail freight billing equal to the Lincoln, Nebraska rate for application to either Fort Smith, Arkansas, or for export. Also, under the proposal, the delivering warehouseman no longer would be required to furnish transit billing on sorghum represented by warehouse receipts. Therefore, the freight billing at a delivery point would be flat.

With regard to these proposals to amend the contract, the KCBT noted that:

> [T]he operation of the proposed rule[s] would allow recommencement of trading in grain sorghum futures based on contract terms that are in keeping with current sorghum cash market practices and that aren't biased towards either the buyer or seller. The purpose is to offer a more accurate hedging vehicle than corn futures for those involved in grain sorghum production, consumption and merchandising. Corn futures are currently used as a substitute for sorghum futures. The effect would be to reduce sorghum hedging risks associated with the substitute corn contract and to provide a more precise sorghum pricing mechanism.

The sorghum futures contract is not currently listed for trading and is dormant under Commission Regulation 5.2. Under Regulation 5.2, an exchange must submit for Commission review and approval, pursuant to section 5a(12) of the Commodity Exchange Act (Act) and Commission Regulation 1.41(b), an appropriate bylaw, rule, regulation or resolution to recommence trading in a dormant contract. Accordingly, the Exchange has submitted, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(b), a proposal to list additional months in the contract.

The Commission is seeking comment on the proposed amendments and with respect to the KCBT's proposal to recommence trading in the sorghum contract.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the amended terms and condition can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

The material submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such material should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's

headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued at Washington, DC, on September 15, 1988.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 88-21440 Filed 9-19-88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Committees; Establishment, Renewals, Terminations, etc.: Defense Intelligence Agency Advisory Board

ACTION: Revised charter of the Defense Intelligence Agency Advisory Board.

SUMMARY: Under the provisions of Pub. L. 92-463, "Federal Advisory Committee Act," notice is hereby given that the Defense Intelligence Agency Advisory Board has been determined to be in the public interest and has been rechartered, effective September 7, 1988. The revised charter reflects the change from its former designation as the Defense Intelligence Agency Scientific Advisory Committee to its present title.

The Defense Intelligence Agency Advisory Board will provide advice not only on scientific and technical matters of concern to officials in the Defense Intelligence Agency (DIA), but also on the broader operational aspects of the Agency's mission. The revised charter shows cognizance of the increased responsibilities assigned to DIA with respect to providing intelligence suport to combat units, and developing joint intelligence doctrine as well as integrating intelligence and operational planning.

September 14, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-21408 Filed 9-19-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Advisory Committee on Military Personnel Testing; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 8:30 a.m. to 5:00 p.m. on October 27, 1988, and from 8:30 a.m. to noon on October 28, 1988. The meeting will be held at the Holiday Inn Crowne Plaza, 333 Poydras Street, New Orleans, Louisiana 70130. The purpose of the meeting is to review Armed Services Vocational Aptitude Battery (ASVAB) printing procedures, ASVAB 18-19 score reporting, ASVAB-14 survey results, current and future plans for pre-enlistment screening tests, and adaptability screening research. Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. Anita R. Lancaster, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Force Management and Personnel), Room 2B271, the Pentagon, Washington, DC 20301-4000, telephone (202) 697-9271, no later than October 7, 1988.

September 15, 1988.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-21410 Filed 9-19-88; 8:45 am]

BILLING CODE 3810-01-M

Meeting: Defense Information School Board of Visitors

AGENCY: Defense Information School Board of Visitors, DoD.

ACTION: Notice of meeting.

SUMMARY: A meeting will be held to review administration and content of the Defense Information School's public affairs programs of instruction. The meeting is open to the public and will be conducted in Room 270A, Building #400, the Defense Information School, Ft. Benjamin Harrison, IN 46216-6200.

DATES: October 6, 1988—8:00 a.m. to 4:00 p.m., and October 7, 1988—8:00 a.m. to 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Green, Internal Information Plans, American Forces Information Service, 601 North Fairfax St., Suite 311, Alexandria, VA 22314-2007.

September 16, 1988.

L.M. Bynum,

Alternate OSD, Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-21409 Filed 9-19-88; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on November 8, 1988.

ADDRESS: The meeting will held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, April 2, 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. 552b(c)(1).

September 15, 1988.

L.M. Bynum,

Alternate OSD, Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-21411 Filed 9-19-88; 8:45 am]

BILLING CODE 3810-01-M

Procurement: Data Acquired From Contractors Under Defense Contractors

AGENCY: Under Secretary of Defense (Acquisition), DoD.

ACTION: Notice.

SUMMARY: The Department of Defense is firmly committed to reducing the amount of data acquired from contractors under defense contracts. These data requirements are imposed in contracts through the citing of Data Item Descriptions (DID's) in the Contract Data Requirements List (CDRL). We suspect that there are DID's which overspecify requirements, are duplications of other DID's or otherwise result in an unnecessary paperwork

burden upon the public. Internal effects are being undertaken by DoD to reduce the number of these types of DID's. Your help in specifically identifying the DID's which could be eliminated or improved will be appreciated. The input resulting from this request will be used to reduce the number of DID's and thereby reduce the paperwork burden placed upon the public. At this time comments are requested on DID's that fall into the following categories (reference DoD 5010.12–L, Acquisition Management Systems and Data Requirements Control List (AMSDL): CMPS (Composites Technology); FORG (Forgings); MECA (Metal Castings); MFFP (Metal Finishes and Finishing Processes and Procedures); SOLD (Soldering); THDS (Screw Threads); THJM (Thermal Joining of Metals). Comments on other categories of DIDs were requested in previous Federal Register Notices.

DATE: Comments or a request for extension should be received by November 21, 1988. Requests for extension will be considered on a case by case basis.

ADDRESS: Comments should be forwarded to Mr. Carl Berry, Defense Data Management Office, OASD(P&L)DDMO, 5203 Leesburg Pike, Suite 1401, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: A list of the DIDs in the above categories, a copy of individual DID's or a copy of each of the DID's may be obtained from Mr. Carl Berry, Defense Data Management Office, 5203 Leesburg Pike, Suite 1401, Falls Church, VA 22041, telephone (703) 756–2554.

September 14, 1988.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

September 14, 1988.

[FR Doc. 88–21407 Filed 9–19–88; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.003G]

Invitation of Applications for New Awards Under the Bilingual Education; Academic Excellence Program for Fiscal Year 1989

Purpose: Provides grants to local educational agencies, institutions of higher education, including junior or community colleges, and private nonprofit organizations. Eligible applicants may apply separately or jointly.

The purpose of the awards is to disseminate effective bilingual education practices for limited English proficient students.

Deadline for Transmittal of Applications: November 14, 1988.

Deadline for Intergovernmental Review Comments: January 13, 1989.

Applications Available: September 21, 1988.

Available Funds: The Administration has requested *$3,400,000* for this program for fiscal year 1989. However, the actual level of funding is contingent upon final congressional action.

Estimated Range of Awards: $125,000–$175,000.

Estimated Average Size of Awards: $150,000.

Estimated Number of Awards: 22.

Project Period: 36 months.

Applicable Regulations: (a) The Bilingual Education: Academic Excellence Program, (34 CFR Part 524), and (b) the Education Department General Administrative Regulations 34 CFR Parts 74, 75, 77, 78, 79, and 80.

Additional Factors: In accordance with 34 CFR 524.32(b), the Secretary—in evaluating applications under the published criteria—distributes an additional 15 points among the factors listed in § 524.32(a) as follows: (1) Historically underserved (6 points); (2) Geographic distribution (6 points); (3) Relative number and proportion of children from low-income families (3 points).

For Applications or Information Contact: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue SW., (Room 5628, Mary E. Switzer Building), Washington, DC 20202–6642. Telephone: (202) 732–1843.

Program Authority 20 U.S.C. 3291(a)(4).

Dated: September 14, 1988.

Alicia Coro,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 88–21401 Filed 9–19–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award a Grant to the Louisiana State University

AGENCY: U.S. Department of Energy.

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2) it is restricting eligibility for a grant under procurement request No. 19–88BC14204.000 to the Louisiana State University for an effort entitled, "Cyclic CO_2 Injection for Light Oil Recovery: Performance of a Cost-Share Field Test in Louisiana".

Scope: The purpose of the proposed research is to demonstrate successful field implementation of the CO_2 huff-n-puff process for the enhanced oil recovery of light crude oil. This entails studying many reservoir and operational parameters and requires that laboratory and field results be interselected. LUS will outline a research plan to complete the development and testing of a new low-cost enhanced oil recovery (EOR) method. This new method has shown promise in preliminary laboratory experiments and in early field applications conducted by major oil companies. The method is similar to cyclic steam injection and is therefore referred to as cyclic carbon dioxide injection or carbon dioxide huff-n-puff. Since the same well is used for injection and production, the process can be applied to single-well reservoirs, separate fault blocks, small fields, and large continuous reservoirs. The CO_2 huff-n-puff process offers a fast, economical alternative to conventional EOR methods.

The projected period of the grant is two (2) years. DOE participation will be $250,000 with LSU contributing $250,000 during the grant term.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–165, Pittsburgh, PA 15236, Attn: David N. Barnett, Telephone: AC 412/892–5912.

Dated: September 2, 1988.

Gregory J. Kawalkin,

Acting Director, Acquisition and Assistance Division.

[FR Doc. 88–21460 Filed 9–19–88; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Intent To Award a Grant to the Underground Injection Practices Council

AGENCY: U.S. Department of Energy.

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2) it is restricting eligibility for the grant under procurement request number 19–88BC14304.000 to the Underground Injection Practices Council (UIPC) for the review of state programs for underground injection control.

Scope: The grant award is to assist UIPC in conducting a review of state UIC regulatory programs to assess their effectiveness applicable to Class II wells

under the Safe Drinking Water Act. Class II wells are those injection wells used for either the disposal of fluids associated with oil and gas production, the injection of fluids for enhanced oil recovery, or for the storage of liquid hydrocarbons.

This program will provide the following benefits to the Department of Energy, Fossil Energy program:

—Furthers the exchange of information between states, which may contribute to the development and enhancement of regulations applicable to Class II oil and gas injection wells.
—Supports the efforts of the interagency workgroup (of which various states, the Department of Interior and DOE are members) which was established by EPA to evaluate Federal regulations applicable to Class II injection wells.
—Serves as a potential means for identifying research needs, and
—Provides information relevant to FE environmental policy and regulatory analysis activities.

The projected term of the grant will be one year, conducted in California, Texas, and other states as funding permits. The Department intends to contribute approximately $45,000 towards this effort.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, P.O. Box 10940, MS 921–165 Pittsburgh, PA 15236, Attn: Gregory J. Kawalkin, Telephone: AC 412/892–6039.

Date: August 31, 1988.

Gregory J. Kawalkin,

Acting Director, Acquisition and Assistance Division.

[FR Doc. 88–21459 Filed 9–19–88; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 86–62–NG]

Order Granting Authorization to Ocean State Power To Import Natural Gas and Record of Decision In Compliance With National Environmental Policy Act

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting authorization to import natural gas and record of decision.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it issued an order (DOE/ERA Opinion and Order No. 243–A) on September 14, 1988, pursuant to section 3 of the Natural Gas Act (NGA), in ERA Docket No. 86–62–NG, authorizing Ocean State Power (Ocean State) to import up to 100,000 Mcf per day of Canadian natural gas over a 20-year period beginning on the date of the first delivery. The gas is intended to fuel a new power plant to be built by Ocean State in Rhode Island, scheduled to begin operation in late 1989. The new facilities required to supply the power plant with gas include pipeline looping adjacent to Tennessee Gas Pipeline Company's (Tennessee) existing gas transmission pipeline in New York and Massachusetts, and a new pipeline in Massachusetts and Rhode Island.

A copy of that order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

In conjunction with the order, the ERA is issuing this Record of Decision, pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1505) implementing the procedural provisions of the National Environmental Policy Act of 1969 (NEPA) and the DOE's guidelines for compliance with NEPA (52 FR 47662, December 15, 1987). The ERA has two alternative courses of action it may take in processing an application to import natural gas. It may grant the application (with or without conditions) or deny the application. In deciding to approve the authorization requested by Ocean State, the ERA considered the competitiveness of the import in the markets served, need for the supply, security of supply, and the environmental impact of the proposal. The ERA relied on the *Ocean State Power Project Final Environmental Impact Statement* (FEIS) issued by the Federal Energy Regulatory Commission (FERC) on July 11, 1988 (FERC/EIS–0050), in assessing the environmental effects of granting the import. The FEIS which was adopted by the DOE (DOE/EIS–0140) examines the impacts of constructing both the power plant and the additional transmission facilities.

ERA concluded that the proposed import, which will be made under a market-responsive gas purchase contract containing flexible price adjustment terms and no take-or-pay requirement, meets the DOE guidelines concerning competitiveness, need for the supply, and security of supply, and is consistent with the public interest. In addition, the ERA determined that the import authorization would have limited environmental impacts and would be environmentally acceptable.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room 3F–070, 1000 Independence Ave., SW. Washington, DC 20585, (202) 586–9478.

Carol M. Borgstrom, Director, Office of NEPA Project Assistance, U.S. Department of Energy, Forrestal Building, Room 3G–080, Washington, DC 20585, (202) 586–4600.

SUPPLEMENTARY INFORMATION:

I. Decision

In DOE/ERA Opinion and Order No. 243 issued on June 13, 1988, in ERA Docket No. 86–62–NG, the ERA conditionally authorized Ocean State Power to import up to 100,000 Mcf per day of Canadian natural gas over a 20-year term, beginning on the date of the first delivery, to fuel a new power plant it plans to build in Burrillville, Rhode Island. The power plant is scheduled to begin operation in late 1989. The authorization was conditioned on the DOE's review of the FEIS being prepared for the Ocean State project by the FERC. Subsequently, the review was completed, the FEIS was adopted by the DOE, and a final authorization approving the import was issued to Ocean State on September 14, 1988, in DOE/ERA Opinion and Order No. 243–A.

II. Project Description

The project involves phased construction and operation by Ocean State, a general partnership, of two natural gas-fired, 250-megawatt combined cycle electric generating units, a 10-mile pipeline to transport process and cooling water to the plant from the Blackstone River, and a 7.5-mile pipeline to deliver No. 2 fuel oil to the site for emergency use when natural gas may not be available. Interrelated with the Ocean State project, Tennessee Gas Pipeline Company (Tennessee), a division of Tenneco, Inc., proposes to construct additional new pipeline facilities to supply the the imported gas for the power plant. The new facilities required by Tennessee include a total of 25.5 miles of 30-inch diameter pipeline looping in five separate segments located adjacent to existing gas transmission pipelines in New York and Massachusetts and a new delivery lateral, consisting of 11 miles of 20-inch diameter pipeline from Sutton, Massachusetts to Burrillville, Rhode Island (the Rhode Island Extension). The

Rhode Island Extension would be used to serve the Ocean State project as well as provide service to Providence, Rhode Island. Increases in compression on Tennessee's pipeline at three existing compressor stations in New York and Massachusetts and a new compressor station in New York are also needed to enable Tennessee to deliver the gas.

III. Governmental Responsibilities

For Ocean State's proposed project, the issuance of several major permits and authorizations are required before the project can proceed. On November 19, 1986, Ocean State filed an application with the ERA in ERA Docket No. 86-62-NG for authorization under Section 3 of the NGA to import gas from Canada to be used for fuel at the power plant. Ocean State also filed an exemption petition with the ERA on December 31, 1986, pursuant to the Powerplant and Industrial Fuel Act (FUA) of 1978 (Pub. L. 95-620) to exempt the power plant from the statutory requirement that it be capable of using coal or another alternate fuel as a primary energy source instead of natural gas or oil. On June 29, 1988, Ocean State submitted, pursuant to the FUA Amendments of 1987 (Pub. L. 100-42), a coal capability certification in place of the previously requested exemption. Consequently, the power plant is no longer within the ERA's jurisdiction under the FUA. While construction of the power plant is not within the ERA's jurisdiction, a license is necessary from the Rhode Island Energy Facility Siting Board (EFSB).

The FERC has the responsibility under sections 3 and 7 of the NGA, respectively, to approve the place of entry for imports whenever the import involves the construction of new domestic facilities and to certificate the pipeline facilities supplying the gas. Inasmuch as the gas pipeline facilities improvement/extension proposed by Tennessee is a related part of the Ocean State project, Tennessee filed applications with the FERC on December 18, 1986, (FERC Docket Nos. CP87-75-000, CP87-131-000, CP87-131-001, CP87-132-000, and CP87-132-001) to construct and operate the facilities which would be used to transport the gas for the Ocean State project.

The EFSB and the FERC must still make final decisions on their authorizations.

IV. Description of Alternatives

The FEIS concluded that it is likely that there will be a need for additional power resources in New England to meet the expected future increases in electricity consumption. The FEIS also determined that if the demand for electricity cannot be met because the power plant is not built, existing public utility companies in the region would need to look elsewhere for an alternative supply of electricity to meet demand.

The ERA has two alternative courses of action in processing Ocean State's application to import natural gas. It may grant the application (with or without conditions) on deny the application. If the ERA denied the application and thereby prevented delivery of Canadian gas to the Ocean State plant, Ocean State would be required to secure alternative sources of fuel or to abandon the project, in which case other generating facilities would have to be built to meet the demand. If the application is granted, Ocean State may proceed with the project as proposed, subject to any conditions imposed by the EFSB and the FERC. Since the FEIS concluded that the available alternatives for meeting the electrical demand would cause impacts greater than, or comparable to, the Ocean State project, the ERA has concluded that granting the import authorization is the environmentally preferred alternative.

The FEIS also assessed a number of power plant site alternatives and pipeline route alternatives. Decisions concerning these alternatives will be made as part of the FERC and EFSB approval process. The ERA has examined the projected impacts of these alternatives and has concluded that, regardless of which are allowed, the resulting environmental impacts would be acceptable.

V. Basis For Decision

The principal criteria in choosing whether to approve of disapprove a gas import project is the requirement under section 3 of the NGA that an application to import gas must be approved unless, after opportunity for hearing, it is determined that the import is not consistent with the public interest. In addition, the environmental implications of granting or denying the import application must be considered pursuant to NEPA.

A. Order 243 and 243-A

The ERA is guided in making its determination by the DOE's natural gas import policy guidelines (49 FR 6684, February 22, 1984). Under this policy, the competitiveness of an import in the markets served in the primary consideration for meeting the public interest test. In the case of long-term arrangements such as this, need for the gas supply and security of supply are also important considerations.

The ERA found that the import arrangement meets the DOE policy guidelines. The gas will be market-responsive because the purchase contract contains an automatic price adjustment mechanism, price renegotiation provisions, and no take-or-pay requirements. Since Ocean State would incur no take-or-pay or minimum bill obligation in connection with this import, it is reasonable to assume that Ocean State will not take gas if it is not the most competitively priced supply available. Under the policy guidelines, need is presumed to be a function of competitiveness. Based on the marketability of gas under the arrangement, the ERA therefore determined that there is a need for the proposed import. With respect to security of supply, the ERA found that the import will not lead to any undue dependence on an unreliable source of supply nor otherwise compromise the energy security of the nation over the 20-year term of the import proposal. Therefore, the ERA found that the proposed import would be consistent with the public interest.

B. Environmental Determination

The FERC was the lead Federal agency in conducting an examination of the environmental effects of constructing both the power plant and Tennessee's additional transmission facilities and preparing the Ocean State FEIS for the project. Included in the FEIS were a discussion of the impacts of providing the power by other means, and an evaluation of power plant site alternatives and pipeline route alternatives. The DOE participated as a cooperating agency during the preparation of the FEIS, and the ERA relied on the FEIS (which was adopted as a DOE EIS) in assessing the environmental effects of granting or denying the import authorization.

1. Power Generation

If the required supply is provided by electric generating facilities that use oil, coal, or nuclear fission as fuel sources, substantial adverse environmental impacts could occur from that use, in contrast to the relatively minor environmental impacts of the Ocean State project. Other alternative types of generation to the combined-cycle technology chosen by Ocean State, including fluidized bed combustion, gas turbines, and integrated gasification/combined-cycle were found to be more costly and the environmental impacts greater, or comparable to, the impacts from combined-cycle plants. Other technologies using renewable sources

(hydroelectric, wind, solar, and geothermal power) were judged to be technically limited for the geographic area, and therefore not practicable.

2. Power Plant Location

The FEIS evaluated two primary alternative sites for the power plant in addition to Ocean State's proposed site at Sherman Farm Road in Burrillville, Rhode Island. Those sites were the Bryant College site in Smithfield, Rhode Island, and the Ironstone site in nearby Uxbridge, Massachusetts. All are located within nine miles of one another. The Ironstone site was identified as the environmentally preferred alternative to the Sherman Farm Road site with regard to land use compatibility, wetland impacts, upland clearing, and buffer area. The FEIS concluded, however, that the overall differences between Ocean State's proposed site and the two alternative sites was not significant, and with certain mitigating measures, construction and operation of the power plant at the Sherman Farm Road site would have a limited adverse environmental impact and would be environmentally acceptable. Although the Ironstone site was the preferred alternative, the estimated cost differential is $40 to $50 million greater for that site than for the Sherman Farm Road site, or about 15 percent of the present estimated capital cost for the power plant.

Five alternative routes replacing all or portions of the proposed alignment of the oil and water pipelines to the Sherman Farm Road site were considered in the FEIS. The environmentally preferred route consists of the OP-1, OP-4, and OP-5 alternatives. It would be preferrable to Ocean State's proposed route because of the advantages of constructing both the oil and water pipelines in the same trench. In addition, the proposed oil and water pipeline route which follows primarily city streets and local highways would disrupt traffic during construction and affect residences along the roads. In contrast, the preferred route would mainly follow existing or abandoned railroad and electric transmission line rights-of-way, and would result in minimal impact on road traffic residences, and wetlands, and minimize the length of pipeline required.

An alternative to using an oil pipeline route would be to truck No. 2 fuel oil to the power plan site. However, FEIS concluded that construction of an oil pipeline would create significantly fewer and less severe socioeconomic and environmental impacts than transportation of the backup fuel by truck.

3. Gas Pipeline Improvements

The FEIS determined that the proposed additions and upgrades to Tennessee's existing gas pipeline facilities, with certain mitigating measures, would have a limited adverse environmental impact and would be environmentally acceptable. In evaluating Tennessee's proposed new facilities the FEIS examined alignments and alternatives to two of the five proposed pipeline loop segments, Loops 5 and 7, located in Madison County, New York, and Hampden County, Massachusetts, respectively, as well as several variations or modifications to the proposed route for the Rhode Island Extension. No alternatives were proposed for the other new loop lines (Loops 1, 4, and 6). The Nelson Swamp bypass and the Southwick variation were considered alternative routes for Loops 5 and 7 to avoid crossing a wetland and a densely developed commercial and residential area. Those alternatives, however, were not found to be significantly superior to the proposed route.

The proposed route of the Rhode Island Extension passes through a number of wetlands, crosses valuable sand and gravel resources, and bisects two parcels of undeveloped residential property. Three route modifications to the Extension that would avoid a major wetland, avoid impinging on the development potential and aesthetic quality of the private property, and minimize the amount of virgin right-of-way used for the pipeline, namely the Sutton Forest Power Line (V-1M), Seaver (V-5), and Boston Edison Line (V-7) variations, were identified as environmentally preferable to the proposed route.

An alternative proposed by Algonquin Gas Transmission Company (Algonquin) for rerouting and delivering the imported gas through its existing pipeline, thereby eliminating the need to construct the Rhode Island Extension was also examined. The FEIS concluded that, absent all other considerations, the Algonquin alternative is environmentally preferable to Tennessee's proposal. However, taking into account Tennessee's separate proposal to supply Providence Gas Company (the Rhode Island Extension would be sized to transport the Ocean State and Providence Gas Company volumes) which is currently pending before the FERC in another proceeding and is the subject of a separate environmental assessment, future deliveries of gas for the second combined-cycle unit, and gas transportation rates, the FERC staff's analysis indicates that there would be no environmental advantage to Algonquin's proposal and it would require later construction of substantially more than 11 miles of pipeline.

The FEIS concluded that no significant impacts would occur as a result of the proposed compressor station additions and construction of the new compressor station.

VI. Considerations In Implementing The Decision

The FERD and EFSB have the principal authority and direct responsibility to impose and monitor any mitigation conditions through their authorizations. In the FEIS, the FERC staff specified mitigation measures which it considers appropriate and reasonable for the construction and operation of the power plant and the natural gas pipeline facilities. These additional mitigation measures would further reduce the anticipated environmental impacts. With respect to the measures for the natural gas pipeline, the FERC staff recommended that those measures be attached to any certificate issued by the FERC. With respect to the measures for the power plant, the FERC staff recommended that the FERC, through its authorization of the Tennessee pipeline facilities, require Ocean State to implement those measures, not imposed by the EFSB permits.

While it is uncertain which, if any, of the various recommendations/mitigation measures would be implemented or imposed as conditions to any authorizations the FERC and EFSB decide to issue, the ERA has determined that the impacts of constructing and operating both the power plant and the proposed Tennessee gas pipeline facilities would be environmentally acceptable under any of the alternative configurations assessed in the FEIS.

VII. Conclusion

The decision whether to authorize this import of natural gas has been evaluated against the potential environmental impacts. The ERA has determined that granting Ocean State authority to import Canadian natural gas is the environmentally preferred alternative to denying the authorization, and is not inconsistent with the public interest under section 3 of the NGA.

Issued in Washington, DC, September 14, 1988.

Chandler L. van Orman,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 88-21461 Filed 9-19-88; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $28,217,343 plus accrued interest, in alleged crude oil overcharge funds obtained from Salomon, Inc., Coral Petroleum, Inc., International Crude Corporation, and Conoco, Inc. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days from the date of publication of this notice in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a conspicuous reference to Case Number KEF-0109.

FOR FURTHER INFORMATION CONTACT: Richard W. Dulgan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2860.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE has tentatively formulated to distribute crude oil overcharge funds obtained from Salomon, Inc., Coral Petroleum, Inc., International Crude Corporation, and Conoco, Inc. The funds are being held in interest-bearing escrows accounts pending distribution by the DOE.

The DOE has tentatively decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, the federal government, and injured purchasers of refined products. Under the plan we are proposing, refunds to the states would be distributed in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments 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.

Date: September 14, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

September, 14, 1988.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firms: Salomon, Inc., Coral Petroleum, Inc., International Crude Corporation, Conoco Inc.

Dates of Filing: June 17, 1988, August 2, 1988, August 2, 1988, November 14, 1983.

Case Numbers: KEF-0109, KEF-0114, KEF-0115, KFX-0027.

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.

The ERA has filed four Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from Salomon, Inc., Coral Petroleum, Inc., International Crude Corporation and Conoco Inc.[1] These four firms remitted a total of $28,217,343 to the DOE.[2] An additional $4,644,590 in interest has accrued on that amount as of July 31, 1988. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds. Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the four firms listed above, and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) ("the MSRP"). The MSRP, issued as a result of a court-approved Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan.), 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 20

[1] On December 12, 1985, the OHA issued a Decision and Order concerning the petition to implement refund procedures for $11 million in crude oil overcharge funds and $3 million in petroleum product overcharge funds obtained from Conoco Inc. pursuant to a court approved settlement. *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). One crude oil refund of $135,846 was granted to a direct purchaser of crude oil in that proceeding. *See Conoco Inc./Delmarva Power*, 17 DOE ¶ 85,622 (1988). We now propose to distribute the $10,864,154 in residual funds in the Conoco escrow account, plus accrued interest, pursuant to the procedures set forth in this Decision.

[2] In addition to the $10,864,154 in the Conoco escrow-fund, Salomon, Inc. remitted $16,250,000 to the DOE pursuant to a March 24, 1988 Consent Order between Salomon and the DOE, Consent, Order number 6COX00249W; Coral Petroleum, Inc. remitted $1,000,000 pursuant to a settlement approved on February 8, 1988, Consent Order Number 650X00320W; and International Crude Corporation remitted a total of $103,188.89 pursuant to a Consent Order entered into between its president, Gregg Pritchard and the DOE for $36,093.09, Consent Order Number 6A0X00327W, and an award by the bankruptcy trustee of International Crude Corp. for $67,095.80.

percent of these crude oil overcharge funds will be reserved initially 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 federal government for indirect restitution.

The OHA has been applying the MSRP to all Subpart V proceedings involving alleged crude oil violations. *See* Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). That Order provided a period of 30 days for the filing of any objections to the application of the MSRP, and solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments which it received in response to the August 1986 Order. 52 FR 11737. The Notice set forth generalized procedures and provided guidance to assist claimants that wish to file refund applications for crude oil monies under the Subpart V regulations. All applicants for refunds would be required to document their purchase volumes of petroleum products during the period of Federal crude oil price controls and to prove that they were injured by the alleged overcharges. The Notice indicated that end-users of petroleum products whose businesses are unrelated to the petroleum industry would be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, we stated that refunds would be calculated on the basis of a per gallon refund amount derived by dividing crude oil violation amounts by the total consumption of petroleum products in the United States during the period of price controls. The numerator would consist of crude oil overcharge monies that were in the DOE's escrow account at the time of the M.D.L. 378 settlement, or were subsequently deposited in the escrow account, and a portion of the funds in the M.D.L. 378 escrow at the time of the settlement.

The DOE has applied these procedures in numerous cases since the April 1987 Notice, *see, e.g., Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (*Shell Oil*), and *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. Various States had filed a Motion with that Court, claiming that the OHA violated the Settlement Agreement by employing presumptions of injury for end-users and by improperly calculating the "refund amount to be used in those proceedings. On August 17, 1987, the Court issued an Opinion and Order denying the States' Motion in its entirety. The Court concluded that the Settlement Agreement "does not bar OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *In Re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318, 1323 (D. Kan. 1987). The Court also ruled that, as specified in the April 1987 Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. The latter ruling was recently affirmed by the Temporary Emergency Court of Appeals. *In Re: The Department of Energy Stripper Well Exemption Litigation*, 3 Fed. Energy Guidelines ¶ 26,604.

II. The Proposed Refund Procedures

A. *Refund Claims.* We now propose to apply the procedures discussed in the April 1987 Notice to the crude oil Subpart V proceedings that are the subject of the present determination. As noted above, $28,217,343 in alleged crude oil violation amounts is covered by this Proposed Decision. We have decided to reserve initially the full 20 percent of the alleged crude oil violation amounts, or $5,643,469 (plus interest) for direct refunds to claimants, in order to ensure that sufficient funds will be available for refunds to injured parties. The amount of the reserve may be adjusted downward later if circumstances warrant.

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. *See 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 to prove that they were injured as a result of the alleged violations. 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 absorbed rather than passed on alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond volumes of product purchased during the period of crude oil price controls. *See A. Tarricone*, 15 DOE ¶ 85,495 at 88,893–96 (1987). 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. *Id.* They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507 (June 19, 1985). Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Settlement Agreement have waived their rights to apply for crude oil refunds under Subpart V. *See Boise Cascade Corp.*, 16 DOE ¶ 85,214 at 88,411 *reconsideration denied*, 16 DOE ¶ 85,494 (1987); *Sea-Land Service, Inc.*, 16 DOE ¶ 85,496 at 88,991 n.1 (1987).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil violation amounts involved in this determination ($28,217,343) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *See Mountain Fuel*, 14 DOE at 88,868. This approach reflects the fact that crude oil overcharges were spread equally throughout the country by the Entitlements Program.[3] This yields a volumetric refund amount of $0.00001396 per gallon for the four proceedings involved in this determination. We propose to adopt a deadline of October 31, 1989 for refund applications submitted pursuant to this Decision. *See World Oil Corp.*, 17 DOE ¶ 85,658 (1988).

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *See Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund application in crude oil refund proceedings need not file another application. A deadline of June 30, 1988 was established for all first stage crude oil refund proceedings implemented pursuant to the MSRP up to and including *Shell Oil. See A. Tarricone, Inc.*, 16 DOE ¶ 85,681 (1987); *Allerkamp*,

[3] The Department of Energy established the Entitlements Program to equalize access to the benefits of crude oil price controls among all domestic refiners and their downstream customers. To accomplish this goal, refiners were required to make transfer payments among themseves through the purchase and sale of "entitlements." This balancing mechanism had the effect of evenly disbursing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. *See* Amber Refining Inc., 13 DOE ¶ 85,217 at 88,564 (1985).

17 DOE at 88,178; *Shell Oil*, 17 DOE at 88,408. Any applicant that files a refund application after that deadline will be eligible to receive a refund based only on the volumetric amounts approved subsequent to that date in the second stage of disbursements. This volumetric refund amount will be increased as additional crude oil violation amounts are received in the future. Applicants may be required to submit additional information to document their refund claims for these future amounts. Notice of any additional amounts available in the future will be published in the **Federal Register.**

B. *Payments to the States and Federal Government.* Under the terms of the MSRP, we propose that the remaining 80 percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $22,573,874 plus interest, be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the state under the Settlement Agreement.

Before taking the actions we have proposed in this Decision, we intend to publicize our proposal and solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register.**

It is Therefore Ordered That:

The refund amounts remitted to the Department of Energy by Salomon, Inc., Coral Petroleum Inc., International Crude Corporation and Conoco Inc. pursuant to the Consent Orders executed respectively on March 24, 1988, February 8, 1988, July 1, 1985 and November 14, 1983 will be distributed in accordance with the foregoing Decision.

[FR Doc. 88-21462 Filed 9-19-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3450-1]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its exhaust emissions standards and test procedures for 1989 and subsequent model-year passenger cars, light-duty trucks (0-399 lbs. equivalent inertia weight (EIW)) and medium-duty vehicles (0-3999 lbs. EIW). I find these amendments to be within the scope of previous waivers of Federal preemption granted to California for its exhaust emission standards and test procedures for passenger cars, medium-duty vehicles and light-duty trucks.

DATES: Any objection to the findings in this notice must be filed by October 20, 1988. Upon the receipt of any timely objection, EPA will consider scheduling a public hearing to reconsider these findings in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340-F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of my determination, and documents used in arriving at this determination are available from 8:00 a.m. to 3:00 p.m. at the Environmental Protection Agency, Central Docket Section (Docket EN-88-06), Room 4, South Conference Center, 401 M Street, SW., Washington, DC 20460. Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Leila Holmes Cook as noted below.

FOR FURTHER INFORMATION CONTACT: Leila Holmes Cook, Attorney/Advisor, Manufacturers Operation Division (EN-340-F), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-2526.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Prior to amendment, California's primary and optional exhaust emission standards for the 1984-1988 model years were as follows:

[1] 42 FR 31639 (June 22, 1987), 43 FR 20549 (May 12, 1978), 43 FR 36679 (August 18, 1978), 46 FR 36742 (July 15, 1981) and 49 FR 39731 (October 10, 1984).

1984-1988 EXHAUST EMISSION STANDARDS (G/MI) FOR GASOLINE AND DIESEL-POWERED VEHICLES

Vehicle type [1]	Equivalent inertia weight (pounds)	Durability vehicle basis (miles)	Nonmethane hydrocarbons (total HC)	Carbon monoxide	Oxides of nitrogen
PC (primary)	All	50,000	0.39 (0.41)	7.0	0.4
PC (optional)	All	50,000	0.39 (0.41)	7.0	0.7
PC (Option 1)	All	100,000	0.39 (0.41)	7.0	1.0
PC (Option 2)	All	100,000	0.46	8.3	1.0
LDT, MDV (primary)	0-3999	50,000	0.39 (0.41)	9.0	0.4
LDT, MDV (optional)	0-3999	50,000	0.39 (0.41)	9.0	1.0
LDT, MDV (Option 1)	0-3999	100,000	0.39 (0.41)	9.0	1.0
LDT, MDV (Option 2)	0-3999	100,000	0.46	10.6	1.0

[1] "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

Beginning with the 1989 model year, CARB's changes will limit the applicability of, and ultimately eliminate California's optional oxides of nitrogen (NO_x) exhaust emission standards of 0.7 grams per mile (g/mi) to be met for 50,000 miles by passenger cars and 1.0 g/mi to be met for 50,000 miles for medium-duty vehicles and light-duty trucks over a five-year period.[1] By the 1994 model year, all gasoline-powered vehicles [2] must meet California's primary NO_x standard of 0.4 g/m. CARB's amendments provide for a two-year delay in the compliance schedule with the primary NO_x standard for small volume manufacturers. Therefore, these changes take effect, on a phase-down basis, beginning in the 1989 model year for most vehicles (1991 model year for small volume manufacturers).

In addition, CARB's amendments eliminate for gasoline-powered vehicles all 100,000 mile optional exhaust emission standards for non-methane hydrocarbons (NMHC), carbon monoxide (CO) and NO_x, which if elected, would require compliance for 100,000 miles rather than 50,000 miles (as shown above). For diesel-powered vehicles the amendments eliminate both sets of 100,000 mile optional exhaust emission standards, designated as "Option 1" above. All 100,000 mile optional standards designated as "Option 2" will remain available for diesel-powered vehicles.

Finally, CARB has established, for 1989 through 1993 model year vehicles (1991–1995 model year for small volume manufacturers) certified to the primary 0.4 g/mi NO_x standard, a limited recall program for engine families with in-use emissions greater than 0.4 g/mi NO_x but not over 0.55 g/mi NO_x.

These changes do not undermine California's determination that its standards are, in the aggregate, at least as protective as Federal standards. Further, the amendments do not cause any inconsistency with section 202(a) of the Act and raise no new issues regarding previously waivers. A full explanation of my determination is contained in a decision document, which may be obtained as noted above.

Since these amendments are included within the scope of these waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 2098(b) waiver determination and that I should reconsider my findings.

My decision will affect not only persons in California but also the manufacturers located outside the state who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find, pursuant to section 307(b) of the Act, that this decision is of nationwide scope and effect.

This action is not a rule within the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981). Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Additionally, a Regulatory Impact Analysis is not being prepared under Executive Order 12291 for this "within the scope" determination since it is not a rule.

Also, this action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. sections 601(2) *et seq.* Therefore, EPA has not prepared a regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: September 12, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88-21397 Filed 9-19-88; 8:45 am]

BILLING CODE 6560-50-M

[1] Passenger cars of over 5,000 lbs. EIW, however, are not required to meet California's primary NO_x standard until 1994.

[2] Hereinafter "vehicles" refers to all passenger cars, as well as, medium-duty vehicles and light-duty trucks up to 3999 lbs. EIW.

[FRL-3450-4]

Bostic Equipment Garage Drum Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Bostic Equipment Drum Site, Holly Ridge, North Carolina, with Mr. Marlow F. Bostic. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Kay L. Crane, Environmental Scientist, Investigation and Cost Recovery Unit, Site Investigation and Support Branch, Waste Management Division, 345 Courtland Street NE., Atlanta, GA 30365, 404–347–5059.

Written comments may be submitted to the person above by October 20, 1988.

Date: September 9, 1988.

Joe R. Franzmuthes

Acting Regional Administrator.

[FR Doc. 88-21396 Filed 9-19-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Meeting

The Consumer Advisory Council will meet on Thursday, October 27 and Friday, October 28. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The October 27 session is expected to begin at 9:00 a.m. and to continue until 5:00 p.m. with a lunch break from 1:00 until 2:00 p.m. The October 28 session is expected to begin at 9:00 a.m. and continue until 1:00 p.m. The Martin Building is on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. *Cashing of Government Checks.* Discussion of an electronic delivery system under which institutions would accept government payments electronically and would make cash available to recipients for a nominal fee.

2. *Community Reinvestment Act Update.* Staff briefing on Board's response to the 1983 Council report on the Federal Reserve's implementation of the Community Reinvestment Act.

3. *Small Institutions' Concerns.* Discussion of regulatory issues that hold special concerns for small financial institutions.

4. *Consumer Provisions in Pending Banking Bills.* Discussion of pending legislation on access to financial services, government-check cashing, home equity lines, truth in savings, the Community Reinvestment Act, and expanded powers for financial institutions.

5. *Report by the Financial Structure Committee.* Committee report briefing the Council about restructuring the financial services industry as an element of allowing banks and other

financial institutions and firms to offer a wide array of financial products in a broad range of geographic markets.

6. *Committee Reports.* Updates from Council Committees on work plans.

7. *Staff Updates.* Briefing on the outlook for banking and consumer protection legislation; briefing on draft questionnarie to be used in 1989 consumer survey; status of recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members may also be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Comments must be received no later than close of business Friday, October 21, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Bedelia Calhoun, Staff Specialist, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 542-2412. Telecommunications Device for the Deaf (TDD) users may contact Earnestine Hill or Dorothea Thompson, (202) 452-3544.

Board of Governors of the Federal Reserve System, September 14, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-21367 Filed 9-19-88; 8:45 am]

BILLING CODE 6210-01-M

BankAmerica Corp., et al; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 7, 1988.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation,* San Francisco, California; to engage *de novo* through its subsidiary, BA Futures, Incorporated, San Francisco, California, in providing future commission merchant services to affiliates and non-affiliates with respect to futures contracts and options on futures contracts covering stock indices and municipal bond indices pursuant to § 225.25(b)(18) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-21368 Filed 9-19-88; 8:45 am]

BILLING CODE 6210-01-M

Bank of Boston Corp., et al.; Acquisition of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f) for the Board's approval under section 4(c)(8) of the Banking Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 3, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. **Bank of Boston Corporation,** Boston, Massachusetts; to acquire Future Planning Associates, Inc., South Burlington, Vermont, and thereby engage in providing retirement plan consulting, design and actuarial and administrative services to corporations and individuals pursuant to the Board's order of March 6, 1986.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FirstMorrill Company,* Omaha, Nebraska; to acquire Morrill Insurance Services, Inc., Morrill, Nebraska, and Ansley Insurance Agency, formerly Gardner/Varney Insurance Agency, Ansley, Nebraska, and thereby engage in offering insurance in towns with a population of less than 5,000 pursuant to § 225.25 (b)(8)(iii) and (b)(8)(vi) of the Board's Regulation Y. These activities will be conducted within a 15-mile

radius around Morrill, Nebraska, an a 10-mile radius around Ansley, Nebraska.

Board of Governors of the Federal Reserve System, September 14, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-21369 Filed 9-19-88; 8:45 am]

BILLING CODE 6210-01-M

Big Sioux Financial Inc., et al.; Formation of, Acquisition by, or Merger of Banking Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 7, 1988.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **Big Sioux Financial Inc.**, Estelline, South Dakota; to become a bank holding company by acquiring 98.3 percent of the voting shares of Farmers State Bank of Estelline, Estelline, South Dakota.

In connection with this application, Applicant also proposes to acquire Farmers State Agency, Estelline, South Dakota, and thereby conduct general insurance agency activities in a community with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in Estelline, South Dakota.

Board of Governors of the Federal Reserve System, September 14, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-21370 Filed 9-19-88; 8:45 am]

BILLING CODE 6210-01-M

Florida First International Corp., 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 October 7, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Florida First International Corporation*, Hollywood, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Florida First International Bank, Hollywood, Florida.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FNW Bancorp, Inc.*, Elgin, Illinois; to acquire 100 percent of the voting shares of Heritage Group, Inc., Woodridge, Illinois, and thereby indirectly acquire Heritage Bank, Woodridge, Illinois, and Heritage Bank, Lemont, Illinois, Comments on this application must be received by October 4, 1988.

2. *Indiana Bancshares, Inc.*, Greenwood, Indiana; to acquire 100 percent of the voting shares of Hoosier Bancshares, Bloomington, Indiana, and thereby indirectly acquire The Bloomington National Bank, Bloomington, Indiana.

3. *Pioneer Bancorp, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Bank & Trust Company, Chicago, Illinois.

Board of Governors of the Federal Reserve System, September 14, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-21371 Filed 9-19-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control; Acquisitions of Shares of Banks of Bank Holding Companies; John J. Gleason

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraphs 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 3, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *John J. Gleason,* to acquire 23.63 percent of the voting shares of Pinnacle Banc Group, Inc., Oak Brook, Illinois, and thereby indirectly acquire First National Bank of Cicero, Cicero, Illinois.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Hiroshi Kaijima,* Tokyo, Japan; to acquire 100 percent of the voting shares of Maui Bancshares, Inc., Tacoma, Washington,

Board of Governors of the Federal Reserve System, September 14, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-21372 Filed 9-19-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Annoucement No. 901]

Cooperative Agreements for Human Immunodeficiency Virus (HIV)/ Acquired Immunodeficiency Syndrome (AIDS); Prevention and Surveillance Projects; Availability of Funds for Fiscal Year 1989

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1989 for cooperative agreements for Human Immunodeficiency Virus (HIV)/ Acquired Immunodeficiency Syndrome (AIDS) Prevention and Surveillance Projects.

Authority

These projects are authorized under the Public Health Service Act: section 301(a) (42 U.S.C. 241(a)), as amended; section 304(a) (42 U.S.C. 242(a)); section 306(b) (42 U.S.C. 242k(b)); section 308(d) (42 U.S.C. 242m(d)); section 311(b) (42 U.S.C. 243(b)); and section 318 (42 U.S.C. 247c), as amended. The Catalog of Federal Domestic Assistance Number is 13.118.

Eligible Applicants

Eligible applicants are official State and local health agencies who are the current recipients of the HIV/AIDS Prevention and Surveillance cooperative agreements, except for the four local Health Departments which received surveillance awards in FY 1988. These cooperative agreements will be consolidated into the State Health Department awards. In addition, applicants eligible for new awards are the Republic of the Marshall Islands and, in consultation with the State health authority, the official local public health agency serving the majority of the population of any Metropolitan Statistical Area or Primary Metropolitan Statistical Area which has reported more than 2000 AIDS cases to CDC as of June 1, 1988.

Purpose

The purpose of the Prevention and Surveillance Cooperative Agreement program is to assist State and local public health departments in detecting and preventing the further spread of HIV infection through resource assessment; active surveillance and selected epidemiologic investigations; seroprevalence surveys; laboratory services; knowledge, attitudes, beliefs, and behavior (KABB) surveys/ assessments; public information campaigns; health education and risk reduction (HE/RR) activities; counseling, testing, partner notification, and other individual behavior change interventions; involvement and participation of community based organizations, particularly those representing and serving minority populations; school health education collaboration; and evaluation of all activities including their impact on risk-taking behavior. Throughout all these program activities, special emphasis is to be placed on active surveillance and prevention of AIDS and HIV infection in minority populations, particularly Black, Hispanic, Asian, and Native American/ Alaskan Native minority populations; and other populations in which the risk of HIV infection and AIDS is especially high.

National Program Goals

1. To establish and strengthen effective HIV/AIDS prevention and surveillance programs at all levels throughout the United States and its territories.

2. To reduce the risk of HIV infection and to effect, maintain, measure, and evaluate the significance of behavioral change among members of the general population and individuals whose behavior places them at risk (e.g., homosexual and bisexual men, intravenous drug users).

3. To develop and implement effective programs to inform and educate the general public in order to gain broad support for reasonable and effective HIV/AIDS prevention program efforts throughout the United States and its territories. These programs must be culturally sensitive and language-specific with special emphasis directed toward minority populations.

Centers for Disease Control Cooperative Activities

1. Provide consultation and technical assistance in planning, operating, and evaluating prevention and surveillance activities.

2. Provide training in surveillance, program planning and management, organization of community resources, pre- and posttest counseling, and notification of sex and needle-sharing partners.

3. Provide up-to-date scientific information regarding risk factors for HIV infection, preventive measures, and program strategies for prevention of HIV infection.

4. Provide (a) a national performance evaluation system for laboratory procedures related to the ELISA and Western blot or other appropriate testing procedures, and (b) laboratory training that includes current scientific/ technical information about the practical as well as the theoretical sensitivity and specificity of the different serological tests.

5. Develop, refine, and disseminate HIV/AIDS prevention and surveillance program information which describes effective methods to carry out program activities and monitor progress.

6. Provide criteria for the surveillance definition of AIDS cases, case report forms, and assistance in establishing and maintaining the computerized AIDS Reporting System (ARS).

7.Participate in the analysis of information and data gathered from program activities and facilitate the transfer of information and technology among all States and communities.

8. Provide standard KABB survey and behavior risk assessment questionnaires, technical assistance in conducting surveys, and assistance in analyzing data.

9. Provide data collection forms, software, hardware, and technical assistance to collect standardized counseling and testing information.

10. Assist in the evaluation of the overall effectiveness of program operations, including the impact on behavior of counseling, testing and other individual behavior change interventions.

Review and Evaluation Criteria

Competing new applications will be reviewed and evaluated on an individual basis according to the following criteria:

1. The need for support as documented in the background and need section of the narrative, including the extent to which progress has been made toward accomplishing the objectives of the previous budget period. (20 points)

2. The extent to which short term (budget period) and long term (project period) objectives are provided; the extent to which they are realistic, measurable, time-phased, and related to the National Program Goals and Required Recipient Activities; and, with respect to the HIV prevention and minority education components, the extent to which they reflect expected changes that program efforts will produce in baseline levels of knowledge, attitudes, beliefs, and behaviors among populations at risk and the population as a whole. (15 points)

3. The quality of the applicant's plan for conducting Required Recipient Activities, and the potential effectiveness of the proposed methods in meeting the stated objectives. (20 points)

4. The extent to which groups disproportionately affected by HIV/AIDS, including minority and other affected populations, have been involved in an assessment of program needs and in program planning; and the extent to which the applicant proposes, as evidenced by letters of support, to involve minority and other community groups in implementing and evaluating all program activities. (30 points—this criterion applies to prevention components only.)

5. The extent to which the evaluation plan specifies the methods and instruments to be used and the extent to which these techniques will permit evaluation of accomplishments. (15 points)

In addition, consideration will also be given to the appropriateness and reasonableness of the budget request, proposed use of project funds, and whether the applicant is contributing its own resources to HIV/AIDS prevention activities.

Non-competing continuation applications will be evaluated based on satisfactory performance, program plans, and the availability of funds.

Other Requirements

Recipients must comply with the document titled: "Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions" (January 1988) (53 FR 6034, February 29, 1988).

Availability of Funds

Funding for the non-competing continuation projects will support the second year of the 5 year project period. The project period for new awards will be 1 to 4 years. *The budget period will begin January 1, 1989 and end December 31, 1989.*

It is expected that approximately $204,000,000 for these activities will be available in FY 1989. This is approximately a 30 percent increase from the annualized amount available in FY 1988. Of the $204,000,000 available, approximately $201,500,000 will be available for 61 non-competing continuation awards and approximately $2,500,000 for up to two new awards.

1. Approximately $51,000,000 will be available for Surveillance in the following components:

A. AIDS Case Surveillance—$15,000,000;

B. HIV Seroprevalence—$36,000,000.

2. Approximately $153,000,000 will be available for Prevention in the following components:

A. Counseling, Testing and Partner Notification—$100,000,000;

B. Health Education/Risk Reduction—$23,000,000;

C. Public Information—$15,000,000;

D. Minority Initiative—$15,000,000.

Funding estimates outlined above may vary and are subject to change.

Application and Submission Deadline

The original and two copies of the application (PHS Form 5161-1) must be submitted to Nancy C. Bridger, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 300, Atlanta, GA 30305, on or before *October 3, 1988.* Application instructions will provide for submission of an application utilizing a more concise and streamlined approach.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications

Applications which do not meet the criteria in 1.A. or B. above are considered late applications. Late applications will not be considered in the current funding cycle and will be returned to the applicant.

Other Review Requirements

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Lin Dixon and Marsha Jones, Grants Management Specialists, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 300, Atlanta, GA 30305, (404) 842-6575 or FTS 236-6575.

Announcement Number 901, "Cooperative Agreements for Human Immunodeficiency Virus (HIV)/Acquired Immunodeficiency Syndrome (AIDS) Prevention and Surveillance Projects," must be referenced in all requests for information pertaining to these projects.

Technical assistance for prevention and minority activities may be obtained from Willard Cates, M.D., M.P.H., Division of Sexually Transmitted Diseases, Center of Prevention Services, Centers for Disease Control, Atlanta, GA 30333, telephone (404) 639-2552 or FTS 236-2552.

Technical assistance for surveillance and seroprevalence activities may be obtained from David Collie, AIDS Program, Center for Infectious Diseases, Centers for Disease Control, Atlanta, GA 30333, telephone (404) 639-3352 or FTS 236-3352.

Dated: September 14, 1988.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 88-21400 Filed 9-19-88; 8:45 am]

BILLING CODE 4160-18-M

[Announcement No. 903]

National Institute for Occupational Safety and Health; Cooperative Agreement With National Academy of Sciences, National Research Council Availability of Funds For Fiscal Year 1989

Introduction

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), announces the availability of funds for Fiscal Year 1989 for a

cooperative agreement with the National Academy of Sciences/National Research Council (NAS/NRC) to provide a Postdoctoral Research Associateship Program. Assistance will be provided only to NAS/NRC in support of this project. No other applications are solicited or will be accepted.

Authority

This Program is authorized under section 21(a) of the Occupational Safety and Heatlh Act of 1970. Program regulations applicable to this cooperative agreement are set forth in Title 42, Part 87, of the U.S. Code of Federal Regulations entitled "National Institute for Occupational Safety and Health, Research and Demonstration Grants." The Catalog of Federal Domestic Assistance number is 13.262.

Reasons for Proposing Single Source for This Cooperative Agreement

The National Academy of Sciences, National Research Council (NAS/NRC) is a unique institution because of its ability to assemble the best scientific talent in the country and to apply study procedures that ensure objectivity and maximal credibility.

Created by a Congressional charter in 1863, the National Academy of Sciences is a private honorary society dedicated to the furtherance of science and the use of science for the general welfare. The Academy established the National Research Council in 1916 as a means for securing the active participation of specialists from universities, the industry, and the government in the Academy's work.

Because of the unique abilities of NAS/NRC as a non-biased source of technical and scientific expertise in the fields of occupational health sciences, public health sciences, and public health, it is the only organization capable of carrying out the activities contemplated under this cooperative agreement.

Purpose

The purpose of this cooperative agreement is to continue the operation of an established Postdoctoral Research Associateship Program in the areas of occupational safety and health research such as bioengineering, biological monitoring, cell physiology and biochemistry, epidemiology, immunology, microbiology and mutagenesis, noise, pathology, pharmacology, physiology and biophysics, radio-frequency radiation, stress and human factors, toxicology and vibration. Support will continue to be provided to postdoctoral scientists and engineers of unusual ability and promise or proven achievement. They will be given an opportunity to conduct research on problems of their personal choice which are compatible with the research interests of NIOSH. These interests include occupational lung disease (including lung cancer), musculoskeletal injuries, occupational cancer, traumatic injuries, cardiovascular disease, reproductive problems, neurologic illness, noise-induced hearing loss, dermatologic problems, and psychological disorders.

Availability of Funds

Approximately $270,000 will be available in Fiscal Year 1989 to fund this cooperative agreement. It is expected that the agreement will begin on or about January 1, 1989, and depending upon the availability of funds, will be funded in 12-month budget periods within a 5-year project period. Continuation awards will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding estimate outlined above may vary and is subject to change.

Cooperative Activities

A. Responsibilities of the Recipient (NRC)

1. General

The Recipient has certain responsibilities implicit in the authorization to conduct Resident Research Associateship programs. The Recipient is responsible for approving new programs, new scientific advisors, new major areas of investigation, and new laboratories (including branch laboratories) not previously approved, and for the periodic review of existing programs. Accordingly the Recipient requests data from NIOSH pertinent to general investigative areas included in the programs. These data will be used by Recipient's site visitors to NIOSH facilities to assure that intellectually stimulating postdoctoral experiences are available and that the operation of the NIOSH Research Associateships Program conforms to the recipients' guidelines.

2. Specific Recipient Activities

a. Review the qualifications of NIOSH research advisors before they are appointed so that the objectives of the program(s) will be met.

b. In consultation with NIOSH, the NRC shall prepare, print and distribute announcements identifying the Opportunities for Research and Postdoctoral and Senior Research Awards available within the NIOSH Resident Research Associateship program. Such announcements shall be printed as descriptive booklets and shall be approved by both parties before release.

c. Distribute announcements to appropriate sectors of the technical and scientific research community.

d. Distribute application materials to potential applicants with complete instructions for submitting applications.

e. Consult with all participating research organizations on the closing date for receipt of completed applications. The date will be set by mutual agreement between the Recipient and sponsors of the several Associateship programs, including NIOSH.

f. Submit research proposals of applicants to NIOSH for approval, disapproval, or revision.

g. Received approved applications for evaluation by special panels of scientists and engineers appointed by the Recipient.

h. Recommend for appointment in order of quality, candidates deemed by the panels to be qualified for the Resident Research Associateship Program.

i. Inform successful applicants of their appointments as Resident Research associates and obtain commitments from candidates for this program.

j. Provide administrative support to the Associates during tenure. This support includes the payment of a stipend, reimbursement of relocation costs and reimbursement of expenses for professional travel up to an allowed amount in accordance with Recipient policy in effect on date of this agreement.

k. Conduct site visits for the periodic review of existing programs.

B. Responsibilities of NIOSH

1. General

As a participating Institution in the Resident Research Associateship program NIOSH shall, in accordance with the terms of this Agreement, propose and/or provide to the NRC and to the Program, NIOSH facilities, scientific advisors, relevant areas for research investigations, equipment, and supplies. These activities shall be coordinated for the Director, NIOSH, by the Associateship Programs Coordinator, and shall receive support from the NIOSH Laboratory Program Committees established at each participating NIOSH site.

2. Specific NIOSH activities

a. Review and approve all announcements of the program before release.

b. Provide the necessary facilities, equipment, and support services for the approved research investigations of the Associates.

c. Recommend scientific advisors for approval by the Recipient (NRC).

d. Ensure that the appropriate NIOSH clearance/review procedures are provided to publications and presentations resulting from the Associateship program research investigations.

e. Establish and maintain at each participating NIOSH facility a NIOSH Laboratory Program Committee which will:

(1) Review proposed new areas of investigations and proposed new scientific advisors. The areas should be such as to provide scope for independent investigation. Each description will outline an area of general interest to NIOSH and should indicate the facilities available for investigation in the area. The areas should be ones in which the proposed scientific advisor is competent.

(2) Submit the curriculum vitae and list of scientific publications of newly proposed scientific advisor (s) to the Recipient for review and approval.

(3) Review applicant proposals nd provide comments and/or suggested changes in the scope or method of the research. This review will assess whether the proposals possess intrinsic scientific merit of the highest quality, whether the research plan is compatible with the ongoing research programs of the laboratory, and whether space and facilities are (or can be made) available to support the proposal.

(4) Revise annually the descriptions of current research in the laboratory.

(5) Review the termination reports written by each Associate and the independent brief report of his/her work written by his/her scientific advisor. The committee should add such comments as deemed appropriate before forwarding copies of both reports to the Associateship Office.

(6) Inform the Recipient of acceptance or declination of appointments, renewals, and terminations of Research Associates.

Other Submissions and Review Requirements

Application is not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Application Submission and Deadline

The original and two unbound copies of the application (PHS 5161-1, revised 3/86) must be received on or before October 15, 1988 to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, NE., Mail Stop E-14, Atlanta, Georgia 30305, Telephone (404) 842-6575.

Review and Evaluation Criteria

The review for scientific and technical merit will evaluate the application according to the following criteria:

1. The extent of past experience and history of staff and program;
2. The quality of the review process for the selection of candidates;
3. The quality of the review process for selection of proposed research studies;
4. The quality of the process for selection and approval of participating laboratories;
5. The quality of the process for monitoring scientific progress; and
6. The overall cost of the project relative to the work proposed. In addition to the above criteria, consideration will be given to the following:
1. The significance of the proposed program to the research program of NIOSH;
2. National needs and Program balance, and
3. Policy and budgetary considerations.

Where To Obtain Additional Information

Information regarding the business aspects of this project may be obtained from Karen Reeves, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, NW., Mailstop E-14, Atlanta, Georgia 30305, Telephone (404) 842-6575 or FTS 236-6575. Announcement Number 903 entitled, "Cooperative Agreement for National Academy of Sciences, National Research Council and Notice of Availability of Funds for Fiscal Year 1989," must be referenced in all requests for information pertaining to this project.

Information regarding the technical aspects of this project may be obtained from Pervis C. Major, Ph. D., Associateship Programs Coordinator, Division of Respiratory Disease Studies, National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Margantown, West Virginia 26505, Telephone (304) 291-4474 or FTS 923-4474.

Dated: September 14, 1988.

Larry W. Sparks,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 88-21399 Filed 9-19-88; 8:45 am]

BILLING CODE 4160-19-M

Health Care Financing Administration

[BPO-74-PN]

Medicare Program; Data, Standards and Methodology Used to Establish Budgets for Fiscal Intermediaries and Carriers

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

ACTION: Proposed notice.

SUMMARY: This notice describes the data, standards and methodology we propose to use to establish fiscal intermediary and carrier budgets for fiscal year 1989, beginning October 1, 1988. Intermediaries and carriers assist in the administration of the Medicare program by performing numerous functions related to paying for services. This notice would implement section 4035(a) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), which requires us to publish for public comment in the **Federal Register** data, standards and methodology we intend to use to establish budgets at least 90 days before we propose to use them.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on October 20, 1988.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-74-PN, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code BPO-74-PN.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's office at 200 Independence Avenue SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone 202-245-7890).

FOR FURTHER INFORMATION, CONTACT: Patricia Talley, (301) 966-7536.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of Part A of the Medicare program (Hospital Insurance) under agreements with the Secretary of HHS. These agencies or organizations are known as fiscal intermediaries, and they perform bill processing and benefit payment functions for the Medicare program. Most providers of services (such as hospitals, skilled nursing facilities (SNFs), and home health agencies (HHAs)) submit bills to these intermediaries, which determine whether the services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under section 1842 of the Act, we are authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B of the Medicare program (Supplementary Medical Insurance). Beneficiaries, physicians and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the reimbursable amount (usually on the basis of reasonable charges) for the services or supplies and then make payment to the appropriate party.

A. Current Fiscal Intermediary and Carrier Budget Process

Oversight of intermediary and carrier performance by HCFA is exercised by staff of both the central office and regional office (RO). In general, national policies are addressed at the central office level, and regional and local policies and operations are addressed by the regional offices. Communication between HCFA and the intermediaries and carriers is continuous, and established consultation workgroups consist of representatives of central office, regional offices and contractors.

HCFA central office is responsible for developing a national contractor budget for both Part A and Part B of the Medicare program. The budget is formulated over a 15-month period beginning March of the year preceding the budget year to which it applies. It is formulated after input from HCFA's ROs, various central office components, the contractor community, several levels in the Department of HHS, and the Executive Office of Management and Budget (EOMB), prior to submittal to the President for approval and forwarding to Congress.

Our past practice has involved use of the HCFA ROs in obtaining budget estimates from the contractors. The RO's assessment of the contractor's needs is reviewed during a proposed budget level determination process based on current claims processing trends, legislative mandates, administrative initiatives, and the availability of funds appropriated by Congress. We subsequently allocate funding within these constraints.

B. New Legislation

Section 4035(a) of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987, (OBRA 87), amended sections 1816(c)(1) and 1842(c)(1) of the Act by requiring the Secretary to publish in the **Federal Register**, by no later than September 1 before each fiscal year, the final data, standards, and methodology to be used to establish budgets for fiscal intermediaries and carriers under these sections for that fiscal year. We also are required to publish in the **Federal Register** for public comment, at least 90 days before that date (September 1), the data, standards, and methodology we propose to use.

We have been unable to meet the statutory mandate to publish a proposed notice at least 90 days before September 1, as well as the requirement to publish the final data, standards, and methodology by September 1. Although we have not published the proposed and final notices within the timeframes contemplated by the statute, we nevertheless want to assure interested parties that they will be provided an adequate opportunity to comment on the data, standards, and methodology to be used to establish budgets before they are issued in final. We will therefore promptly take steps to respond to all comments and will publish a final notice as soon as possible.

To the extent that comments received warrant revisions to the proposed data, standards, and methodology, we will make such changes before issuing the final data, standards, and methodology. Moreover, if appropriate, we will issue revised budget guidelines to intermediaries and carriers. We will also renegotiate any affected areas of intermediary and carrier budgets within the level of funding made available by Congress.

II. Overview of Fiscal Year 1989 National Medicare Contractor Budget Data, Standards and Methodology

The FY 1989 Medicare contractor budget request was submitted to Congress in February 1988. In order to determine the amount of the FY 1989 request, we projected a workload growth under Part A of 5 percent and Part B of 9.3 percent. Our estimate involved the use of a regression model which uses the last 36 months of actual contractor workload data. For the FY 1989 projections, we used November, 1987 data. These data were the latest available at the time. The results of the regression yielded an FY 1989 Part A workload of 74 million bills and 402.6 million Part B claims.

The regression model provides us with not only national totals, but individual contractor workload projections.

Based on the projected FY 1988 unit costs for processing bills and claims, we then applied a 4.1 percent inflation factor. This amount is then further adjusted for incremental workload efficiencies, cost efficiency benchmark, savings achieved by prior productivity investments and costs associated with new legislation. This calculation results in a new unit cost, which, when multiplied by the Part A and/or Part B workloads, shows the total amount to be earmarked for bills and claims payment in FY 1989.

A. Medicare Contractor Functional Areas

The Medicare contractor budget consists of seven functional area responsibilities performed by intermediaries for Part A and seven functional area responsibilities performed by carriers for Part B. The functional area responsibilities for Part A are: (1) Bills Payment; (2) Reconsiderations and Hearings; (3) Medicare Secondary Payer; (4) Medical Review and Utilization; (5) Provider Audit (Desk Reviews, Field Audits and Provider Settlements); (6) Provider Reimbursement; and (7) Productivity Investments. The functional area responsibilities for Part B are: (1) Claims Payment; (2) Reviews and Hearings; (3) Beneficiary/Physician Inquiries; (4) Medical Review and Utilization Review; (5) Medicare Secondary Payer; (6) Participating Physicians; and (7) Productivity Investments. The data, standards and methodology used in these functional areas are discussed in section III, below. In the following national budget summary, we have combined the discussion of functional areas common to both intermediaries and carriers. However, data specific to Part A and Part B are provided under each heading.

1. Bills Payment and Claims Payment

We currently estimate the Part A workload to be 74.0 million bills in FY

1989. This estimate results from a workload regression model which uses the last 36 months of intermediary data through November 1987 with a 5.0 percent growth factor. Intermediaries are required by section 9311 of Pub. L. 99-509, the Omnibus Budget Reconciliation Act of 1986 (OBRA 86), to pay 95 percent of clean Part A bills within 25 days of receipt.

The Part B workload is currently projected at 402.6 million claims with a 9.3 percent growth rate. All Part B claims must be processed within the same timeframes as Part A bills, except that participating physician claims must be paid within 18 days of receipt.

Section 4031 of OBRA 87 imposes a 14-day payment floor standard effective October 1, 1988 for Part A bills and Part B claims. This standard provides that no payment may be made within 14 calendar days after the date on which the bill/claim is received. Section 4031 also prohibits the Secretary from issuing before October 1, 1990, other regulations, instructions or policies intended to slow down Medicare payments.

2. Reconsiderations (Reviews under Part B) and Hearings

This function includes all activities related to guaranteeing due process of law as a result of contractor action (i.e., disallowances) on bills and claims. As a result of both inflation and workload increases (appeals of denials and carrying out new legislative requirements), the need for hearings and reconsiderations funding has increased significantly during the past two years. Based upon past experience and current data (through March 1988), we expect an 18.5 percent increase in the Part A hearings and reconsiderations workload in FY 1989 and a 9.6 percent increase in the Part B reviews and hearings workload.

Section 4032 of OBRA 1987 amended section 1816(f) of the Act to require that intermediaries process 66 percent of reconsiderations within 60 days for FY 1989. Consequently, FY 1989 funding levels will attempt to meet the increase in hearings and reconsiderations.

3. Medicare Secondary Payer

The Medicare Secondary Payer function is the first of three initiatives (Medicare Secondary Payer, Medical Review and Utilization Review, and Provider Audit) we developed as "Payment Safeguards" in an attempt to safeguard the Medicare program against improper payments.

The focus of the Medicare Secondary Payer (MSP) initiative is to ensure that the Medicare program pays for covered care only after reimbursement from other primary insurers has been made. An intermediary and a carrier must administer the program in a manner which achieves maximum savings and cost avoidance to the Medicare trust funds. Medicare Secondary Payer activities center on claims involving: The working aged; spousal working aged; beneficiaries with end-stage renal disease; beneficiaries eligible for payment under automobile, medical liability and no-fault insurance; individuals eligible for or receiving workers compensation; and the disabled. By concentrating efforts in these key areas, the Medicare program has had tremendous success in recovering and reducing improper program payments.

Medicare contractors are responsible for identifying MSP situations and aggressively pursuing the recovery of improper payments from the appropriate party. In conjunction with the actuary, we develop specific savings goals for each contractor based on past performance. In FY 1989, we expect to devote $34 million to Part A intermediaries' MSP efforts and achieve over $1 billion in savings. We expect to devote $35 million to Part B carriers' MSP efforts and achieve almost $300 million in savings.

The standard for determining the amount of MSP funding a contractor will receive in FY 1989 is based on savings goals, workload volumes, required systems changes, and any special projects which may be assigned to contractors.

We gather actual MSP claims volume, overall claims volume for the prior fiscal year, and special project data (e.g., cost of claims, amount of savings achieved). We compare a contractor's previous year's data to the contractor's projections for the next fiscal year and allocate funding in proportion to the savings goals to be achieved. Additional funding is allocated for specific projects as required. The amounts vary based on the scope of the project, extent of systems changes if any, and workload.

4. Medical Review and Utilization Review

In addition to processing and paying claims from providers of services and Medicare beneficiaries, the contractors perform a medical review (MR) of claims to determine whether services were medically necessary and constituted an appropriate level of care.

Fiscal intermediaries are responsible for medical review of services delivered in other than an inpatient acute care setting; e.g., outpatient, HHA, SNF, etc. This review assures that medical care is necessary and appropriate and that quality medical services are delivered to Medicare beneficiaries.

During FY 1989, the review of HHA and outpatient services will account for most of the increase in utilization of medical review resources. Medical review of all freestanding HHA provider claims will be the responsibility of regional home health intermediaries.

In addition, the following increases in medical review activity levels are planned: Restoration of level of HHA compliance audits to 1987 levels; increase level of HHA MR to 60 percent; increase level of hospital outpatient MR to 10 percent; increase level of MR of other bills to 10 percent; study of prior authorization for HHA and SNF claims; and expansion of capability to develop beneficiary and provider utilization profiles.

We project that intermediary medical review costs will be $71.8 million in FY 1989. By performing appropriate medical and utilization review, we project a cost avoidance of $358.5 million in medically unnecessary services will be achieved.

In FY 1989, we will continue to refine the standard cost analysis system developed in FY 1987 to evaluate the efficiency of carrier prepayment medical review screens. This sytematic approach is expected to yield benefits to the medical review process, such as: (1) A current inventory of the number, types and cost effectiveness of medical review screens; (2) ability to analyze the current inventory of screens and set a framework that yields a high return on investment; (3) ability to target strategies for specific medical review activities; and (4) measurement of the relative cost effectiveness of screens among different contractors.

In FY 1989, we intend to intensify the focus of prepayment review including additional mandatory prepayment screens. We also intend to develop and implement additional postpayment medical review screens.

The carrier postpayment process consists of preparing profiles of providers and beneficiaries, identifying patterns of fraud and abuse, correcting program abuse or overutilization, preventing further abuse in service utilization by educating providers in acceptable norms and proper billing practices, recommending administrative action, where appropriate, and identifying areas for the development and installation of future prepayment review screens.

The actual and cost avoidance benefits in safeguarding program dollars are significant. Educational encounters lead to fewer incorrect billings and

administrative cost avoidance in the form of reductions in the number of requests for reviews and hearings. We intend to focus on intensified review of providers with demonstrably aberrant billing and practice patterns, increased educational efforts and the development of methodology for quantifying the level of program and administrative cost avoidance resulting from postpayment medical review activities.

In addition, in FY 1989 we will implement a more focused process for selecting providers for comprehensive review and conduct postpayment studies of areas of perceived program vulnerability. We plan to mandate carrier review of physicians with significant Medicare income increases. Finally, we expect to direct carriers to increase the number of physician/suppliers subject to postpayment analysis by 50 percent.

We also plan the following additional FY 1989 carrier medical review initiatives in support of the traditional medical review process:

• Medical Review Policy Development

This effort focuses on strengthening the professional consultation role in the development of medical review policy. Upon implementation, carriers will be required to employ a physician to develop medical policy and to have in place a provider communication system that ensures all new and revised policies are appropriately disseminated prior to their implementation.

• Enhanced Data Analysis.

Under this effort HCFA will intensify the review of pattern of practice data to strengthen the focus of postpayment reviews. We plan to analyze carrier medical review cost avoidance data to develop additional cost-effective screens.

In order to carry out this ambitious agenda of enhanced carrier medical review, designed to address overutilization of services and the resultant impact on program expenditures, we project the carrier medical review costs will be $124.2 million in FY 1989. These costs would be offset by avoiding payment for medically unnecessary services through proper medical review/utilization review. We anticipate approximately $975.0 million in FY 1989 expenditures would be avoided by our action to not pay for medically unnecessary services. Carriers will be expected to continue to provide support to HHS/Office of Inspector General (OIG) in developing cases of suspected fraud and abuse.

Intermediaries and carriers are expected to play a more active role in the detection and handling of fraud and abuse cases. The primary program integrity role of intermediaries and carriers is to identify and develop suspected fraud and abuse cases for referral to the OIG.

In abuse cases, the contractors have an even greater responsibility because correction and prevention of abuse are among their basic functions. In addition to other duties, contractors will be required to establish and maintain program integrity units; conduct ongoing employee training on fraud and abuse goals, techniques and control; develop guidelines for timely processing of all potential fraud and abuse cases; establish and maintain histories and documentation on all program integrity cases, and conduct periodic reviews to identify any patterns of potential fraud and abuse situations for particular providers. In FY 1989, HCFA will require that all intermediaries and carriers implement the above procedures.

The distribution of funding is in proportion to workload and individual contractor MR/UR projects.

5. Provider Audit

In FY 1989, the audit of provider cost reports will continue as a major program safeguard initiative. Hospital Insurance program payments for services to beneficiaries are expected to exceed $70 billion by FY 1989, and the audit of provider cost reports is the primary instrument with which the integrity of these funds is maintained. Historically, the audit process has recovered millions of dollars in improper program payments each year. In FY 1989 we expect to achieve savings of $820 million.

In the FY 1989 audit plan, hospital audits will be expanded to address reimbursement issues introduced by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), OBRA 1986 and OBRA 1987. These issues include disproportionate share payments, graduate medical education costs, return on equity capital for inpatient services, wage index surveys, and the implementation of a new electronic cost reporting system.

Approximately 683 more providers (new HHAs and SNFs) will be subject to audit under cost-based principles of reimbursement in FY 1989 than were audited in FY 1988.

The data show that there has been a decrease of the hospitals (4.1 percent) under the prospective payment system (PPS) that are single entity providers, and an increase of 175 hospitals (7.6 percent) under PPS with excluded units and other subproviders which are exempt from PPS. Since there is greater potential for improper payments to be made to PPS hospitals with exempt units and subproviders, this trend indicates that a high percentage of multi-facility PPS hospitals should be audited.

• Hospitals and Hospital Complexes.

Approximately 92 percent of total hospital insurance payments are paid to hospitals. Our review of these hospital payments indicates that amounts paid to non-PPS providers, in addition to the cost portion of payments to PPS providers, represent 30 percent of total payments to providers. In addition to auditing providers which are on a cost basis, it will still be necessary to expend a considerable amount of audit effort on PPS providers in order to verify the amount reimbursed on a cost basis, in addition to responding to the special policy issues discussed earlier.

The audit of PPS cost reports will be directed through the issuance of PPS audit guidelines which are aimed at verification of core data, as well as the verification of Medicare's proportionate share of pass-through items (e.g., capital, indirect and direct medical education costs and earlier costs) and the allocation of costs between hospital inpatient and outpatient departments. Since outpatient services and distinct part units continue to be reimbursed based on reasonable costs, there is a potential for cost shifting to maximize Medicare reimbursement.

Based on a review of the findings from completed audits of PPS cost reports, we have identified the most significant and recurring audit adjustments and designed audit strategies to identify the existence of each issue. These issues, which include but are not limited to the costs of excluded units, capital related costs, medical education costs, and Medicare bad debt expense, have been incorporated into the guildelines developed specifically for PPS, and will be applied in all PPS audits.

Of the Medicare-certified HHAs, approximately 38 percent receive 88.5 percent of Medicare reimbursement. Approximately 12 percent of the Medicare-certified SNFs receive 61.8 percent of the program reimbursement. By auditing cost reports of 38 percent of the HHAs and 12 percent of the SNFs, we will be reviewing approximately $2.2. billion in benefit payments.

There are other types of providers which receive reimbursement under the Medicare program. These providers include, but are not limited to, hospices, end stage renal disease (ESRD) facilities, rural health clinics, and ambulatory surgical centers (ASCs). However, with the exception of ESRD facilities, the audit of these providers is prompted by legislative and/or policy

considerations; therefore, audits of these providers are not included in the fiscal year's audit plan on an ongoing basis. As necessary, hospices must be reviewed in order to fulfill our commitment to Congress to apprise them of hospice operating costs; ESRD facilities must be audited at least from an exception perspective; and ASCs must be audited to provide base-line data to update the payment rates, especially since these rates are the basis for paying for various hospital outpatient surgical procedures.

The following chart displays the methodology for funds distribution for FY 1989 audit effort by type of provider:

FISCAL YEAR 1989 AUDIT EFFORT BY TYPE OF PROVIDER

Hospitals	Number of providers	Approximate percent to be audited	Number to be audited
PPS			
Total hospitals	5,945	68	4,055
Multi-facility and part of chain	473	90	425
Other multi-facility hospitals	1,980	90	1,782
Other chain affiliated hospitals	1,027	60	616
Remaining PPS hospitals	2,465	50	1,232
Non-PPS Hospitals			
Total hospitals	1,355	64	865
Chain affiliated	455	75	341
Waiver State hospitals	152	50	76
Remaining non-PPS hospitals	748	60	448
Total all hospitals	7,300	67	4,920
Home Office Cost Reports			
Total number of chains	1,107	80	881
Chains with over 10 providers	146	90	131
Governmentals	31	20	6
Proprietary	530	80	424
Non-proprietary	400	80	320
HHAs			
Freestanding	4,640	38	1,763
SNFs			
Freestanding	6,218	12	746
Other			
ESRD, RHC, CORF, etc.	2,334	15	350
Total	21,599		8,660

6. Provider Reimbursement (Part A Only)

In FY 1989 we expect Medicare contractors to provide reimbursement services based on 23,668 health care providers. This represents an increase of 9 percent over the number of providers requiring reimbursement services in FY 1988. Reimbursement services are required for provider-based SNFs and HHAs in addition to ESRD facilities, Comprehensive Outpatient Rehabilitation Facilities (CORFs) and hospices regardless of whether the provider is audited on an annual or other basis. The budget provides for the following activities:

- Collection of Provider Overpayments—A system must be maintained to collect and record overpayments made to providers. In addition to collection and recordkeeping activities, contractors will investigate and provide profile data on uncollectible overpayment cases and provide monthly reports to HCFA on the uncollectible accounts.
- Interim Payments—Interim payments rates must be established and periodically reviewed throughout the fiscal year for all Medicare providers. The interim rates process requires the review of provider cost and utilization statistics and the calculation of adjusted rates.
- Consultative Services—Onsite assistance must be provided to any provider experiencing difficulties in preparing the cost report, preparing claims or any other reimbursement area.
- Records and Reports—According to specific instruction from HCFA, files and records must be established and maintained by the contractors to ensure proper payments to providers. In addition, several different provider cost and payment reports must be prepared and submitted quarterly to HCFA.

In determining the amount of reimbursement funding each contractor receives, we analyze provider profiles submitted by contractors. The provider profiles show types and numbers of PIP (periodic interim payment) and non-PIP providers. We review periods of reimbursent funding and assess the contractor's future needs based on projected provider workload and the availability of funds. We make every attempt to distribute funds in proportion to workload.

7. Productivity Investments

The costs of implementing new initiatives designed to improve the effectiveness of Medicare program administration are referred to as productivity investments (PIs). Productivity investments generally provide start-up funds for contractor activities. Once these projects are operational, funding for these projects becomes are operational, funding for these projects becomes part of the contractor's ongoing costs. The criteria for selection of PIs to be implemented vary. For example, some PIs are required by legislation or regulatory requirements. We also obtain from various HCFA components projects expected to result in improvements in administrative cost efficiency, for example, the Common Working File and Standard Systems.

There is no single distribution methodology for the allocation of PI funds. After we determine the national cost of a PI, funds are divided among the contractors based on either the contractors' cost estimates or through HCFA derived formulas based on project specifications. For example, the current notice of utilization (NOU) funding allocations were determined by HCFA using the contractors' percentage of the national inpatient and skilled nursing facility claim workload. Other PI allocations such as beneficiary-oriented initiatives, are divided equally among contractors. Finally, other PI's, such as the common working file and standard systems are given only to contractors that are involved in the specific projects.

In FY 1989, we propose to fund the following PIs: For Part A—common working file, contracting strategy, bundling of hospital services, Medicare benefit notice, pacemaker registry, standard system; and for Part B—beneficiary initiatives, common working file, contracting strategy, bundling of physicians services, certified registered nurse anesthetist, physician identification, professional relations, standard system, and reconciliation provisions. Intermediaries and carriers have been advised of activities expected to be carried on as part of these PIs.

8. Beneficiary/Physicians Inquiries

The Medicare program is complex. It is based on many provisions required by law, regulations and policy dealing with entitlement, coverage of services and limitations on coverage, comprehensive payment rules, and the rights and responsibilities of beneficiaries. Since contractors are the direct link between beneficiaries, physicians, and the program, this activity includes all costs related to beneficiary and physician inquiries generated by means of telephone calls, correspondence, and personal visits.

From FY 1987 to FY 1988, the inquiries workload is expected to increase by 13.8 percent. The first quarter data for FY 1988 show the level of inquiries at 6.1 million which converts to 26.1 million inquiries annualized. We estimate FY 1989 inquiries to increase by the weighted average of 11.7 percent.

Current contractor performance and evaluation criteria and standards require that inquiries be processed within 30 calendar days. Although specific FY 1989 standards have not been determined, it is reasonable to assume that standards requiring at least similar quantities of inquiries to be processed will apply.

9. Participating Physicians (Part B Only)

Participating physicians are those who agree to accept assignment on all Medicare claims in return for certain incentives/benefits. All physicians must be given an opportunity to enroll/disenroll in the participation program annually.

The participating physician program for carriers includes the following activities: MAAC (Maximum Allowable Actual Charge) monitoring; producing and distributing MEDPARD (Medicare Partipating Physician Director); monitoring nonparticipating physicians for compliance with section 9332(d) of OBRA 1986; monitoring participating physicians; furnishing toll-free electronic media claims lines for participating physicians; responding to participation related inquiries from beneficiaries in a timely and responsive manner; participating physician and supplier enrollment; systems changes for pricing screens and files related to the participating physician program; and data requests (participation counts).

Near the end of FY 1988, we will review data showing the actual number of participating physicians in a carrier's service area, the percentage increase in participating over FY 1987, and comparative data on participating versus nonparticipating physicians. Based upon a carrier's overall success in increasing physician participation and the scope of work to be performed in FY 1989, we will fund this activity subject to the amount of available funding.

When the Congress initially provided funding for the participation program, we identified each of the activities involved and priced each activity nationally. An algorithm was developed for distributing the funds to each contractor for each activity. Some algorithms distributed funds based on workload and others based on the number of sites with systems changes. One activity was funded based on the participation rates. We then totaled the cost of the various activities for each carrier and provided funding accordingly.

Printing Claims Forms

Although this activity is not among the seven contractor functional areas, it is a part of the national Medicare contractor budget. In the interest of maintaining standard formats and quality of Medicare entitlement and report forms, intermediaries and carriers supply beneficiary enrollment and provider cost reporting forms. The use of these forms is essential to beneficiary notification, effective and efficient contractor operations, and other program purposes.

With a steady increase in the number of beneficiaries and providers, we project a corresponding increase in a substantial number of HCFA forms. An increase in the volume of forms equates to increased printing costs in FY 1989.

b. Contractor Unit Cost Calculations

A key step in the contractor budget process is the development of contractor unit costs for processing Part A bills and Part B claims. A factor in the development of contractor unit costs is a reduction of the unit cost based upon the application of the cost efficiency benchmark (CEB). The CEB is one of the many adjustments used in determining the unit cost. Following is a brief description of how we currently developed the CEB. The procedure may change after we evaluate comments from the contractor community.

We currently develop the CEB using competitive procurement price data. Competitive procurements provided us with a body of readily available data to begin development of the benchmarks. Although we have an established data base, additional information can be added to the data base from all useful sources (such as additional procurements, industrial engineering studies, demonstration projects, etc.) as it becomes available.

The data base consists of price data from fixed-price contract competitions and cost contract competitions (e.g., section 2326 selections under the Deficit Reduction Act (DEFRA)).

Price information from any contract which became operational in FY 1984 or later was included. Older contracts were excluded in that these prices would have been bid 5 or more years ago and we believe the data no longer reflect current conditions. Fiscal year 1990 is currently the last year in the data base in that it is the last year in which a completed contract site will be operational.

Included in the price data are implementation costs and any approved change order amounts to date. We excluded incentive payments and liquidated damages because these are used as a performance tool and are not representative of expenses associated with the actual delivery of services under the contracts.

We adjusted historical data for inflation. We use the Gross National Product (GNP) implicit price deflator, in that it represents the broadest index. The GNP measure encompasses all goods and services produced, therefore, the implicit price deflator is more reflective of changes in overall productivity of the economy. Historical data through FY 1985 are expressed in 1986 dollars. Data for FY 1986 through FY 1990 reflect the actual numbers bid without adjustment.

We compute a weighted average of all carrier data and one for all intermediary data in the data base. This consisted of adding all claim or bill processing total price amounts (or blended amounts), adding all total workload volumes, and then dividing these overall totals to determine an average unit price. In addition to individual contractor target development, an additional step used in working through this concept to an end-product was to include the impact of OBRA 86 in the overall CEBs.

The resulting CEB is used in determining the unit cost as described in section III. C. under Bills Payment and Claims Payment below.

III. Fiscal Year 1989 Medicare Contractor Budget Standards, Data, and Methodology

After the President's FY 1989 Medicare contractor budget request was submitted to the Congress in February 1988, HCFA proceeded to develop budget guidelines to be issued to the contractors. These guidelines outline the scope of work that intermediaries and carriers will be expected to perform during the upcoming fiscal year in each of the functional areas for which they are responsible. In late May 1988, the budget guidelines were issued to the regional offices which added information pertinent to intermediaries and carriers in their own region. These final individualized guidelines will be sent to each intermediary and carrrier in early June to provide them with assistance in preparing their FY 1989 budget requests. Intermediaries and carriers must submit their budget requests to HCFA no later than six weeks after the issuance of the budget guidelines.

While intermediaries and carriers are preparing their budget requests, the program components within HCFA will develop preliminary budget allocations for the functional areas based upon historical patterns, workload growth/inflation assumptions and any other available information. Both central office and regional office staff will review intermediary and carrier budget

requests as they are submitted. Regional office staff will discuss the differences between the intermediary and carrier requests and the HCFA derived allocations and negotiate with each intermediary and carrier a final, mutually acceptable budget within the limits of the funding available to HCFA. In September, the central office will prepare a Financial Operating Plan (FOP) for each regional office providing total regional funding authority for each functional area. The regional offices in turn will prepare a Notice of Budget approval (NOBA) for each intermediary and carrier which provides a full year budget plan subject to quarterly cash draw limitations.

A. Standards

During FY 1989, the basic scope of work, along with new and special activities, which intermediaries and carriers will be expected to perform as described in the budget guideline package, will be issued by the regional offices to each contractor in early June. Intermediaries and carriers will be expected to perform the work as described in the budget guideline package and in accordance with the standards included in the Contractor Performance Evaluation Program (CPEP) for FY 1989. The CPEP requirements for FY 1989 was published in the **Federal Register** on September 13, 1988 (53 FR 35378). For consideration in developing their initial budget requests, we will issue a draft copy of the CPEP standards to contractors in June.

B. Data

In developing the individual intermediary and carrier budgets for FY 1989, we will utilize the following sourves of data which contain various workload volumes, functional costs and manpower information. The basic forms which supply the data that are utilized in developing intermediary and carrier budgets are the HCFA-1523/1524 and the HCFA-1565/1566.

Forms HCFA-1523/1524 (a multipurpose form which serves as the Budget Request, Notice of Budget Approval and Interim Expenditure Report); Forms HCFA-1523/1524A Schedule of Productivity Investments and Other; Forms HCFA-1523/1524B Schedule of Credits, EDP and Overhead; Forms HCFA-1523/1524C Schedule of Appeals; Forms HCFA-1523/1524D Schedule of MSP Costs; Forms HCFA-1523/1524E Schedule of MR/UR Costs; Forms HCFA-1525/1525A Contractor Audit Settlement Report (CASR); Schedules A, B, & C; Audit Priority Matrix; Crossover from CASR to Audit Priority Matrix; Provider Reimbursement Profile; Schedule of Providers Serviced; MSP Savings Report; MR/UR Savings Report; Form HCFA-2580 Cost Classification Report; Form HCFA-3259 Facilities and Occupancy Schedule; Forms HCFA-1565/1566 Carrier Performance Report/Monthly and Intermediary Workload Report; HCFA Actuary's Workload Estimates; EOMB's Economic Assumption of 4.1 percent; Incremental Workload Efficiencies; Cost Efficiency Benchmark reduction; Savings from Prior Productivity Investments; New Legislation Costs; Regional Office Recommendations; and Contract Provisions.

C. Methodology

The Medicare contractor budget is built around seven major functions performed by intermediaries for Part A and seven major functions performed by carriers for Part B.

The funcitional areas for Part A are: (1) Bills Payment; (2) Reconsiderations and Hearings; (3) Medicare Secondary Payer; (4) Medical Review and Utilization Review; (5) Provider Audit; (6) Provider Reimbursement; and (7) Productivity Investments.

The functional areas for Part B are: (1) Claims Payment; (2) Reviews and Hearings; (3) Beneficiary/Provider Inquiries; (4) Medical Review and Utilization Review; (5) Medicare Secondary Payer; (6) Participating Physicians; and (7) Productivity Investments. The methodologies to be used in calculating budget allocations for these functional areas are discussed below. Where a functional activity is common to both intermediaries and carriers, we have combined the discussion.

1. Bills Payment and Claims Payment

The individual intermediary and carrier workload levels for FY 1989 will be calculated based upon the actual workload data reported through July 1988 using the HCFA-1565/1566. We will project each intermediary/carrier's bill/claim receipt level for FY 1989 using a statistical forecasting model. We will also project the number of bills/claims an intermediary and carrier expects to have pending at the end of FY 1988 using the same data. We will then combine the FY 1989 receipt estimate with the anticipated end of FY 1988 pending level, and subtract the estimated FY 1989 pending for each intermediary and carrier to establish a process workload (i.e., Estimated FY 1989 receipts + Estimated end of FY 1988 pending − Estimated end of FY 1989 pending = Estimated FY 1989 Processed Workload).

In order to price individual contractor bill/claims workloads, we develop a unit cost which is the cost of processing a single bill/claim. The individual intermediary and carrier unit costs for FY 1989 will be calculated based upon unit costs (line 1 of the FY 1988 NOBA HCFA-1523/1524) in effect at the time that we perform our computations. The calculations will include increases to recognize the cost of new legislation, the increased postage rate and 4.1 percent for price inflation. Reductions associated with the application of the Cost Efficiency Benchmark, incremental workload efficiencies, and savings achieved from prior Productivity Investments will also be part of the formula employed in computing FY 1989 target unit costs. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA target unit cost and the contractors' requested unit costs, within the limits of the funding available to HCFA.

2. Reconsiderations (Reviews Under Part B) and Hearings

We will allocate funding based on the amount of dollars spent (line 2 of the NOBA HCFA-1523/1524C) in the prior year adjusted for inflation and volume. Specifically, we will adjust the previous year's costs for reconsiderations and hearings by the percentage change in inflation, which for FY 1989 is a 4.1 percent increase (a rate that reflects productivity gains generally for the economy, but which may cause over/understatement of costs depending on the productivity efficiencies experienced by the individual contractors), and for the percentage change in workload. We have revised these forms to allow us to capture more discrete workload and cost data. We will use these data to develop budgeted costs for reconsiderations and hearings as we do for bills payment and claims payment costs, that is, forecasted processed volume times unit cost. The individual intermediary and carrier budget allocations for reconsiderations, reviews, and hearings will be determined by using the old methodology. If sufficient reliable data are collected, then we may redetermine the allocations by multiplying anticipated workload levels in FY 1989 times the newly developed unit cost. We will consider the current pending backlog and projected receipts for each intermediary and carrier. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA allocations and the contractor's

requests, within the limits of the funding available to HCFA.

3. Beneficiary/Provider Inquiries (Part B Only)

The prior year's cost will be adjusted by the percentage change in inflation which for FY 1989 will be a 4.1 percent increase, as well as any projected workload increase or decrease to establish a budgeted amount for Beneficiary and Provider Inquiries. We also consider special conditions unique to specific carriers in negotiating the budget. We are now developing new reporting requirements which will allow us to capture more discrete workload and cost data. We will begin the year using the old budgeting methodology until we have sufficient reliable data and then we may use these data to develop a budgeted cost for beneficiary/provider inquiries by multiplying forecasted processed volume times unit cost. The regional offices will negotiate with the carriers to resolve any differences between the HCFA allocations and carriers' requests, within the limits of the funding available to HCFA.

4. Provider Reimbursement (Part A Only)

In determining individual intermediary budgets for reimbursement activities, we will first calculate an FY 1988 unit cost using the funding included on the latest FY 1988 NOBA (HCFA–1523/1524C) and dividing that amount of money by the workload reported on the Schedule of Providers Serviced (SPS) for the same period.

The SPS is a listing of all the facilities serviced by the intermediary. This report offers a more detailed description of the providers because it identifies them by type, by bed size, freestanding or provider-based and whether they are paid on a periodic interim payment basis. The SPS is submitted with each initial budget request so that a part of the analysis is the comparision of the composition of the provider community serviced by the intermediary and any change reported between fiscal years.

The unit cost found by dividing the amount of the FY 1989 NOBA by the workload from the SPS for the same period forms the first of the "raw" data used to project the 1989 budget. This unit cost will be increased by 4.1 percent, which is the rate of inflation provided to HCFA by EOMB.

This adjusted unit cost is then multiplied by the FY 1989 workload as reported on the SPS.

The result will then be adjusted based on a review of cost documentation of special initiatives (e.g., the effect on intermediary reimbursement activity of the transfer of the provider-based HHAs and hospices to the Regional Home Health Intermediaries).

In order to resolve major differences between the intermediary's budget request and the amount developed by the preceding approach, we analyze the Reimbursement Profile which is an addendum to the Budget Request. This profile shows the cost claimed by type of reimbursement activity (Interim Rate Determinations, Overpayment Recoupment, Consulting services, etc.).

The regional offices will negotiate with the intermediaries to resolve any differences between the HCFA allocations and the intermediaries' requests, within the limits of the funding available to HCFA.

5. Provider Audit (Part A Only)

The provider audit function is divided into three major activities which are desk reviews, settlements, and field audits.

The basic report on which all audit analysis is based is the Contractor Auditing and Settlement Report (HCFA–1525/1525A). This form provides a breakout of audit activities and costs by type of provider as well as documenting the savings incurred as a result of audit activity. Using this as a base, the desk review costs are developed by projecting the workload using the total count of providers serviced. (All cost reports must be desk reviewed.) The count of providers serviced is compared to the total shown on the Schedule of Providers Serviced for verification. We then multiply this count by the unit cost per desk review (developed from the latest CASR for FY 1988) to determine the cost of handling the FY 1989 workload at the 1988 unit cost.

Settlement costs are based on the workload projected in the intermediary's budget request multiplied by the unit cost for settlements found in the most recent CASR for FY 1988. This will cost out the 1989 activity at the 1988 level of expenditure.

The only discretionary audit activity is the field audit. The intermediary bases its request for field audit funds on the pricing out of the field audit activity outlined in the Budget Guidelines which establishes the parameters and provides direction for field auditing. The intermediary supplies as documentation a CASR which breaks out the activities by type of facility. An Audit Priority Matrix is also supplied which displays the field audit activity in priority order. The Matrix serves initially as a planning document for the intermediary to determine how much activity and associated cost are required to respond to HCFA directives. Because the Matrix combines the cost of auditing a Multiple Facility provider as one cost report and the CASR breaks out these costs by type of component, we ask that the intermediary supply a crossover from the Matrix to the CASR so that the costs can be compared.

The intermediaries' requests in total always exceed the amount of funding available; therefore, it is this Matrix which HCFA must supply to determine how to reduce the overall and individual audit requests commensurate with the level of available funding. It is, however, the individual budget requests of intermediaries for field audit activities which serve as the basis for budgeting for this function, with adjustments based upon available funding and audit priority.

The overriding priority of all audit effort is comprised of the special activities required by legislation (COBRA, OBRA). The second priority is that all cost reports must be desk reviewed, and, to the extent possible, settled. Therefore, any reductions to budget requests must be made in field audit. The careful analysis of the Matrix allows us to determine what adjustments to audit activity can be made to reduce the audit spending while still maintaining a high exposure to the field audit activity

All of the above costs are adjusted for inflation which for FY 1989 will be a 4.1 percent increase.

The regional offices will negotiate with intermediaries to resolve any differences between the HCFA allocations and the intermediaries' requests, within the limits of the funding available to HCFA.

6. Medicare Secondary Payer (MSP)

We will extract data, including processed volumes, costs and program savings, from the HCFA–1523/1524D and the MSP Savings Report to determine MSP funding allocations. In allocating the FY 1989 MSP budget to individual intermediaries and carriers, we consider: (1) Estimated potential savings goals by category and by State (e.g., working aged and spousal working aged insurance, automobile, medical liability and no-fault insurance, end stage renal disease, disability and workers compensation); (2) the relationship of available funds to expected savings among contractors; and (3) staffing mix differences, levels of systems sophistication and special tasks (e.g., regional data exchange). The regional offices will consider 1, 2, and 3 of this section when negotiating with

intermediaries and carriers within the limits of the funding available to HCFA.

7. Medical Review/Utilization Review (MR/UR)

The individual intermediary and carrier MR/UR budgets for FY 1989 will be calculated in three components: prepayment medical review, postpayment activities, and medical review policy development (carriers only). As a part of the budget guidelines, we ask intermediaries and carriers via the HCFA-1523/1524E Schedule of MR/UR Costs, to estimate: (1) The number of bills/claims to be processed by bill types, (2) the required funding, (3) percent of full-time equivalents, and (4) the percent of electronic data processing costs attributable to MR/UR review. We will allocate to each contractor prepayment and postpayment medical review funding based upon the requested workload which an intermediary or carrier projects will be processed under the FY 1989 budget guidelines for medical review and the funds requested by the intermediary or carrier to perform the reviews. Carrier budgets for medical review policy development will be based on levels of sophistication of carrier policy development and dissemination and the need for medical direction. The funding calculations for all MR/UR activities will include a 4.1 percent factor for price inflation where applicable. The regional offices will negotiate with intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

8. Participating Physicians (Part B Only)

In determining the individual carrier funding levels for the participating physician program for FY 1989, we will consider the following factors based on carrier data to be published at a later date: The number of physicians in the carrier's service area; the carrier's current participation rate; the carrier's recent performance in increasing its participation rate; the scope of work to be performed as outlined in the budget guidelines; and last year's cost experience. Since participating physicians are eligible for free EMC lines for billing, allowance will be made for these expenses. Carriers with lower participation rates will receive greater funding for MAAC violation monitoring and monitoring of nonparticipating physicians for compliance with elective surgery disclosure requirements. Carrier monitoring funds will be allocated based on the national percentage of nonparticipating physicians. Funding for carrier incentive bonuses will be based on the allocation methodology which will be described in a separate **Federal Register** document. All carriers will receive the same funding amount for reporting participation statistics. Our computations of the carriers' budgets for these activities will include an allowance for price inflation. The regional offices will negotiate with the carriers to resolve any differences between the HCFA allocations and the carriers' requests, within the limits of the funding available to HCFA.

9. Productivity Investments

The costs of implementing legislation and new initiatives designed to improve the effectiveness and efficiency of Medicare program administration are referred to as Productivity Investments. Several allocation methodologies will be employed in calculating the Productivity Investment budgets for individual intermediaries and carriers. For those projects involving only single contractors or small groups of contractors, we will allocate funds based upon the specifications of the particular project. For those projects involving all intermediaries and/or carriers in which the costs are driven by bill/claims volume, we will distribute the funding based upon our workload projections for each contractor. Finally, for those projects involving all intermediaries and/or carriers which require equal effort regardless of the contractor's size, we will derive a standard allocation to be given to all contractors. The regional offices will negotiate with the intermediaries and carriers to resolve any differences between the HCFA allocations and the contractors' requests, within the limits of the funding available to HCFA.

The sum of the preceding functions, in addition to printing costs, becomes the FY 1989 national Medicare contractor budget. HCFA distributes the funding to intermediaries and carriers in accordance with the established guidelines and allocations as previously discussed.

IV. Regulatory Impact Statement

A. Executive Order 12291

Executive Order (E.O.) 12291 requires us to prepare and publish an initial regulatory impact analysis for any proposed notice that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The purpose of this notice is to fulfill our obligation under section 4035(a) of Pub. L. 100-203 to inform the public of our proposed budgeting methodology, the data used in the budgeting process, and the standards we expect our contractors to achieve; and to permit the public the opportunity to comment on our proposal. As a purely informational document, this notice would not promulgate any rule or implement any policy. Nor would this notice be a part of, or substitute for, any negotiations we intend to conduct with the intermediaries and carriers. Although the outcome of our negotiations are expected to have beneficial effects on contractor operations and on the program (as described in section II. above), such effects would be the result of these negotiations rather than as a result of this notice. Thus, this document, by itself, would not produce an impact either on contractor operations or on program activities.

For these reasons (that is, this notice does not represent an attempt at rulemaking, and the publishing of this notice would have no impact on any aspect of the Medicare program), we believe that the Executive Order does not apply to this notice. Therefore, we have not prepared a regulatory impact analysis.

B. The Regulatory Flexibility Act

We generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Administrator certifies that a proposed notice such as this would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, fiscal intermediaries and carriers are not small entities, although we treat all providers and suppliers as small entities.

As explained in the discussion of E.O. 12291 above, this notice does not represent a rulemaking effort or an attempt to implement any policy with regard to contractors, beneficiaries, providers or suppliers. This notice is intended only to provide information about our proposed budgeting methodology, the data we intend to utilize in the budgeting process, and the standards we are proposing for contractors to achieve. Also, because

this document is of a purely informational nature, there would be no impact on any component of the Medicare program as a result of the publication of this notice. For these reasons, we have determined, and the Administrator certifies that this proposed notice would not have a significant impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis that conforms to the RFA.

C. Impact on Small Rural Hospitals

Section 1102(b) of the Act requires the Secretary to prepare an initial regulatory impact analysis for any proposed notice such as this that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a Metropolitan Statistical Area or a New England County Metropolitan Area.

Since, as previously explained, this notice merely announces the proposed budgetary basis for our negotiations with fiscal intermediaries and carriers, and does not constitute a rulemaking effort or have an effect of its own, we have determined, and the Administrator certifies that this notice would not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared a regulatory impact analysis on small rural hospitals.

D. Paperwork Reduction Act

This notice contains no information collection requirements subject to EOMB approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

V. Response to Comments

Because of the large number of pieces of correspondence we normally receive on a proposed notice we are not able to acknowledge or respond to them individually. However, in preparing the final notice, we will consider all comments contained in correspondence that we receive by the date specified in the "DATE" section of this preamble, and will respond to the comments in the preamble to that notice.

Sec. 1102, 1816, 1842, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395h, 1395u, and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program: No. 13.774, Medicare-Supplementary Medical Insurance.)

Dated: May 31, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 88-21437 Filed 9-19-88; 8:45 am]

BILLING CODE 4120-01-M

Public Health Service

Advisory Commission on Childhood Vaccines; Change of Date for Nominations for Voting Members

AGENCY: Public Health Service, HHS.

ACTION: Amendment to notice.

Amendment: This amends the notice that appeared in the **Federal Register** on Thursday, September 15, 1988, which asked that nominations for voting membership on the Advisory Commission on Childhood Vaccines be received on or before October 15, 1988. Nominations for membership on the Commission will now be received up to and including November 15, 1988.

Alan R. Hinman,

National Vaccine Program Coordinator.

[FR Doc. 88-21438 Filed 9-19-88; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-88-1857]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Managment and Budget (OMB) for review, as required by the Poperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Departmet.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: September 12, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Indian Housing Self-Help Program—Application and Development Program Requirements (FR-2544).

Office: Public and Indian Housing.

Description of the Need for the Information and its proposed use: The purpose of this reporting requirement is to implement a self-help program which will permit participants in the Indian Housing Mutual Help Program to substantially construct their own homes. The information will also be used to select Indian Housing Authorities (IHAs) as an Indian Housing Self-Help component to the Mutual Help Program.

Form Number: None.

Respondents: Non-Profit Institutions.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	10		1		30		300
Development Program	6		1		75		450

Total Estimated Burden Hours: 750.
Status: New.
Contact: Patricia S. Arnaudo, HUD, (202) 755–1015; John Allison, OMB, (202) 395–6880.

Date: September 12, 1988.

[FR Doc. 88–21342 Filed 9–19–88; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–88–1859]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 8, 1988.

David S. Cristy,
Deputy Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Community Development Work Study Program (FR–2475/FR–2510).

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed use: This information will be needed and used to provide grants to institutions of higher education, either directly or through areawide planning organizations. The information will also be needed to assist economically disadvantaged and minority students who participate in community development work study programs and are enrolled as full-time students in studies on community and economic development, community planning, or community management.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of submission: Recordkeeping, Quarterly, Annually, and Semester.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	100		1		20		2,000
Quarterly/Semester Report	30		3		4		360
Final Report	30		1		8		240
Recordkeeping	60		1		2		120

Total Estimated Burden Hours: 2,720.
Status: New.
Contact: James H. Turk, HUD, (202) 755–6876; John Allison, OMB, (202) 395–6880.

Date: September 8, 1988.

[FR Doc. 88–21343 Filed 9–19–88; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–88–1860]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New

Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 26, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Restriction on Use of Assisted Housing (FR–1588/2383).

Office: Housing.

Description of the Need for the Information and its Proposed Use: This information is needed to comply with Federal statutes and regulations that prohibit HUD from making financial assistance available for the benefit of any alien who is not a lawful resident of the United States. The information is also needed to collect data on citizenship/alien status as part of determining tenant and applicant eligibility.

Form Number: None.

Respondents: Individuals or Households and Businesses or Other For-Profit.

Frequency of Submission: Annually.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Section 8	2,470,777		1		.05		123,539
Section 236	360,541		1		.05		18,027
RAP	9,496		1		.05		457
Rent Supplement	42,276		1		.05		2,114
Time to Obtain Extension	144,155		1		.16		23,065
Recordkeeping	2,883,092		1		.05		144,155

Total Estimated Burden Hours: 311,375.

Status: Revision.

Contact: James J. Tahash, HUD, (202) 426–3944; John Allison, OMB, (202) 395–6880.

Date: August 26, 1988.

[FR Doc. 88–21344 Filed 9–19–88; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–88–1862]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451, 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: September 14, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Resident Management Corporation (RMC) Homeownership (FR-2489).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed use: This information collection is mandated under Section 21 of the U.S. Housing Act of 1937 amended. This legislation authorizes public housing RMC to resell or rent individual units to lower-income families. The information provided will be used by HUD to monitor this program.

Form Number: None.

Respondents: Individuals or Households.

Frequency Of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Proposal	10		1		40		400
Recordkeeping	10		1		10		100

Total Estimated Burden Hours: 500.

Status: New.

Contact: Nancy S. Chisholm, HUD, (202 755-7055; John Allison, OMB, (202) 395-6880.

Date: September 14, 1988.

[FR Doc. 88-21346 Filed 9-19-88; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N88-1861; FR-2252]

Interstate Land Sales Registration; Administrative Proceedings

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Lender Activities and Land Sales Registration, Interstate Land Sales Registration Division, HUD.

ACTION: Notice of proceedings and opportunity for hearing.

SUMMARY: The Interstate Land Sales Registration Division gives public notice of its attempt to serve upon certain persons (defined by statute (15 U.S.C. 1701) as individuals, unincorporated organizations, partnerships, associations, corporations, trusts, or estates) at their last known addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by mail and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in order to effect constructive notice upon the persons listed in the attached Appendix.

DATE: Requests for hearings should be filed on or before October 5, 1988.

ADDRESSES: Requests shall be filed with the docket Clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street, SW., Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Department of HUD, Room 6278, Washington, DC 20410. Telephone: (202) 755-0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Notice of Proceedings and Opportunity for hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d)) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1710.215. The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

NOTICE OF PROCEEDINGS AND OPPORTUNITY FOR HEARING

I

Docket No. _____
In the matter of: (subdivision) _____

(developer) _____

Representative Respondent _____
OILSR No. _____

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of _____ and has its principal office in _____.

B. The mailing address of Respondent's last known principal office or place of business is _____

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in _____ County, _____ State, which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on _____ and is still effective.

D. _____ is an authorized Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the Appendix are listed alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above is set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of Paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of Column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the Appendix in the appropriate blanks of paragraph I. In this form it is constructively noticed that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Interstate Land Sales Registration Division (ILSRD) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material fact, or omit to

state material facts required to be stated therein or necessary to make the statements therein not misleading, to wit:

The developer has failed to file amendments (including an annual report of activity) to comply with revised regulations of the Interstate Land Sales Registration Division or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1710.23(a) and/or 1710.310 (1984 Edition), as amended by 49 FR 31366 (August 6, 1984) as codified in the 1985 edition.

III

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 25 CFR 1720.240 and 1720.245 within 15 days after service of this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceedings shall be filed with the Docket clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street SW., Washington, DC 20410. All such papers shall clearly identify the type of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered, that upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth in Part III hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street SW., Washington, DC 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceedings shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1508.

Date: September 9, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

APPENDIX

In the matter of (subdivision) developer, representative and title; respondent	OILSR No. and land sales enforcement branch Docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
(1)	(2)	(3)	(4)	(5)
North Carolina:				
Powder Horn Mountain, Horne Developers, Inc., Robert I. Horne, President.	0-06007-38-450 XA through XE, M-88-053.	North Carolina, Triplett, North Carolina.	Elk Creek Road, Triplett, NC 28686.	Watauga County, NC, July 28, 1982.
Utah:				
The 3200 Subdivision, Amerland Development Corporation, Foster J. Hepperly, President.	0-06426-52-142 & A, M-88-049.	California, San Diego, California.	4452 Park Boulevard, Suite 306, San Diego, CA 92116.	Iron County, UT August 19, 1985.

[FR Doc. 88-21341 Filed 9-19-88; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-030-08-4410-08]

Availability of Proposed Socorro Resource Management Plan/Final Environmental Impact Statement (RMP/EIS)

AGENCY: Bureau of Land Management, Las Cruces District, Socorro Resource Area, New Mexico, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Proposed Socorro Resource Area Resource Management Plan (RMP)/Environmental Impact Statement (EIS) for public review. This document analyzes the management options and impacts of allocating lands and resources on approximately 1.5 million acres of public land surface and 2.2 million acres of Federal mineral estate. These public lands are located in Catron and Socorro Counties in central and west-central New Mexico.

The Draft RMP/EIS was made available for a 90-day public comment period from January 22 through April 22, 1988. Comments received were incorporated in the preparation of the Proposed Plan. All parts of the Proposed Plan may be protested.

DATE: Protests on the Proposed Plan must be postmarked no later than October 24, 1988.

ADDRESS: Protests must be sent to the Director (760), Bureau of Land Management, Premier Bldg., Room 909, 18th and C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Any person who is on record for participating in the planning process and has an interest that is or may be affected by approval of the RMP may file a protest. Protests should be presented to the BLM Director with the following information: (1) Name, mailing address, telephone number, and interest of the person filing the protest; (2) statement of the issue(s) being protested; (3) a statement of the part(s) being protested; (4) a copy of all documents addressing the issue(s) that were submitted during the planning process by the protesting party or an indication of the date the issue(s) were discussed for the records; and (5) a concise statement explaining why the BLM New Mexico State Director's decision is wrong.

At the end of the 30-day protest period, the Proposed Plan, excluding any portions under protest, will become final. Approval will be withheld on any

portion of the plan under protest until final action has been completed on such protest. The approval process and the Approved Plan will be published with the Record of Decision. Individuals not wishing to protest the plan, but wanting to comment, may send comments to the BLM, Socorro Resource Area, at the address below. All comments received will be considered in preparation of the Record of Decision.

FOR FURTHER INFORMATION CONTACT: Joel Farrell, RMP Team Leader, Socorro Resource Area, 198 Neel Avenue NW., Socorro, NM 87801.

A limited number of documents are available, and review copies may be examined at:

BLM State Office, Joseph M. Montoya Federal Bldg., Santa Fe, NM
Socorro Resource Area Office, See above address
Socorro Public Library, 401 Park SW, Socorro, NM
BLM DSC Library, Bldg. 50, Denver Federal Center, Denver, CO
BLM Las Cruces District Office, 1800 Marguess, Las Cruces, NM
State of New Mexico Library, 325 Don Gaspar, Santa Fe, NM
Thomas Branigan Memorial Library, 200 E. Picacho, Las Cruces, NM
University of New Mexico, Law Library, 1117 Stanford NE, Albuquerque, NM

Malcolm J. Schnitker,

Acting State Director.

Dated: September 7, 1988.

[FR Doc. 88-21360 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-FB-M

[ES-940-08-4520-13; ES-039052, Group 12]

Filing of Plat of Dependent Resurvey; North Carolina

September 12, 1988.

1. The plat of the dependent resurvey of the Cherokee Indian Land Within Tract No. 93, District 6, Cherokee County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on October 27, 1988.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a m., October 27, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-21428 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-08-4520-13; ES-039053, Group 12]

Filing of Plat of Dependent Resurvey; North Carolina

September 10, 1988.

1. The plat of the dependent resurvey of the Cherokee Indian Land, Within Tract Nos. 115 and 116, District 6, Cherokee County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on October 27, 1988.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., October 27, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-21429 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-08-4520-13; ES-039054, Group 12]

Filing of Plat of Dependent Resurvey; North Carolina

September 12, 1988.

1. The plat of the dependent resurvey of the boundary between the Nantahala National Forest, Tract Nos. 104h and 258 and the Cherokee Indian Land, Tract No. 35, District No. 6, Cherokee County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on October 27, 1988.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., October 27, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-21430 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-08-4520-13; ES-039055, Group 12]

Filing of Plat of Dependent Resurvey; North Carolina

September 12, 1988.

1. The plat of the dependent resurvey of the boundary between the Nantahala National Forest, Tract No. 260 and the Cherokee Indian Land, Henson Donation Tract, (439 Acre Tract) District No. 5, Cherokee County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on October 27, 1988.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., October 27, 1988.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey and Support Services.

[FR Doc. 88-21431 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-GJ-M

Minerals Management Service

Development Operations Coordination Document; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given the Chevron U.S.A. Inc., Unit Operator of the Mobile Block 861 Federal Unit Agreement No. 754387006, has submitted a DOCD describing the activities it proposes to conduct on the Mobile Block 861 Federal unit. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Pascagoula, Mississippi.

DATE: The subject DOCD was deemed submitted on September 2, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulvard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Mike Nixdorff; Minerals Management Service; Gulf of Mexico OCS Region; Production and Development; Development and Unitization Section; Unitization Unit; Telephone (504) 736-2660.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: September 9, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-21424 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Koch Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Koch Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 9140, 6245, and 8187, Blocks A-264, A-271, and A-272, respectively, High Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hyrocarbons with support activities to be conducted from an existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on September 7, 1988. Comments must be received by October 5, 1988, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: September 7, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-21421 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-MR-M

Onshore Oil and Gas Production Accounting, Transfer of Responsibility

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of suspension of conversion schedule.

SUMMARY: On May 9, 1988, the Minerals Management Service (MMS) published a notice of final rulemaking in the **Federal Register** (53 FR 16408) to amend its regulations to provide for lease operators to report onshore production data to MMS, as a result of the transfer of accounting responsibility from the Bureau of Land Management (BLM).

As stated in the notice of final rulemaking, MMS planned to follow a phased conversion schedule to accomplish the transfer. Phases 1a and 1b of the conversion schedule have been accomplished. The purpose of this notice is to inform operators of onshore leases/agreements scheduled for the remaining phases (Nos. 2, 3, and 4) who have not yet been converted that the conversion schedule is temporarily being suspended until further notice.

FOR FURTHER INFORMATION CONTACT: Mike Miller, Production Accounting Division, (303) 231-3520.

SUPPLEMENTARY INFORMATION: The Committee on Appropriations, U.S. House of Representatives, in Report No. 100-713, dated June 20, 1988, did not recommend additional funding in Fiscal Year 1989 for conversion of the onshore production accounting responsibility from BLM to MMS. The language states in part, "In Royalty Management the Committee recommendation includes a reduction of $500,000 in mineral revenue collection and $350,000 in systems development and maintenance to limit the conversion of the production accounting system to the States of Colorado, Wyoming, Utah, and Montana * * *." Therefore, the conversion schedule is suspended until such time as funding is provided.

Phase 1a of the conversion schedule transferred leases/agreements under the jurisdiction of the Rawlins, Wyoming, BLM District Office. Phase 1b transferred leases/agreements under the jurisdiction of the Wyoming, Colorado, Utah, and Montana BLM State Offices. Phase 2 would have converted leases/agreements under the jurisdiction of the Eastern States, Nevada, California, and Alaska BLM State Offices. Operators under phase 2 were informed of their conversion in a letter dated July 25, 1988. However, because of the suspension, phase 2 operators should disregard the July 25, 1988, instructions and continue reporting production data to BLM.

Phases 3 and 4 would have converted leases/agreements under the jurisdiction of the BLM Tulsa District Office and the New Mexico BLM State Offices respectively. Phase 3 and 4 operators should continue reporting production data to BLM.

Operators will be notified by future publication of a notice(s) in the **Federal Register** of a conversion schedule for their leases/agreements when MMS receives funding to continue the transfer of production accounting responsibility from BLM.

Date: September 12, 1988.

Jerry D. Hill,

Associate Director for Royalty Management.

[FR Doc. 88-21359 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

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 September 10, 1988. 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 October 5, 1988.

Carol D. Shull,

Chief of Registration, National Register.

GUAM

Guam County

Agana-Hagatna Pillbox, (Japanes Coastal Defense Fortifications on Guam TR), W shore of Pasco de Susana, Agana, 89001880

Agana/Hagatna Cliffline Fortifications (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Agana vicinity, 88001877

As Sombreru Pillbox III, (Japanese Coastal Defense Fortifications on Guam TR), W of Matapang Park, Tumon, 88001887

As Sombreru Pillbox II, (Japanese Coastal Defense Fortifications on Guam TR), S shore of Tumon Beach in Tumon Bay, Tumon, 88001864

As Sombreru Pillbox I, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001883

Ayulang Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Agana vicinity, 88001889

Garapan Mount Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Talofofo vicinity, 88001888

Ilik River Fortification I, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Yona vicinity, 88001869

Ilik River Fortification II, (Japanese Coastal Defense Fortifications on Guam TR), Shore of Ylig Point, Yona, 88001871

Opao Pillbox I, (Japanese Coastal Defense Fortifications on Guam TR), W of Tumon Ypao Point, Tumon, 88001863

Ipao Pillbox II, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001873

Ipao Pilbox III, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001874

Malessu Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), Talona Beach on Cocos Lagoon, Merizo, 88001872

Mana Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), S shore of As Anite Cove, Talofofo, 88001886

Matalá Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Talofofo vicinity, 88001867

Maton Headland Fortification I, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001884

Maton Headland Fortification II, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001885

Oka Fortification, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tamuning vicinity, 88001882

Paqú Pillbox I, (Japanese Coastal Defense Fortifications on Guam TR), Shore of Pago Bay, Chalan Pago, 88001878

Paqú Pillbox II, (Japanese Coastal Defense Fortifications on Guam TR), Shore of Pago Bay, Chalan Pago, 88001879

Talofofo-Talu'fofu' Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), S shore of Ylig river, Talofofo, 88001876

Tokcha' Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), Toghca Point shoreline, Ipan, 88001875

Tomhum Cliffline Fortification III, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001868

Tomhum Pillbox II, (Japanese Coastal Defense Fortifications on Guam TR), W shore of Naton Beach on Tumon Bay, Tumon, 88001866

Tomhum Pillbox III, (Japanese Coastal Defense Fortifications on Guam TR), E of Matapang Park on Tomon Bay, Tomon, 88001865

Tonhum Fortification, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Tumon vicinity, 88001870

Umatac-Umatak Pillbox, (Japanese Coastal Defense Fortifications on Guam TR), Address Restricted, Umatac vicinity, 88001881

MARYLAND

Baltimore County

Caves Valley Historic District, Caves and Garrison Forest Rds., and Park Heights Ave., Owings Mills vicinity 88001859

Baltimore Independent City

Charlcote House, 15 Charlcote Pl., Baltimore, 88001858

MISSOURI

Jackson County

German Evangelical Pastors' Home Historic District, 1808-1812 W. Walnut and 300-311 Nineteenth Terrace, Blue Springs, 88001856

NEW YORK

Ontario County

Barron, Thomas, House, 1160 Canandaigua Rd., Seneca, 88001854

NORTH CAROLINA

Mecklenburg County

Highland Park Manufacturing Company Mill No. 3, *2901 N. Davidson St., Charlotte, 88001855*

Ohio

Cuyahoga County

Broadway Avenue Historic District, Broadway and Hamlet Aves. and E. Fifty-fifth St., Cleveland, 88001860

WEST VIRGINIA

Monroe County

Cook's Mill, Rt. 2, Greenville vicinity, 88001857

Preston County

Arthurdale Historic District, E and W of WV 92, Arthurdale, 88001862

[FR Doc. 88-21425 Filed 9-19-88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-290 (Sub-No. 12X)]

Southern Railway Co.; Abandonment Exemption; Roberta, GA

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 4.4-mile line of railroad at Roberta, GA, between milepost 86.0-FV and milepost 90.0-FV+2,311 feet.

Applicant has certified that (1) no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected

pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective October 20, 1988 (unless stayed pending reconsideration). Petitions to stay regarding matters that do not involve environmental issues [1] and formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [2] must be filed by September 30, 1988, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by October 11, 1988, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: F. Blair Wimbush, Norfolk Southern Corporation, One Commercial Place, Norfolk, VA 23510-2191.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will serve the EA on all parties by September 25, 1988. Other interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: September 12, 1988.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988).

[2] *See Exemp. of Rail Line Aband. or Discont.—Offers of Fin. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-21290 Filed 9-19-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment Standards Administration

Economics Survey Schedule and Instructions
1215-0028; WH-1 (WH-1 Instructions)
Biennially
State or local governments; Businesses or other for Profit; Small businesses or organization
100 respondents; 100 hours; 1 hour per response; 1 form
The form WH-1 is used by the Wage-Hour Division to prepare an economic report used by an industry committee to set industry wage rates in American Samoa.

Mine Safety and Health Administration

Mine Rescue Equipment Test and Inspection Records
1219-0093
Monthly
Businesses or other for profit; small businesses or organizations
800 respondents; 12½ minutes per response; 24,000 total burden hours
Records of the results of tests and examinations of mine rescue equipment are required to be maintained at mine rescue stations.

Employment and Training Administration

Internal Fraud Activities
1205-0187; ETA 9000
Annually
State or local governments
53 respondents; 424 burden hours; 8 hrs. per response; 1 form Internal security is among the top priorities in the area of payment control. Two factors: (1) Increase automation of UI functions and (2) use of temporaries have increased SESA vulnerability to internal fraud. Form ETA-9000 will help SESAs in assessing the adequacy of their internal contrills and provides important data for UIS in developing budget information.

ETA Validation Handbook No. 361
1205–0055; no forms
Annual
State or Local governments
53 respondents; 12,720 burden hours; 240 hrs. per response; no forms
Data provided to the Unemployment Insurance Service must be credible for use in the distribution of administrative funds as well as triggering the Extended Benefits program and as economic indicators as well as general information for operating the program validation attempts to assure the adequacy and comparability of reported data.

Bureau of Labor Statistics

Permanent Mass Layoff and Plant Closing Program
Reports 1–3 and Supplemental Employer Information Report
1220–0090; BLS 428
Quarterly
State or local governments; farms; businesses or other for-profit organizations; Federal agencies or employees; non-profit institutions.
15,300 responses; 168,055 hours; 10 hours per response; 1 form
Section 462(e) of the Job Training Partnership Act states that the Secretary of Labor develop and maintain statistical data on permanent mass layoffs and plant closings, and publish a report annually. These data will be used to study the causes and effects of worker dislocations.

Signed at Washington, DC, this 15th day of September 1988.

Terry O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 88–21463 Filed 9–19–88; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

Federal-State Unemployment Compensation Program; Certification of Interest Relief; Certification of States Qualifying for Partial Relief of Interest Due on Advances

Title XII of the Social Security Act provides for deferral and delay of interest payable by States on advances received by them from the Federal unemployment account in the Unemployment Trust Fund if the States meet criteria set forth in the statute. The certification to the Secretary of the Treasury of specified States that meet the respective criteria with respect to interest due prior to October 1, 1988, is published below.

Date: September 14, 1988.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

September 12, 1988.

The Honorable Nicholas F. Brady,
Secretary of the Treasury-Designate, Washington, D.C. 20220.

Dear Secretary Brady: The Department of Labor has reviewed States' applications for relief from interest payments which are due prior to October 1, 1988. The interest relief options available to States are:

(1) *High Unemployment Deferral:* Section 1202(b)(3)(C) of the Social Security Act (SSA) allows a State to defer 75 percent of interest otherwise due if the rate of insured unemployment under the State law for the period consisting of the first six months of the preceding calendar year equaled or exceeded 7.5 percent. The State must pay 75 percent of interest otherwise due in three annual installments of at least 25 percent beginning with the year after the year in which it was due. The interest deferred does not accrue interest.

(2) *High Unemployment Delay of Payment Due:* Section 1202(b)(9) of the SSA allows a State to delay up to nine months the payment of interest due September 30 of any calendar year after 1982 during which the average total unemployment rate (TUR) in the State was 13.5 percent or higher for the most recent 12-month period for which data are available. The State must meet the 13.5 percent TUR requirement each succeeding year in order to delay payments nine months in such succeeding years.

There were no States which qualified for the above relief.

The following States have qualified for deferral of interest in previous years, have taken no action to reduce solvency, and thus meet the requirements to continue the installment payment of interest; Illinois, Michigan, Pennsylvania, West Virginia, and Wisconsin.

Sincerely,

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 88–21464 Filed 9–19–88; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–88–168–C]

Hard Luck Leasing Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Hard Luck Leasing Coal Company, P.O. Box 329, Heidrick, Kentucky 40949 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15–16417) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A Summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous miners, longwall face equipment and loading machines. The monitor is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30–40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use handheld continuous oxygen and methane monitors instead of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor would be equipped with a handheld continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmosphere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any undetected methane buildup between trips;

(c) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent;

(d) A spare continuous monitor would be available to assure that all coal hauling tractors would be equipped with a continuous monitor;

(e) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly; and

(f) No alterations or modifications would be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson

Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 20, 1988. Copies of the petition are available for inspection at that address.

Date: September 14, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-21465 Filed 9-19-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-172-C]

Helton Energy; Petition for Modification of Application of Mandatory Safety Standard

Helton Energy, P.O. Box 1140, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its Mine No. 1 (I.D. No. 15-16094) located in Knox County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a methane monitor be installed on electric face cutting equipment, continuous miners, longwall face equipment and loading machines. The monitor is required to be kept operative and properly maintained and frequently tested.

2. Petitioner states that no methane has been detected in the mine. The three wheel tractors are permissible DC powered machines, with no hydraulics. The bucket is a drag type, where approximately 30-40% of the coal is hand loaded. Approximately 20% of the time that the tractor is in use, it is used as a man trip and supply vehicle.

3. As an alternate method, petitioner proposes to use handheld continuous oxygen and methane monitors instead of methane monitors on three wheel tractors. In further support of this request, petitioner states that:

(a) Each three wheel tractor would be equipped with a handheld continuous monitoring methane and oxygen detector and all persons would be trained in the use of the detector;

(b) Prior to allowing the coal loading tractor in the face area, a gas test would be performed to determine the methane concentration in the atmopshere. When the elapsed time between trips does not exceed 20 minutes, the air quality would be monitored continuously after each trip. This would provide continuous monitoring of the mine atmosphere for methane to assure the detection of any undetected methane buildup between trips;

(c) If one percent methane is detected, the operator would manually deenergize the battery tractor immediately. Production would cease and would not resume until the methane level is lower than one percent;

(d) A spare continuous monitor would be available to assure that all coal hauling tractors would be equipped with a continuous monitor;

(e) Each monitor would be removed from the mine at the end of the shift, and would be inspected and charged by a qualified person. The monitor would also be calibrated monthly; and

(f) No alterations or modifications would be made in addition to the manufacturer's specifications.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 20, 1988. Copies of the petition are available for inspection at that address.

Date: September 13, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-21466 Filed 9-19-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-170-C]

Mercury Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Mercury Coal Company, P.O. Box 68, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Eureka Tunnel Mine, Lykens Valley No. 4 Vein Slope (I.D. No. 36-01920) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cages, platforms or other devices which are used to transport persons in shafts and slopes be equipped with safety catches or other approved devices that act quickly and effectively in an emergency.

2. Petitioner states that no such safety catch or device is available for the steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of this anthracite mine.

3. Petitioner further believes that if "makeshift" safety devices were installed they would be activated on knuckles and curves when no emergency existed and cause a tumbling effect on the conveyance.

4. As an alternate method, petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope, above the main connecting device. The hoisting ropes would have a factor of safety in excess of the design factor as determined by the formula specified in the American National Standard for Wire Rope for Mines.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 20, 1988. Copies of the petition are available for inspection at that address.

Dated: September 14, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-21467 Filed 9-19-88; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-88-167-C]

12 Vein Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

12 Vein Coal Company, R.D.. No. 1, Box 369, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.206 (conventional roof support) to its 12 Vein Slope (I.D. No. 36-07773) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the width of openings be limited to 20 feet when conventional roof support is used.

2. As an alternate method, petitioner reuests a modification of the standard to allow the roof in openings in excess of 20 feet in width be supported with conventional supports set on 5-foot centers in every direction, or be supported by employing the full-box method.

3. In support of this request, petitioner states that in anthracite mines all roadways are restricted to 12 feet in width. The breasts, on the other hand, where mobile equipment is not used, are driven up to 30 feet in width. These breasts are supported by conventional supports placed on 5-foot centers in every direction, hence no span of roof is left unsupported. In mines pitched 60 degrees or more, the breasts are driven full. In the full-box method, manways are timbered 30-inches wide and loose coal supports the roof between the manway timbers.

4. Petitioner further states that roof bolts would create a hazard in steeply pitched mines, because they would have to be installed from 30 degrees to as little as 2 degrees from horizontal. This would result in shearing of the bolts.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 20, 1988. Copies of the petition are available for inspection at that address.

Date: September 13, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-21468 Filed 9-19-88; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-8]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by October 20, 1988. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Philip D. Waller, NASA Agency Clearance Officer, Code NPN, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: NASA FAR Supplement, Part 18-27, Patents, Data and Copyrights.

OMB Number: 2700-0052.

Type of Request: Revision.

Frequency of Report: Annually.

Type of Respondent: State or local governments, businesses or other for-profit, non-profit institutions small businesses or organizations.

Number of Respondents: 1,900.

Hours Per Response: 8.8.

Annual Responses: 2,280.

Annual Burden Hours: 20,064.

Abstract-Need/Uses: Records and reports regarding patents and data are required to comply with statutes and the OMB and NASA implementing regulations.

September 14, 1988.

Philip D. Waller,

Director, General Management Division.

[FR Doc. 88-21365 Filed 9-19-88; 8:45 am]

BILLING CODE 7510-01-M

[Notice 88-80]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by October 20, 1988. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Philip D. Waller, NASA Agency Clearance Officer, Code NPN, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: Patents.

OMB Number: 2700-0048.

Type of Request: Revision.

Frequency of Report: Annually.

Type of Respondent: Non-profit Institutions.

Number of Respondents: 2,983.

Hours per Response: 1.

Annual Hours Per Recordkeeper: 11.

Total Recordkeeping Hours: 32,813.

Annual Responses: 2,983.

Annual Burden Hours: 35,796.

Abstract-Need/Uses: Patents, grants, records, and monitoring reports regarding patents are required to comply

with statutes and the OMB and NASA implementing regulations.

September 14, 1988.

Philip D. Waller,

Director, General Management Division.

[FR Doc. 88-21366 Filed 9-19-88; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND 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 October 20, 1988.

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3002, Washington, DC 20503; (202-395-7136). In addition, copies of such comments may be sent to Anne Cowperthwaite, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Anne Cowperthwaite, 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 a review of the reinstatement of a previously approved collection. 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: Final Fellowship Report Form

Frequency of Collection: One-time.

Respondents: Individuals or households.

Use: Requested information, now presented in a standardized format, is needed to enable Endowment fellowship grant recipients to comply with Agency and OMB final report requirements and for the Endowment to comply with its legislative requirement to conduct post-award evaluations.

Estimated Number of Respondents: 700.

Average Burden Hours per Response: 1.

Total Estimated Burden: 700.

Anne E. Cowperthwaite,

Administrative Services Division, National Endowment for the Arts.

[FR Doc. 88-21406 Filed 9-19-88; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Engineering.

Date and Time: October 6-7, 1988, 10:00 a.m.-5:00 p.m., October 6, 1988 (open), 8:30 a.m.-9:30 a.m., October 7, 1988 (closed), 9:30 a.m.-12:00 Noon, October 7, 1988 (open).

Place: National Science Foundation, 1800 "G" Street, NW., Room 540, Washington, DC 20550.

Type of Meeting: Partially Closed.

Contact Person: Mrs. Mary Poats, Executive Secretary, Advisory Committee for Engineering, Room 537, National Science Foundation, Washington, DC 20550, Telephone: (202) 357-9571.

Minutes: Mrs. Mary Poats at the above address.

Purpose of Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Engineering programs and activities.

Reason for Closing: The personnel matters being discussed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on September 13, 1988 by the Director of the National Science Foundation pursuant to the provisions of section 10(d) of Pub. L. 92-463.

Agenda: Friday, October 7, 1988, Room 540—8:30 a.m. to 9:30 a.m.—Closed.

Discussion of personnel issues.

Thursday, October 6, 1988, Room 540—10:00 a.m. to 5:00 p.m., and Friday, October 7, 1988, Room 540—9:30 a.m. to 12:00 Noon—Open.

Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

M. Rebecca Winkler,

Committee Management Officer.

September 14, 1988.

[FR Doc. 88-21339 Filed 9-19-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee On Mechanical Components; Meeting

The ACRS Subcommittee on Mechanical Components will hold a meeting on October 4, 1988, Room P-114, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, October 4, 1988—8:30 a.m. until the conclusion of business.

The Subcommittee will review a proposed generic letter that will expand periodic in situ testing and surveillance requirements for safety-related, motor-operated valves.

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 portions 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 identified below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of 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 the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, 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 cognizant ACRS staff member, Mr. Elpidio 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., which may have occurred.

Date: September 13, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-21413 Filed 9-19-88; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-18686]

Application and Opportunity for Hearing; American Airlines, Inc.

September 14, 1988.

Notice is hereby given that American Airlines, Inc. (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The Connecticut National Bank ("Bank") (a) in a single transaction under certain indentures that are not subject to qualification under the Act and two or more indentures to be qualified under the Act and (b) under one or more of such qualified indentures and under certain other indentures described below not subject to qualification under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under such qualified indentures or the other indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

1. The Bank will act as indenture trustee (the "Loan Trustee") under four separate leveraged lease indentures (each, a "Lease Indenture") to be entered into in September of 1988, each of which will relate to a separate leveraged lease transaction in which an owner trustee (the "Owner Trustee"), for the benefit of certain institutional investors acting as equity participants, will issue in a private placement loan certificates (the "Loan Certificates") to institutional investors acting as loan participants.

2. The proceeds of the Loan Certificates to be issued under each Lease Indenture will be used by the relevant Owner Trustee to finance approximately 80 percent of the cost of one McDonnell Douglas DC-9-82 aircraft (each an "Aircraft") that will be leased by such Owner Trustee to the Company. The Company will not be a party to any of the Lease Indentures (only the relevant Owner Trustee, as issuer of the relevant Loan Certificates, and the Bank will be parties), but the Company's unconditional obligation to make rental payments under the relevant lease will be the only credit source for payments on the related Loan Certificates.

3. The Loan Certificates to be issued with respect to each Lease Indenture will be secured by a security interest in the Aircraft to which such Lease Indenture relates and the right of the Owner Trustee to receive rentals on such Aircraft from the Company. No Aircraft will be covered by more than one Lease Indenture or by the Other Indenture (as defined below) and the Loan Certificates to be issued pursuant to any one Lease Indenture will be separate from the Loan Certificates issued pursuant to any other Lease Indenture.

4. None of the Lease Indentures will be subject to the Act and, accordingly, none will contain the language regarding conflicts required by section 310(b) of the Act for qualified indentures.

5. The Company has filed a Registration Statement on Form S-3 (the "Registration Statement") covering the proposed public offering of $62,000,000 aggregate principal amount of Equipment Note Pass Through Certificates (the "Pass Through Certificates") representing fractional undivided interests in one or more grantor trusts (each, a "Grantor Trust"), to be formed under separate Trust Agreements between the Bank, as Trustee (the "Pass Through Trustee"), and the Company. Each Trust Agreement will be qualified as an Indenture under the Act and is referred to herein as a "Qualified Indenture".

6. The Loan Certificates to be issued under each Lease Indenture are to be refinanced by means of the relevant Owner Trustee issuing multiple series (anticipated to be four) of new Loan Certificates (such new Loan Certificates being referred to as "Equipment Notes") to the Bank as Pass Through Trustee under an equal number of Grantor Trusts. The Equipment Notes purchased by the Pass Through Trustee under each Grantor Trust will be purchased with the proceeds of the public offering of Pass Through Certificates relating to such Grantor Trust issued pursuant to the related Qualified Indenture. The proceeds from such purchases will be applied to redeem in full the outstanding Loan Certificates under the Lease Indentures.

7. Each series of the Equipment Notes issued by the Owner Trustee under a Lease Indenture will have a maturity and interest rate that differs from the other series issued thereunder, but a series issued under one Lease Indenture will have an identical maturity and interest rate to the corresponding series issued under each of the other three Lease Indentures. For tax reasons, it is not desirable for Pass Through Certificates to be issued under a single Qualified Indenture relating to multiple series of Equipment Notes having different maturities and interest rates. Accordingly, the four corresponding series of Equipment Notes issued under the four Lease Indentures that have an identical maturity and interest rate will be issued to a single Grantor Trust that will issue a series of Pass Through Certificates under a Qualified Indenture. The other series of Equipment Notes under each Lease Indenture, each series having a different maturity and interest rate, will be issued to separate Grantor Trusts issuing Pass Through Certificates under separate Qualified Indentures. Although the number of series of Equipment Notes to be issued under each Lease Indenture has not been finally established, it is currently anticipated that there will be four series and that, accordingly, four series of Pass Through Certificates will be issued under four Qualified Indentures.

8. Each Qualified Indenture will provide, pursuant to section 310(b) of the Act, for the resignation of the Pass Through Trustee in the event that it does not eliminate a conflicting interest, and will provide that trusteeship under another indenture of the Company constitutes a conflicting interest, provided, however, that the Company may apply to the Commission for a finding that no material conflict exists.

9. The Bank currently acts as Pass Through Trustee under six qualified indentures under which the Equipment Note Pass Through Certificates, Series 1987-A, are outstanding (the "1987 Qualified Indentures"), and as Loan Trustee under six separate leveraged

lease indentures related to the 1987 Qualified Indentures (the "1987 Lease Indentures").

10. The 1987 Qualified Indentures and the 1987 Lease Indentures were part of a single transaction whose structure is the prototype for the proposed transaction described above. Except for differences in the number of related leveraged lease indentures, the two structures are identical.

11. Each of the 1987 Lease Indentures relates to a separate leveraged lease transaction in which an Owner Trustee leases one McDonnell Douglas DC-9-82 Aircraft to the Company. In 1987, each Owner Trustee, for the benefit of institutional investors acting as equity participants, issued seven series of loan certificates (the "1987 Equipment Notes") under each 1987 Lease Indenture to seven separate grantor trusts. These grantor trusts in turn issued seven series of Pass Through Certificates under seven separate 1987 Qualified Indentures. (One series of 1987 Equipment Notes matured on January 1, 1988, and the Pass Through Certificates issued by the grantor trust holding such Equipment Notes were paid off. As a result, the 1987 Qualified Indenture under which such Pass Through Certificates were issued terminated, and thus only six 1987 Qualified Indentures remain.) The 1987 Equipment Notes issued with respect to each 1987 Lease Indenture are secured by a security interest in the aircraft to which such 1987 Lease Indenture relates and by the right of the Owner Trustee to receive rentals on such aircraft from the Applicant.

12. Each aircraft covered by a 1987 Lease Indenture is not covered by any other indenture, and the 1987 Equipment Notes issued under each 1987 Lease Indenture are separate from loan certificates issued under any other indenture.

13. The Pass Through Certificates issued under the 1987 Qualified Indentures represent undivided interests in the 1987 Equipment Notes held by the related Pass Through Trustee. The 1987 Equipment Notes are not covered by any other indenture, and The Pass Through Certificates issued under each 1987 Qualified Indenture are separate from loan certificates issued under any other indenture.

14. None of the 1987 Lease Indentures is subject to the Act and, accordingly, none contains the language regarding conflicts required by section 310(b) of the Act for qualified indentures.

15. Each 1987 Qualified Indenture provides, pursuant to section 310(b) of the Act, for the resignation of the Pass Through Trustee in the event that it does not eliminate a conflicting interest, and provide that trusteeship under another indenture of the Company constitutes a conflicting interest, provided, however, that the Company may apply to the Commission for a finding that no material conflict exists.

16. The Bank also acts as indenture trustee under an indenture, dated as of October 15, 1986, between the Bank and Wilmington Trust Company ("Wilmington"), which relates to a leveraged lease transaction in which Wilmington, as Owner Trustee for the benefit of certain institutional investors acting as equity participants, issued in a private placement loan certificates to institutional investors acting as loan participants. Such loan certificates had an original principal amount of $32,829,735 and have a final maturity date of January 2, 2005.

17. The proceeds of the issuance of the loan certificates issued under the Other Indenture were used by the Owner Trustee to purchase one Boeing 763-223 aircraft that was leased by such Owner Trustee to the Company. The Company is not a party to the Other Indenture (only Wilmington, as the Owner Trustee and as issuer of the loan certificates, and the Bank are parties), but the Company's unconditional obligation to make rental payments under the lease relating to such Other Indenture is the only credit source for principal and interest payments on the loan certificates.

18. The loan certificates issued under the Other Indenture are secured by a security interest in the aforementioned Boeing 763-223 aircraft and the right of the Owner Trustee to receive rentals on such aircraft from the Company. Such aircraft is not covered by any other indenture, and the loan certificates issued under the Other Indenture are separate from loan certificates issued under any other indenture.

19. The Other Indenture is not subject to the Act and, accordingly, does not contain the language regarding conflicts required by section 310(b) of the Act for qualified indentures.

20. The Company is not in default in any respect under any of the 1987 Qualified Indentures, the 1987 Lease Indentures or the Other Indenture and will not, at the time of execution thereof, be in default in any respect under any of the Qualified Indentures or the Qualified Indentures or the Lease Indentures.

The Company waives notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File Number 22-18686, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than October 7, 1988, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonthan G. Katz,

Secretary.

[FR Doc. 88-21402 Filed 9-19-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16561; 812-7071]

Hutton Municipal Series, Inc., et al.; Application

September 12, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Municipal Cash Reserve Management, Inc., Hutton Government Fund, Inc., Hutton AMA Cash Fund, Inc., Cash Reserve Management, Inc., Shearson Lehman Daily Tax-Free Dividend Inc., Shearson Lehman FMA Municipal Fund, Shearson Lehman Daily Dividend Inc., Shearson Lehman California Daily Tax-Free Fund, Shearson Government and Agencies Inc., Shearson FMA Cash Fund, Shearson FMA Government Fund, Shearson Lehman NY Daily Tax-Free Fund, Lehman Management Money Market Funds, Inc., Lehman Management Government Funds, Inc., Lehman Management Tax-Free Reserves Fund, Inc. (together, the "No-Load Funds"), Canadian Dollar Performance Portfolio L.P., Deutsche Mark Performance Portfolio L.P., Pound

Sterling Performance Portfolio L.P., Yen Performance Portfolio L.P., Managed Currency Portfolio L.P. (together, the "Currency Funds"), Hutton Municipal Series Inc., Hutton Master Series, Hutton National Municipal Fund Inc., Hutton California Municipal Fund Inc., Hutton New York Municipal Fund Inc., Hutton Institutional Fund Inc. (together, the "Hutton Front-End Load Funds"), Shearson Lehman Managed Governments Inc., Shearson Lehman Managed Municipals Inc., Shearson Lehman New York Municipals Inc., Shearson Lehman California Municipals Inc., Shearson Lehman Appreciation Fund Inc., Shearson Lehman Ohio Municipals, Shearson Lehman Massachusetts Municipals, Shearson Lehman New Jersey Municipals Inc., Shearson Lehman Michigan Municipals, Shearson Lehman Small Capitalization Fund, Shearson Lehman High Yield Fund Inc., Shearson Lehman Aggressive Growth Fund Inc., Shearson Lehman Fundamental Value Fund Inc., Shearson Lehman Global Opportunities Fund, American Telecommunications Trust, Shearson Lehman Precious Metals and Minerals Inc., Lehman Capital Fund, Inc., Lehman Investors Fund Inc. (together, the "Shearson Front-End Load Funds" and together with the Hutton Front-End Load Funds and the Currency Funds, the "Front-End Load Funds"), Hutton Investment Series Inc., Shearson Lehman Special Income Portfolios, Shearson Lehman Special Equity Portfolios (together, the "Back-End Load Funds") (together with the No-Load Funds and the Front-End Load Funds, the "Funds" and each individually, a "Fund"), E.F. Hutton & Company Inc. ("EFH") and Shearson Lehman Hutton Inc. ("SLH") and each future investment company or additional portfolio of an existing Fund for which EFH or SLH (or any of their respective subsidiaries or affiliates) serve as investment adviser, sub-investment adviser or administrator (sometimes referred to hereinafter as the "Investment Advisers") or as a distributor of such investment company's shares (sometimes referred to hereinafter as "Distributors"), which future investment companies or portfolios would have sales load structures and exchange programs substantially identical to those investment companies currently in existence (the "Additional Funds") (together with the Funds, EFH and SLH, the "Applicants").

Relevant 1940 Act Sections: Approval requested under Section 11(a) of the 1940 Act permitting certain offers of exchange.

Summary of Application: Applicants seek an order to permit exchanges of shares among the Funds on a basis described herein that may be at other than their respective net asset values at the time of the exchange.

Filing Date: The application was filed on July 15, 1988, amended and restated on July 25, 1988 and on August 30, 1988. Applicants will file a third amendment during the notice period, the substance of which is contained herein.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 3, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Willkie Farr & Gallagher, 153 East 53rd Street, New York, NY 10022, Attention: Burton M. Leibert, Esq.

FOR FURTHER INFORMATION CONTACT: James Banks, Staff Attorney (202) 272-2190, or Brion R. Thompson, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicants state that each Fund is an open-end management investment company registered under the 1940 Act. Each Fund (except the Currency Funds, the registration statements of which are not yet effective under the Securities Act of 1933, as amended (the "1933 Act")), offers shares under a currently-effective registration statement under the 1933 Act. EFH or SLH serves as the distributor of each Fund's shares which are offered at public offering prices as described in the application.

2. EFH, a broker dealer registered under the Securities Exchange Act of 1934 and an investment adviser registered under the Investment Advisers Act of 1940 as amended, is currently a wholly-owned subsidiary of the E.F. Hutton Group Inc. ("EFH Group"), a wholly-owned subsidiary of SLH. SLH, a registered broker-dealer and investment adviser is a wholly-owned subsidiary of SLH Holdings (formerly, Shearson Lehman Brothers Holdings Inc.), which is in turn a majority-owned subsidiary of American Express Company.

3. Applicants seek the ability to permit the following exchange offers between Funds:

(i) Shares of a Front-End Load Fund may be exchanged for shares of another Front-End Load Fund, except that if the sales load applicable to the shares of the Front-End Load Fund being purchased exceeds the maximum sales load that could have been imposed in connection with the shares previously purchased (at the time such shares were acquired) without giving effect to any applicable reduction in sales loads, the difference will be deducted. Any sales load charged with respect to the acquired security will be a percentage that is no greater than the excess, if any, of the rate of the sales load applicable to that security in the absence of an exchange over the total rate of any sales loads previously paid on the exchanged security. Accordingly, for example, exchanges of shares of a Currency Fund for shares of a Front-End Load Fund other than a Currency Fund generally would be subject to payment of only the difference between the sales load paid on shares of the Currency Fund and the sales load ordinarily assessed for acquiring shares of the Front-End Load Fund; exchanges of shares of a Front-End Load Fund for shares of a Currency Fund may be made on the basis of relative net asset value without the payment of sales load;

(ii) Shares of a No-Load Fund may be exchanged for shares of another No-Load Fund on the basis of relative net asset value without the payment of a sales load;

(iii) Shares of a Front-End Load Fund may be exchanged for shares of a No-Load Fund on the basis of relative net asset value without the payment of a sales load;

(iv) Shares of a No-Load Fund may be exchanged for shares of any Front-End Load Fund subject to the sales load normally charged by the Front-End Load Fund (unless the investment in those shares was previously subject to a sales load by one of the Front-End Load Funds or was acquired by dividend or distribution reinvestment in a Front-End Load Fund); and

(v) Shares of a Back-End Load Fund may be exchanged for shares of another Back-End Load Fund on the basis of relative net asset value without the payment of a sales load; (when shares of a Back-End Load Fund are exchanged for shares of another Back-End Load Fund, the purchase date for the shares of the Fund exchanged into will be assumed to be the date on which the shares were purchased in the Fund from which the exchange was made).

4. It is currently contemplated that exchanges between Funds would not be subject to the payment of any service charge. However, the Funds reserve the right to impose a nominal administrative fee in the future (in an amount not exceeding $5.00 per exchange), applied uniformly to all shareholders. Shareholders of the relevant Fund would receive at least 60 days written notice prior to the imposition of any administrative fee, and the Fund would supplement its prospectus to disclose the existence and amount of the fee prior to its implementation. In addition, any sales literature describing the right of exchange would also disclose the amount of any administrative fee that would be imposed on exchanges and any advertising that mentions the existence of the exchange privilege would also disclose the existence of any administrative fee imposed on exchanges.

5. Applicants will notify each Fund's shareholders of the exchange privilege and any administrative fee primarily by means of the particular Fund's prospectus. If any Fund modifies or terminates the exchange privilege, such Fund will provide shareholders a minimum of 60 days prior written notice of such modification or termination (except that in the case of a reduction or termination of any administrative fee, prior notice shall not be required), and such modification in a manner other than that contemplated by the application (but not termination) will be described in an amendment to the relief requested hereby.

6. Applicants are aware that some exchanges might provide an opportunity for brokers, acting ostensibly on behalf of their clients, to initiate exchanges for the broker's own benefit. However, Applicants represent that the Distributors have established sufficient internal review procedures to ensure that exchanges are made at the request of investors and not for the brokers' personal gain and that they are actively monitoring customer complaints and will continue to be alert to the possible abuses that might occur regarding the exchange privileges.

Applicants, Legal Conclusions

1. Applicants submit that the order requested is appropriate and in the public interest, and is consistent with the policies underlying the provisions of the 1940 Act.

2. Applicants submit that the proposed exchanges will be consistent with revised proposed Rule 11a–3 (Investment Company Act Release No. IC–16504, July 29, 1988), which would permit mutual funds and their principal underwriters to make exchange offers to shareholders of another fund in the same group of investment companies.

3. The Funds distributed by SLH and EFH are members of the same group of investment companies as defined in revised proposed Rule 11a–3, because SLH and EFH are under common control and hold themselves out to investors as related companies for purposes of investment and investors services.

Applicants' Proposed Conditions

If the requested order is granted, Applicants agree to the following conditions:

(i) Any administrative fee or any scheduled variation thereof will be uniformly applied to all offerees of the class specified;

(ii) The exchange privilege among Funds, as well as any administrative fee, will comply with the requirements of revised proposed Rule 11a–3 if and to the extent the Rule is adopted;

(iii) Shareholders of each Fund will be notified of any administrative fee that may be imposed on an exchange transaction by means of each Fund's prospectus and in other communications, including sales literature or advertising that describes the exchange program;

(iv) Shareholders of each Fund will be notified of the Fund's exchange program by means of the particular Fund's prospectus and in other communications, including sales literature or advertising;

(v) Shareholders of each Fund will be notified by means of the particular Fund's prospectus and in sales literature and advertising that discusses the exchange privilege of the fact that the Fund reserves the right to modify or terminate its exchange privilege;

(vi) Shareholders will be notified in writing at least 60 days prior to any modification or termination of a particular Fund's exchange privilege, except in the case of a reduction or elimination of any administrative fee or sales load in which case notice shall not be required; provided, however, that the temporary cessation of the sale of Fund shares under extraordinary circumstances such as when the Fund is unable to effectively invest amounts in accordance with applicable investment objectives, policies and restrictions, or the suspension of the redemption of Fund shares pursuant to section 22(e) of the 1940 Act and the rules and regulations thereunder shall not be considered a modification or termination of the particular Fund's exchange privilege;

(vii) Except as may otherwise be permitted by revised proposed Rule 11a–3, as adopted, Applicants undertake to obtain an amended order prior to any modification (*i.e.*, manner, frequency or basis) of the Funds' exchange privilege in a manner not described in the application; provided, however, that an amended order is not required in order to terminate the Funds' exchange privilege or to impose a nominal administrative fee ($5.00 or less), or to reduce or terminate any such administrative fee imposed;

(viii) Applicants acknowledge that any order issued pursuant to this application is prospective in nature and, therefore, Applicants will not rely on any such order prior to its issuance as authority for any exchanges which occurred prior to the date of the order;

(ix) Reductions in the sales load of any of the Load Funds will be in accordance with the provisions of Rule 22d–1 under the 1940 Act; and

(x) Any Additional Funds sold with a sales load that offer an exchange privilege and that seek to utilize the exemption provided hereby will have sales load structures and exchange privileges substantially identical to one or more of the Funds included herein and will be subject to the representations and conditions included herein.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–21404 Filed 9–19–88; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–18103]

Application and Opportunity for Hearing; The Standard Oil Company and The British Petroleum Company p.l.c.

September 14, 1988.

Notice is hereby given that The Standard Oil Company ("Standard") and The British Petroleum Company ("British Petroleum") each an obligor (herein the "Company") under certain or

all of the nine indentures, as hereinafter described (the "Indentures"), have filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The Chase Manhattan Bank, (National Association) ("the Bank" or "Chase") as Trustee or Successor Trustee, under the Indentures between the Company and Bank which were heretofore qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bank from acting as trustee under any of these Indentures:

Chase is successor Trustee under an Indenture dated as of August 15, 1975 (the "1975 Indenture") among BP North American Finance Corporation ("BP North Finance"), British Petroleum (formerly known as The British Petroleum Company Limited), as guarantor, and Manufacturers Hanover Trust Company, which was heretofore qualified under the Act, relating to BP North Finance's 10% Guaranteed Debentures Due 2000;

Chase is Trustee under an Indenture dated as of February 1, 1976 (the "February 1976 Indenture") among BP North Finance, British Petroleum, as guarantor, and Chase, which was qualified under the Act, relating to BP North Finance's 9¼% Guaranteed Debentures Due 2001;

Chase is Trustee under an Indenture dated as of March 1, 1986 (the "March 1986 Indenture") among BP North America Inc., now known as BP America Inc., ("BP North"), British Petroleum, as quarantor, and Chase, which was heretofore qualified under the Act, relating unsecured debt securities to be issued thereunder by BP North from time to time;

Chase is Trustee under an Indenture dated as of May 15, 1987 (the "1987 Indenture") among BP North, British Petroleum, as guarantor, and Chase, which was heretofore qualified under the Act, relating to unsecured debt securities to be issued thereunder by BP North from time to time;

Chase is Trustee under an Indenture dated as of May 1, 1976 among Sohio Pipe Line ("Sohio"), The Standard Oil Company ("Standard"), as guarantor, and Chase, which was heretofore qualified under the Act, as amended by a First Supplemental Indenture dated as of September 30, 1987 among Sohio, Standard, as guarantor, British Petroleum, as additional guarantor, and Chase (the "May 1976 Indenture"), relating to Sohio's 8¾% Guaranteed Debentures Due May 1, 2001;

Chase is Trustee under an Indenture dated as of January 1, 1970 between Standard and Chase, which was heretofore qualified under the Act, as amended by a First Supplemental Indenture dated as of September 30, 1987 among Standard, British Petroleum, as guarantor, and Chase (the "1970 Indenture"), relating to Standard's 8½% Debentures Due January 1, 2000;

Chase is Trustee under an Indenture dated as of July 1, 1982 between Standard and Chase, which was heretofore qualified under the Act, as amended by a First Supplemental Indenture dated as of September 30, 1987 among Standard, British Petroleum, as guarantor, and Chase (the "1982 Indenture"), relating to unsecured debt securities to be issued thereunder by Standard from time to time;

Chase is Trustee under an Indenture dated as of November 15, 1986 between Standard and Chase, which was heretofore qualified under the Act, as amended by a First Supplemental Indenture dated as of September 30, 1987 among Standard, British Petroleum, as guarantor, and Chase (the "November 1986 Indenture"), relating to unsecured debt securities to be issued thereunder by Standard from time to time; and

Chase is successor Trustee under an Indenture dated as of May 1, 1971, as amended by First and Second Supplemental Indentures dated as of July 1, 1982 and January 12, 1987, respectively among Kennecott Copper Corporation ("Kennecott") (now known as Industrial Holdings Corporation), as succeeded by Standard Alaska Production Company ("Standard Alaska"), Standard, as guarantor, and Chemical Bank ("Chemical"), which was heretofore qualified under the Act, as further amended by a Third Supplemental Indenture dated as of September 30, 1987 among Standard Alaska, Standard, as guarantor, British Petroleum, as additional quarantor, and Chemical (the "1971 Indenture"), relating to Kennecott's 7⅞% Debentures Due 2001.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) As of September 9, 1988, BP North Finance had outstanding $32,990,000 aggregate principal amount of its 10% Guaranteed Debentures Due 2000 (the "10% Debentures") issued under the 1975 Indenture. The 10% Debentures were registered (Filed No. 2-54233) under the Securities Act of 1933, as amended (the "1933 Act").

(2) As of September 9, 1988, BP North Finance had outstanding $100,860,000 aggregate principal amount of its 9¼% Guaranteed Debentures Due 2001 (the "9¼% Debentures") issued under the February 1976 Indenture. The 9¼% Debentures were registered (File No. 2-55357) under the 1933 Act.

(3) As of June 30, 1988, BP North had outstanding $200,000,000 aggregate principal amount of its 9¼% Guaranteed Sinking Fund Debentures Due 2016 ("BP North's 9¼% Debentures") issued under the March 1986 Indenture. BP North's 9¼% Debentures and other debt securities to be issued from time to time under the 1986 Indenture were registered (File No. 33-3830) under the 1933 Act.

(4) As of June 30, 1988, BP North had outstanding $250,000,000 aggregate principal amount of its 9⅜% Guaranteed Notes Due 1997 (the "9⅜% Notes"), $200,000,000 aggregate principal amount of its 9½% Guaranteed Sinking Fund Debentures Due 2017 (the "9½% Debentures Due 2017"), $250,000,000 aggregate principal amount of its 9½% Guaranteed Notes Due 1998 (the "9½% Notes Due 1998") and $250,000,000 aggregate principal amount of its 9⅞% Guaranteed Sinking Fund Debentures Due 2018 (the "9⅞% Debentures Due 2018") issued under the 1987 Indenture. BP North's 9 3/8% Notes, the 9½% Debentures Due 2017, the 9½% Notes Due 1998, the 9⅞% Debentures Due 2018 and other debt securities to be issued from time to time under the 1987 Indebenture were registered (File No. 33-14640) under the 1933 Act.

(5) As of June 30, 1988, Sohio had outstanding $221,100,000 aggregate principal amount of its 8¾% Guaranteed Debentures Due May 1, 2001 (the "8¾% Debentures") issued under the May 1976 Indenture. The 8¾% Debentures were registered (File No. 2-56041) under the 1933 Act.

(6) As of June 30, 1988, Standard had outstanding $97,086,000 aggregate principal amount of its 8½% Debentures Due January 1, 2000 (the "8½% Debentures") issued under the 1970 Indenture. The 8½% Debentures were registered (File No. 2-35722) under the 1933 Act.

(7) As of June 30, 1988, Standard had outstanding $126,300,000 aggregate principal amount of its 13⅜% Notes Due September 15, 1992 (the "13⅜% Notes"), $150,000,000 aggregate principal amount of its 8% Notes Due September 15, 1993 (the "8% Notes"), $150,000,000 aggregate principal amount of its 7⅝% Notes Due August 15, 1991 (the "7⅝% Notes"), $300,000,000 aggregate principal amount of its 6.30% Debentures Due July 1, 2001 (the "6.30% Debentures"), $37,500,000 aggregate principal amount of its Oil Index Notes Due December 15, 1990 (the "Oil Index Notes Due 1990") and $37,500,000 aggregate principal amount of its Oil Index Notes Due March 15, 1992 (the "Oil Index Notes Due 1992") issued under the 1982 Indenture. The 13⅜% Notes, the 8% Notes, the 7⅝% Notes, the 6.30% Debentures, the Oil Index Notes Due 1990, the Oil Index Notes Due 1992 and other debt securities to be issued from time to time under the 1982 Indenture were registered (File No. 2–78399) under the 1933 Act.

(8) As of June 30, 1988, Standard had outstanding $100,000,000 aggregate principal amount of its 7% Debentures Due March 1, 1992 (the "7% Debentures Due 1992"), $150,000,000 aggregate principal amount of its 7% Debentures due December 15, 1991 (the "7% Debentures Due 1991"), and $3,100,000 aggregate principal amount of its Medium Term Notes (the "Medium Term Notes"), issued under the November 1986 Indenture. The 7% Debentures Due 1992 the 7% Debentures Due 1991, the Medium Term Notes and other debt securities to be issued from time to time under the November 1986 Indenture were registered (File No. 33–10372) under the 1933 Act.

(9) As of June 30, 1988, Kennecott had outstanding $120,108,000 aggregate principal amount of its 7⅞% Debentures Due 2001 (the "7⅞% Debentures") issued under the 1971 Indenture. The 7⅞% Debentures were registered (File No. 2–39601) under the 1933 Act.

The 10% Debentures, the 9¼% Debentures, BP North's 9¼% Debentures, the 9⅜% Notes, the 9½% Debentures Due 2017, the 9½% Notes Due 1998, the 9⅞% Debentures Due 2018, the 8¾% Debentures, the 8½% Debentures, the 13⅜% Notes, the 8% Notes, the 7⅝% Notes, the 6.30% Debentures, the Oil Index Notes Due 1990, the Oil Index Notes Due 1992, the 7% Debentures Due 1992, the 7% Debentures Due 1991, the Medium Term Notes and the 7⅞% Debentures are referred to herein collectively as the "Debentures".

(10) No debt securities other than the securities listed in paragraphs (1)–(9) above have been issued under the Indentures.

(11) With respect to the conflicting interests which arose when British Petroleum became a guarantor under those Indentures with respect to which Standard is an issuer and an additional guarantor under the Indentures with respect to which arose Standard is a guarantor, the Indentures are wholly unsecured and rank *pari passu inter se.* The obligations of British Petroleum, as guarantor or as additional guarantor under each of the Indentures, to make payments on the Debentures under the Indentures are on a par with one another in terms of right of payment. In the event that any of BP North Finance, BP North, Sohio, Standard and Standard Alaska (individually, the "Company" and collectively, the "Companies") fail to honor its obligations under any of the Indentures under which it is an obligor, claims against such Company would be unsecured claims, entitling the claimant to share pro rata in any distribution to unsecured creditors of such Company and/or British Petroleum.

(12) With respect to the conflicting interests which arose in connection with those Indentures under which Standard is an obligor as a result of Chase's successor trusteeship under the 1971 Indenture, the November 1986 Indenture which was previously filed with and reviewed by the Commission as aforesaid excluded from the operation of section 310(b)(ii) of the Act, the 1982 Indenture, the May 1976 Indenture and the 1970 Indenture. The same relationship which existed among the November 1986 Indenture, the 1982 Indenture, the May 1976 Indenture and the 1970 Indenture currently exists among each of those Indentures and the 1971 Indenture. As the Commission did not find a material conflict of interest with respect to the trusteeships of Chase under such Indentures at the time of the filing of the November 1986 Indenture, none should exist with respect to this application. Such differences as exist among the Indentures are not no likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under any of the Indentures.

(14) Chase has been informed by Standard and British Petroleum of this Application. Chase has advised Standard and British Petroleum that it concurs in this application and that it finds the application satisfactory under the circumstances, inasmuch as it does not consider that favorable action on this application would interfere with its ability to perform its duties as set forth in the Indentures;

(15) The Company is not in default under the Indentures or the Debentures issued thereunder respectively.

(16) The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File Number 22–18103, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested persons may, not later than October 7, 1988, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission. For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–21403 Filed 9–19–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26073; File No. SR–PSE–88–20]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to Changes in PSE Options Charges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 19, 1988, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory

organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Rule 19b–4 of the Act, is submitting this rule filing for the purpose of changing certain options charges.

Pursuant to this rule filing, as of August 19, 1988, certain options charges that were previously approved by the Exchange in two prior filings, SR–PSE–88–11 and SR–PSE–88–16,[2] will no longer be operative.[3] These charges are: Market Maker Give-up Charge, Market Maker Fee, Stock Execution Fee, and Independent Broker Fee, set forth below. In addition, this rule filing will reinstate these four options charges for a period of sixty (60) days from the date of this filing.

The options charges originally approved in Rule Filings SR–PSE–88–11 and SR–PSE–88–16, that will cease to be operative on August 19, 1988, and that are proposed to be reinstated for a 60 day period by this rule filing, are reprinted as follows:

Market Maker Give-up Charge—A charge of $.075 per contract on market maker business that is not effected by the market maker in person.

Market Maker Fee

A fee of $600 per month on all market makers to cover the costs of supporting the market maker trading system. New market makers without trading experience would be exempt from this fee for the first six months of their membership. This fee would be reviewed on a periodic basis.

Stock Execution Fee

A monthly flat fee of $1,000 for each member firm engaged in agency execution services. This fee replaced a charge that had been imposed in SR–PSE–88–11 on stock executions of $.001 (1/10 cent) per share, with a cap for block trades of 50,000 or more shares of $50. Trades executed on the PSE were exempt from this charge.

Independent Broker Fee

A charge of $.02 per contract side imposed on Independent brokers only. This fee replaced a Floor Broker Fee of $.02 per contract side on all floor broker executions that had been proposed in Rule Filing SR–PSE–88–11. Rule Filing SR–PSE–88–16 replaced the Floor Broker Fee with the Independent Broker Fee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

On June 20, 1988, and on August 3, 1988, the PSE filed Rule Filings SR–PSE–88–11 and SR–PSE–88–16, respectively.[4] These rule filings pertained to changes in the schedule of rates and charges in PSE equities operations, options operations and post cashering/post clearing, and were effective upon filing.

The changes to the fee structure in options operations were developed by the Options Committee. This Committee was composed of three Options Governors, one other options member, and the President and the Chief Financial Officer of the PSE. The Options Committee received input from floor members in developing the changes in fee structure. The charges proposed by this Committee were designed to provide revenues that are more assured of covering the fixed costs of operating the options trading floor.

It was the intent of the PSE, through these rule filings, to eliminate the previously approved 1988 member fee assessment. The 1988 member fee assessment is fully described in Rule Filing SR–PSE–88–06.[5]

The PSE, by this filing, SR–PSE–88–20, proposes that certain options charges contained in Rule Filings SR–PSE–88–11 and SR–PSE–88–16 will no longer be in effect. These changes are: Market Maker Give-up Charge, Market Maker Fee, Stock Execution Fee, and Independent Broker Fee. In addition, Filing No. SR–PSE–88–20 will reinstate these four options charges for a period of sixty (60) days from the date of this filing.

The proposed rate changes and this rule proposal are consistent with section 6(b)(4) of the Act in that they provide an equitable allocation of reasonable dues, fees and other charges among the members using the facilities of the PSE. In addition, the proposed rules are consistent with section 6(b)(5) of the Act in that they will enable the PSE to enhance its ability to facilitate transactions.

PSE has adopted the proposed rule changes pursuant to section 6(b)(5) of the Act, which requires that PSE's rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and, in general, protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PSE does not believe that the proposed rule changes impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule changes are a result of recommendations of the Options Committee, which was composed of 3 options members of the Exchange's Board of Governors, and one other options member. This Committee reviewed input from the options members on the proposed changes. No written comments were received by the PSE relating to Rule Filings SR–PSE–88–11 or SR–PSE–88–16. A written comment was received by the Commission on August 18, 1988, relating to three options charges approved in SR–PSE–88–11: The Market Maker Give-up Charge, the Market Maker Fee, and the Stock Execution Fee.[6]

[1] Amendment No. 1 to File No. SR–PSE–88–20 was received by the Commission on August 21, 1988. In conjunction with this filing, the PSE also filed with the Commission a proposed rule change, File No. SR–PSE–88–21, that would, if approved by the Commission, permanently approve the four options fees that are deleted and reinstated for a 60 day period in this proposed rule change. Notice of the proposed rule change, File No. SR–PSE–88–21, was given, pursuant to the requirements of section 19(b)(2) of the Act, in Securities Exchange Act Release No. 26074, September 12, 1988.

[2] File No. SR–PSE–88–11 was noticed by the Commission in Securities Exchange Act Release No. 25927, July 20, 1988, 53 FR 28305. File No. SR–PSE–88–16 was noticed by the Commission in Securities Exchange Act Release No. 26004, August 17, 1988, 53 FR 32315.

[3] *See* letter from John C. Katovich, Vice President and General Counsel, PSE, to Robert Sevigny, Attorney, Division of Market Regulation, dated August 19, 1988.

[4] *See* note 2, *supra*.

[5] *See* Securities Exchange Act Release No. 25617, April 26, 1988, 53 FR 15761.

[6] On August 18, 1988, the Commission received a comment letter from George H. Van Hasselt, a PSE options market maker, opposing three fees proposed by the PSE in File No. SR–PSE–88–11: The Market

Continued

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule changes have become effective immediately upon filing with the Commission pursuant to section 19(b)(3) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC, 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC, 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–88–20 and should be submitted by October 11, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 12, 1988.

Jonathan G. Katz,

Secretary

[FR Doc. 88–21454 Filed 9–19–88; 8:45 am]

BILLING CODE 8010–01–M

Maker Fee; the Market Maker Give-up Charge; and, the Stock Execution Fee. In his letter, Mr. Van Hasselt contended that the three specified fees unreasonably discriminate against market makers and create a burden on competition. Accompanying Mr. Van Hasselt's letter was a petition opposing the three specified options fees signed by Mr. Van Hasselt and 45 other PSE options market makers.

[Release No. 34–26074; File No. SR–PSE–88–21]

Self-Regulatory Organizations; Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to Changes in PSE Options Charges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 26, 1988, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Rule 19b–4 under the Act, is submitting this rule filing which relates to certain charges associated with options operations.

The Options charges that are proposed by this rule filing are as follows:[1]

Market Maker Fee

A fee of $600 per month on all market makers (as defined by Rule VI, section 73, of the Rules of Board of Governors of the PSE) to cover the costs of supporting the market maker trading system. Market makers without trading experience would be exempt from this fee for the first six months of their membership. Special Members and Market Makers on a leave of absence would also be exempt. This fee will be reviewed on a simi-annual basis.

[1]The PSE's Market Maker Fee, Market Maker Give-up Charge, and Stock Execution Fee were originally approved by the Exchange and submitted to the Commission in File No. SR–PSE–88–11. Pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder, the proposed fees became effective upon filing with the Commission. *See* Securities Exchange Act Release No. 25927, July 20, 1988, 53 FR 28305. The Stock Execution Fee was amended by the Exchange in File No. SR–PSE–88–16. In addition, that filing amended the Floor Broker Fee, previously adopted by the Exchange in SR–PSE–88–11, and changed it into the Independent Broker Fee. The fees proposed in SR–PSE–88–16 were effective upon filing with the Commission. *See* Securities Exchange Act Release No. 26004, August 17, 1988, 53 FR 32315. All four of these fees were deleted and then reinstated for a 60 day period by the Exchange in File No. SR–PSE–88–20. Notice of this filing was made in Securities Exchange Act Release No. 26073, September 12, 1988.

Market Maker Give-up Charge

A charge of $.075 per contract on market maker business that is not effected by the market maker in person.

Stock Execution Fee

A monthly flat fee of $1,000 for each member firm that engages in a stock execution business or service on an agency basis.

Independent Broker Fee

A charge of $.02 per contract side imposed on Independent brokers.

It is the intent of the PSE, by this rule filing, combined with earlier rule filings, to eliminate the 1988 member fee assessment. The 1988 member fee assessment if fully described in Rule Filing SR–PSE–88–06.[2]

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the purposed rule change. The text of these statements may be examined at the places specified in Item V below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

After extensive review of the cost structure and operating budget by the PSE, it was determiend that, in order to meet the operational, technology, and facilities needs of its long term business plan, and in response to lower securities volume, additional capital would be required. A general membership meeting was held on March 24, 1988, which detailed the operational budget, described the needs of the PSE, and discussed the proposed implementation of a member assessment until appropriate fees and charges could be implemented. The members were told that the fees and charges would be designed to reflect the costs and value of services provided by the PSE, as well as the technology needed to underwrite future growth. This assessment and the description of its purpose and comments received by the members were described in SR–PSE–88–06.[3]

[2]*See* Securities Exchange Act Release No. 25617, April 26, 1988, 53 FR 15761.

[3]*Id.*

At the March 24 meeting, the members were told that special member committees had been established by the Board to study the cost reductions and revenue enhancements available. One of these committees was the Options Committee, which consisted of three Options members of the PSE's Board of Governors, an additional options member, and the President and Chief Financial Officer of the PSE. Two of the Options members of the Board of Governors are independent Market Makers with no firm affiliation, one of whom was the Chairman of the Committee. The Chairman of the Committee stated at the March 24 member meeting that the Committee would meet on a regular basis and would welcome input from any member interested in attending.

The Options Committee received input on a regular basis from floor members in developing the changes in Options charges. On at least two occasions, open meetings were held on the Options Floor to explain the status of the Committee's reviews and to receive additional input from other options members. These meetings were announced on the floor public address system and in each trading crowd. In addition to these meetings, there were informal discussions on the Options Floor and with Market Maker groups. Moreover, the Committee met every other week and received presentations from a number of members and member firms.

The charges proposed by this Committee were designed to provide revenues that are more assured to cover fixed costs of operating the Options trading floor with a Market Maker system. The Committee's primary focus was to attempt to unbundle fees in order to charge members more directly for services used. The charges were also designed to improve PSE's competitiveness by providing the resources for systems improvements. One major aspect of increased competitiveness is the addition of technology to facilitate order routing and execution on the Option Floor.

The review of these revenues is the first step of a two step process to make the PSE more efficient and competitive. The first step involves restructuring the internal costs and revenues of the exchange and its members. The second step will be a review of costs and revenues affecting customer rates.

After Board review of the Committee recommendations, a second member meeting was held on June 21, 1988, to discuss the fees and charges that would be implemented. Those fees and charges were approved by the Exchange and filed with the Commission in File No. SR-PSE-88-11, which pertained generally to changes in the fee schedules for Equities operations, Options operations and Post Cashiering/Post Clearing. Pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder, the proposed fees became effective upon filing wiith the Commission. Two of the Options charges instituted in SR-PSE-88-11 were subsequently amended by the exchange in SR-PSE-88-16. Under these amendments the Stock Execution Fee was changed to a flat monthly fee of $1,000 rather than a per contract fee, and the Floor Fee was renamed the Independent Broker Fee under which Independent Brokers would be charged a fee of $.02 per contract side on all floor broker executions.

The Options charges proposed by this rule filing have been resubmitted for Commission consideration in respoonse to a comment letter received by the Commission on August 18, 1988 ("Memorandum"), objecting to three proposed Options fees contained in File No. SR-PSE-88-11.[4] The memorandum was accompanied by a petition objecting to the three specified fees signed by 46 PSE Options market makers. Of the 46 persons who signed the petition, 45 were PSE Members and one was a Special Member who is not subject to the contested charges. As a result of these objections, the PSE filed SR-PSE-88-20, which (a) deleted four proposed charges previously adopted by the Exchange and submitted to the Commission in File Nos. SR-PSE-88-11 and SR-PSE-88-16, and (b) reinstated those fees for a sixty-day (60) period.[5] SR-PSE-88-20 was filed with the Commission on August 19, 1988. Hence, the sixty-day (60) period runs from August 19 to October 18, 1988.

Because the specific charges were deleted from the original filings and subsequently approved for an interim 60-day period, the purpose of this filing is to reiterate the reasons for those charges, respond to the objections in the Memorandum, and seek permanent approval of those charges.

1. Market Maker Fee

The Market Maker Fee is a flat fee of $600 per month. This fee is intended to cover the cost of supporting the Market Maker trading system. (This fee would be reviewed on a semi-annual basis. SR-PSE-88-11 provided for a "periodic" review rather than a semi-annual review.)

In reviewing the costs and revenues of the Options Floor, the Options Committee studies the costs involved in maintaining the Market Maker system, as well as revenues needed to implement needed technology on the floor. The Committee first determined what revenue was needed, and then reviewed the costs associated with doing business on the Options Floor. It reviewed the activities of Floor Brokers, Member Firms, and Market Makers, and determined whether the costs associated with the services provided those members were accurately reflected in the fees charged. Where appropriate, new or higher rates were recommended.

After the Committee recommended new rates for specific services, it determined that there were additional services provided to Market Makers that could not be captured with a particular charge. Those services included, but were not limited to the maintenance of the Order Book and the implementation of new technology such as the Pacific Options Execution Transaction System (POETS). These services, in context of the overall funding required, resulted in

[4] As noted above, on August 18, 1988, the Commission received a memorandum from George H. Van Hasselt, a PSE Options market maker, that opposed three of the Options operations fees proposed in SR-PSE-88-11: (1) A new Market Maker Fee of $600 per month; (2) a Market Maker Give-up Charge of $.075 per contract on market maker business that is not effected by the market maker in person; and (3) a Stock Execution Fee of $.001 (1/10 cent) per share, with block trades of 50,000 or more shares capped at $50, on all trades not executed on the PSE. As noted previously, the Stock Execution Fee was subsequently amended in SR-PSE-88-16 and replaced with a flat monthly fee of $1,000 for each member firm engaged in agency stock execution services.

Mr. Van Hasselt contends that the three specified fees unreasonably discriminate against market makers and create an unfair burden on competition. He asked, in his Memorandum, that the Commission abrogate those fees. Briefly, he argues that the proposed $600 monthly Market Marker Fee unfairly discriminates against market makers. He contends that the PSE's statement that the fee is designed to cover the costs of supporting the market maker trading system is misleading and ambiguous. He asserts that the Exchange has not established any specific process for review of the fee, has not indicated any time limit for the duration of the fee, and has provided no estimate of the amounts that would be required to cover the targeted costs. Further, he contends that the Exchange made little effort to discuss the propsed fees with the general membership of the Options floor until after the fees had been enacted by the Board of Governors.

Mr. Van Hasselt also argues that the proposed Market Maker Fee, the Market Maker Give-up Charge, and the (previous) Stock Execution Fee, impose an unfair burden on competition which will adversely affect the public. He contends that these fees will impose higher transaction costs on market makers forcing them to limit themselves to conducting trades that will have a higher profit margin.

Finallly, he contends that the proposed Market Maker Give-up Charge discriminates against market makers who choose to do business off the floor.

[5] *See* note 1, *supra*.

the $600 Market Maker Fee. Rather than discriminating against the Market Makers, as the Memorandum argues, the Market Maker Fee is intended to support the Market Maker system, and to cover the costs of upgrading and implementing needed systems and operations.

Input from the membership in connection with fee increases was described above. It must also be noted that, with regard to the Market Maker Fee, additional input was received from the Options Members Association (OMA). The OMA is a representative cross section of members of the PSE Options Floor whose objectives are to study operations of the PSE. The OMA notified the Committee that it recommended a flat fee over a transaction-based charge or an issue-based charge, which has been suggested by some Market Makers.

The Memorandum argues that the proposed Market Maker Fee, along with the proposed Market Maker Give-up Charge and the (previous) Stock Execution Fee, will result in a reduction in liquidity, on the basis that Market Makers, because of higher transaction costs, will be forced to do only highly profitable trades. This argument lacks validity for a number of reasons. First, the Market Maker Fee is a flat fee, not transaction-based. Second, Market Makers do not typically enter into trades knowing what their profit on the finished trade will be. Competition between market makers will naturally drive that market to a competitive level, notwithstanding the fact that an additional $600 per month fee is being charged. Third, if costs to Market Makers increase, individual trading will become more competitive to cover the costs. Fourth, reduction in liquidity is a result of loss of external order flow, not individual Market Maker trading strategies. Fifth, Market Makers have an affirmative obligation in that they are obliged to trade for their own account to minimize order disparities and to contribute to continuity and depth. These obligations are set forth in Rule VI, section 79(b), of the PSE Rules of the Board of Governors. Market Makers also have an obligation to maintain a fair and orderly market under Rule VI, section 79(a) of the PSE Rules of the Board of Governors.[6]

The Memorandum argues that the Market Makers were singled out as a group, and further argues that Market Makers are "grossly under-represented on the Board of Governors." That is not the case. As mentioned above, the Committee that was responsible for recommending the revised fees and charges was made up of three Options Floor Governors and one other options member. Of the three Options Floor Governors, two are Market Makers, one of whom chaired the Committee. The Committee was aware that its recommendations would affect the costs of Market Makers relatively more than member firms and brokers, but it also knew that Market Makers had contributed proportionately less to covering costs in the past. In addition, it was the intent of the Committee to structure the charges so that they would be comprised of both fixed and variable types, for both Market Makers and Floor Brokers.

The Memorandum suggests that having two Market Makers on a 16 member Board creates "gross under-representation." What the Memorandum fails to point out, however, is that of 16 members (not including the Chairman and President), five are Floor Members. The PSE Constitution requires that at least two floor members be on the Board at all times, but the Board has consistently been comprised of five floor members. Of those five floor members, two are Market Makers, of the 551 members at the PSE, 479 are floor members. Of the 479 floor members, 250 are Market Makers. Accordingly, for strict proportional representation, Market Makers should number 2.6 Governors. Two Market Makers serving as Governors, therefore, does not constitute inadequate representation of the Market Maker population. In addition, it should be noted that, of the five floor members on the Board, there are three members from the Options Floor and one member each from the two Equity Floors. Of the three floors, Options representation is substantially higher.

It should also be noted that no written objections were received by the PSE, nor did any of the members who signed the petition avail themselves of the Options Committee. Although other Market Makers, member firms, and clearing firms did make presentations to the Committee, no member of the Committee was aware of the allegations contained in the Memorandum. The members were given every opportunity to object to the charges or to make presentation to the Committee with their reasons for the objections.[7] Instead, the PSE learned from the SEC on day before the expiration of the comment period that an objection was filed with the SEC.

2. Market Maker Give-up Charge

The Market Maker Give-up Charge is a charge of $.075 per contract on Market Maker business that is not effected by the Market Maker in person. This charge reflects, in part, the estimated time and costs spent by PSE in the added surveillance required to monitor these trades.

Although the Memorandum states that this charge also inhibits liquidity and is an unfair burden on competition, the PSE believes that it will have the opposite effect. By charging a Market Maker less for trades done in person, the Market Maker will be more likely to execute trades and provide a follow up market. The Market Maker also will be more likely to be present, in the crowd, should public customer orders reach the crowd. By providing incentives for higher percentage of Market Makers in the trading crowd, the PSE will increase competition in the crowd, facilitate order flow and liquidity, and better assure continuous, fair, and orderly markets.

3. Stock Executive Fee

The Stock Execution Fee is a flat monthly fee of $1,000 charged to member firms who engage in agency stock execution services. The Stock Executive Fee was originally set forth in SR-PSE-88-11, and was amended in SR-PSE-88-16.[8] As originally described, the Stock

[6] Rule VI, section 79(a) of the PSE Rules of the Board of Governors provides: Transactions of a Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no Market Maker should enter into transactions or make bids or offers that are inconsistent with such a course of dealings. Section 79(b) provides: A Market Maker is expected to engage, to a reasonable degree under the existing circumstances, in dealings for his own account with there exists, or its is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class.

See also definition of Market Maker in section 3(a)(38) of the Act.

[7] There were two specific examples of opportunities for members who signed the petition to provide input to the Committee. In one instance, John Brown, a Market Maker, was asked by the Committee to head a subcommittee that had been formed to review an alternative to the Market Maker system. Although the subcommittee met and discussed the issue, no recommendation was made to the Committee. In addition, the Committee did not hear from Mr. Brown again on either the subcommittee's issue, or any of the objections contained in the Memorandum. In another instance, George Van Hasselt, another Market Maker, had been involved in extensive discussions regarding and unrelated issue with the Chairman of the Committee throughout the Committee's existence. Not once, however, did Mr. Van Hasselt discuss any of the Memorandum's objections with the Committee Chairman.

[8] *See* note 1, *supra*.

Executive Fee was a charge on stock executions of 1/10 cent per share, with a $50 cap for block trades of 50,000 trades or more. PSE trades were exempt from this charge.

Total revenue per month from the flat fee is expected to be approximately the same as the revenue estimated from the transaction fee.

The PSE currently receives no revenue from stock trades originating on its Options Floor but executed away from its Equities Floors. Based on a survey conducted earlier this year, these types of equities trades account for approximately 80% of all equities trades originated on the Options Floor, or between 4 and 6 million shares per week. Firms that provide stock execution services utilize the facilities of the PSE, but are not charged fees that cover the associated costs to the PSE.

The Options Committee continued to review the Stock Execution Fee subsequent to filing SR-PSE-88-11. In addition, the PSE held meetings between Board members and PSE staff to review the substance of the fee. The Options Committee, which had input from stock execution firms and stock clearing firms, preferred a simpler method to obtain the same objective. As as result, the original transaction fee was replaced with the proposed flat fee.

The Memorandum opposed the Stock Execution Fees as it appeared in the original rule filing, SR-PSE-88-11 (a fee of 1/10 cent per share on all stocks not traded on the PSE). This fee was amended in SR-PSE-88-16 as a flat monthly $1,000 fee. Thus, as a result of the amendment, the argument that the fee unfairly discriminates against Market Makers who trade on other exchange is now moot. For the same reasons as cited in the Market Maker Fee section above, the PSE does not believe that the implementation of this charge reduces liquidity or discriminates against any type of member. Rather, the fee is solely designed to more equitably distribute general floor costs amongst the members utilizing the facilities.

4. Independent Broker Fee

The Independent Broker Fee is a charge of $.02 per contract side imposed on Independent Brokers only. A Floor Broker Fee of $.02 per contract side on executions done by Institutional Brokers and Independent Floor Brokers had been proposed in Rule Filing SR-PSE-88-11. Rule Filing SR-PSE-88-16 replaced the Floor Broker Fee with the Independent Broker Fee.

Independent Floor Brokers are individual members who are not affiliated with any member firm, and who conduct a majority of their business as floor brokers. The Independent Floor Brokers pay only membership dues to the PSE. No other charges are imposed on them, yet they utilize the services provided by the PSE. The PSE reasoned that, since these Brokers pay only the minimum charges, $.02 per contract side charge would reflect a more equitable consideration for the services utilized by them.

Institutional Floor Brokers are floor brokers that do retail, correspondence retail, and institutional business. These brokers have had additional charges imposed in File No. SR-PSE-88-11 including both fees and report charges.

As a result of ongoing discussions between the Options Committee, Board members, and PSE staff, and the fact that there are distinct and separate reasons for imposing the charge on the two types of Brokers, the PSE decided that it was better to separate the charges. Thus, the Floor Broker Fee was amended so that it would be imposed on Independent Brokers only. Further research will be needed to determine whether a separate fee for Institutional Brokers is appropriate.

Compliance with Securities Exchange Act of 1934

The proposed rate changes and this rule proposal are consistent with section 6(b)(4) of the Securities Exchange Act of 1934 (the "Act") in that they provide an equitable allocation of reasonable dues, fees and other charges among the members using the facilities of the PSE. In addition, the proposed rules are consistent with section 6(b)(5) of the Act in that they will enable the PSE to enhance its ability to facilitate transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PSE does not believe that the proposed rule changes impose a burden on competition. Rather, the changes are intended to enhance overall competition by properly assessing costs and fees. The proposed rule changes will not have an impact on public investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The proposed rule changes are a result of recommendations of the Options Committee, which was composed of 3 Options Governors, and one other Options Member. This Committee reviewed input from the Options members on the proposed changes. No written comments were received by the PSE relating to Rule Filings SR-PSE-88-11 or SR-PSE-88-16. A written comment was received by the SEC on August 18, 1988, relating to three Options charges: the Market Maker Give-up Charge, the Market Maker Fee, and the Stock Execution Fee.[9]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PSE requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2). The PSE filed SR-PSE-88-20 on August 19, 1988, for the purpose of giving a sixty (60) day temporary effectiveness to these Options charges. The PSE requests that this rule change become effective prior to the expiration of the sixty day period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-88-21 and should be submitted by October 11, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: September 12, 1988.

[FR Doc. 88-21455 Filed 9-19-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council Meeting; Public Meeting; Georgia

The U.S. Small Business Administration Region IV Advisory

[9] *See* note 3, *supra.*

Council, located in the geographical area of Georgia, will hold a public meeting from 10:00 a.m. to 4:00 p.m., on Wednesday, October 12, 1988, at the Small Business Development Center, University of Georgia, 1180 East Broad Street, Athens, Georgia 30602.

The purpose of the meeting is to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred A. Stone, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309—(404) 347–4749.

September 13, 1988.

Jean M. Nowak,

Director, Office of Advisory Council.

[FR Doc. 88–21444 Filed 9–19–88; 8:45 am]

BILLING CODE 025–01–M

Region X Advisory Council Meeting; Public Meeting; Oregon

The U.S. Small Business Administration Region X Advisory Council, located in the geographical area of Portland, Oregon, will hold a public meeting at 10 a.m. on Wednesday, October 12, 1988, in the Lane Community College, SBDC Conference Center, 1059 Williamette, Eugene, Oregon, to discuss such matters as may be presented by council members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. John L. Gilman, District Director, U.S. Small Business Administration, 1220 SW. Third Avenue, Room 676, Portland, Oregon 97204–2882, Phone (503) 294–5221.

September 13, 1988.

Jean M. Nowak,

Director, Office of Advisory Council.

[FR Doc. 88–21445 Filed 9–19–88; 8:45 am]

BILLING CODE 8025–01–M

Presidential Advisory Committee on Small And Minority Business Ownership; Public Hearing

The Presidential Advisory Committee on Small and Minority Business Ownership will hold a public hearing from 1:00 p.m. until 6:30 p.m. on Thursday, September 22, 1988, in conjunction with the Third Annual Conference of the National Association of Black and Minority Chambers of Commerce. The hearing will be held in the Crescent Ballroom at the Doubletree Hotel located at 300 Canal Street, New Orleans, Louisiana 70140.

The Committee will meet in a closed executive session from 1:00 p.m. to 3:30 p.m. and hold a general hearing open to the public from 3:30 p.m. until. At the hearing, the Committee will welcome specific testimony from private sector executives, local officials, trade associations, small and minority business entrepreneurs, pertaining to the following Federal procurement mandates: Public Law 95–507, particularly section 6(d), Pub. L. 99–661, section 1207 (Department of Defense 5% Set-Aside), Pub. L. 100–180, section 806 and the insertion of incentive clauses to further the utilization of small and small disadvantaged businesses. Your past experiences with these programs and any other comments you may wish to render are solicited.

Persons wishing to present testimony should plan an oral presentation of no longer than ten minutes and allow five minutes for questions from the Presidential Advisory Committee Members.

Should you not be able to personally attend, you may present written testimony which will be entered into the official record and considered when the Committee makes recommendations to the President of the United States and the Congress.

If you plan to offer testimony, please contact Milton Wilson, Presidential Advisory Committee Coordinator, (202) 653–6526, to secure time on the agenda. Written testimony will be received up to October 3, 1988, using the following address: Presidential Advisory Committee on Small and Minority Business Ownership, U.S. Small Business Administration, 1441 L Street NW., Room 602, Washington, DC 20416, Attn: Milton Wilson, PAC Coordinator.

September 13, 1988.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 88–21446 Filed 9–19–88; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/1218]

Secretary of States Advisory Committee on Private International Law, Study Group on International Electronic Transactions; Meeting

The Department of State's Study Group on International Electronic Transactions will hold its third meeting at 11:00 a.m. on Tuesday, October 4th, 1988 in New York City at the Federal Reserve Bank of New York, 59 Maiden Lane, 15th Floor Conference Room. The Study Group functions as part of the Secretary of State's Advisory Committee on Private International Law, and will provide guidance for United States positions with respect to projects of various international organizations in the field of electronic transactions.

The purpose of this meeting will be to review the results of the July 1988 meeting of the United Nations Commission on International Trade Law (UNCITRAL) Working Group on International Payments. The Study Group will also have before it the latest draft Model Rules on Electronic Funds Transfers prepared by the UNCITRAL Secretariat. The meeting will focus on positions to be taken by the United States delegation at the next UNCITRAL Working Group meeting on this subject scheduled for December 1988.

The agenda of the Study Group will include the following issues: Whether proposed UNCITRAL rules should apply to domestic portions of international transactions whether they should apply to electronic transactions only or also to paper-based transactions; whether they should cover all financial institutions; whether they can avoid specific technologies or national financial systems; whether the rules should cover conflicts of laws; what definitions should be applied; what the obligations, rights and liabilities of various parties should be; and how finality of a transaction should be determined.

Members of the Drafting Committee on Amendments to Uniform Commercial Code Articles 3 and 4 (Current Payment Methods) of the National Conference of Commissioners on Uniform State Laws have been invited to attend the meeting and comment on the relationship between the Uniform Commercial Code project and the UNCITRAL project.

Additional information on the meeting, including copies of the draft Model Rules, may be obtained by contracting Harold S. Burman, Office of the Assistant Legal Adviser for Private International Law, (L/PIL), Room 6417, Departmemt of State, Washington, DC 20520, or by calling (202) 653–9852). Further information on the UNCITRAL project may be obtained by contacting the United Nations Sales Section, New York, NY at (212) 963–8302 and ordering the "UNCITRAL Legal guide on

Electronic funds Transfers" (refer to Sales document No. E.87.V.9), and subsequent reports of the UNCITRAL Secretariat and Working Group on International Payments.

Members of the general may attend up to the capacity of the conference room. Those wishing to attend should notify the above office not later than September 28th of their name, affiliation, address and telephone number. Persons interested but unable to attend the meeting may submit comments or proposals to the address indicated above.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 88-21538 Filed 9-19-88; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration,

Office of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes October 21, 1988.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10034-N	Aerojet Solid Propulsion Company, Sacramento, CA.	49 CFR 173.239a(a)(2)	To authorize a one-time shipment of 200 non-DOT Specification tote bins containing ammonium perchlorate classed as an oxidizer. (Modes 1, 2).
10035-N	Allied Drum Service, Louisville, KY	49 CFR 178.115-10(a), Part 173 Subparts D, E, F, and H, 175.3.	To authorize manufacture, marking and sale of drums conforming to DOT Specification 17C except for embossing on the body of drums for shipment of those hazardous materials presently authorized in DOT Specification 17C drums. (Modes 1, 2, 3, 4.)
10036-N	Action-Pak, Inc., Bristol, PA	49 CFR 173.113	To authorize shipment of detonating fuze, Class C explosive, in a DOT specification 23F65 box containing a gross weight of 75 pounds, consolidated 12 cartons on a skid which is shrink-wrapped. (Mode 1.)
10037-N	NCH Corporation, Irving, TX	49 CFR 173.286, 175.3	To authorize shipment of chemical kits containing various corrosive materials, Class B poisons, and flammable liquids, in limited quantities (2 ounces or less) in glass and plastic bottles, packed into one single rigid plastic box, overpacked in a strong fiberboard carton. (Modes 1, 2, 3, 4, 5.)
10038-N	General American Transporation Corp., Chicago, IL.	49 CFR 173.31(a)(5), 173.31(a)(6), 173.31(a)(7).	To authorize a one-time shipment of tank cars built to a DOT Specification, except that they are not equipped with a coupler vertical restraint system, containing residue of a hazardous material from various locations to a scrap yard for dismantling. (Mode 2.)
10039-N	Vertex Chemical Corporation, St. Louis, MO.	49 CFR 174.67(i) 174.67(j)	To allow tank cars of liquid chlorine, classed as a nonflammable gas, to have the unloading device left in place with unloading incomplete and the tank car left unattended. (Mode 2.)
10040-N	Atlas Powder Company, Dallas, TX	49 CFR 173.133	To authorize shipment of a material classed as a flammable liquid, containing 10.2 percent nitroglycerin in a DOT specification 21P fiber drum with a 2S or 2SL liner not exceeding 30 gallons capacity. (Modes 1, 3.)
10041-N	Lofland Company of Arkansas, Little Rock, AR.	49 CFR 173.245(a)(31)	To authorize shipment of asphalt admixtures, corrosive liquid, n.o.s., classed as a corrosive material in a DOT specification MC-306 cargo tank. (Mode 1.)
10042-N	Ausimont, USA, ELizabeth, NJ	49 CFR 173.315a	To authorize bulk shipment of 56% by weight Tetrafluoroethylene, 44% by weight Hydrogen chloride gas mixture, compressed gas, n.o.s. classed as a flammable gas in an IMO Type 7 portable tank. (Modes 1, 3.)
10043-N	Texas Instruments, Inc., Dallas TX	49 CFR 173.12	To authorize shipment of various hazardous waste materials, classified as flammable liquid, flammable solid, corrosive liquid, poison B or ORM-A,B,C and E in inside packagings ranging in size from 1 pint to 55 gallon drums in outside polyethylene bins with a 30 cubic foot capacity. (Mode 1.)
10044-N	Portersville Sales and Testing, Inc., Portersville, PA.	49 CFR 173.302, 173.34(e), Part 107, Appendix B.	To authorize DOT specification 3AAX and 3T cylinders to be periodically retested by acoustic emission equipment instead of hydrostatic retest and to allow latitude in external inspection and other deviations related to acoustic emission testing. (Modes 1, 3.)
10045-N	Federal Express Corporation, Memphis, TN.	49 CFR 173.447(a), 177.842(a), 177.842(b).	To authorize shipment of non-fissile radioactive materials via motor vehicle when the combined transport index exceeds 50 and/or separation distances cannot be maintained. (Mole 1.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10046-N	Eveready Battery Company, Inc., Cleveland, OH.	49 CFR 172.101, 172.420, 173.206, 175.3.	To authorize shipment of lithium batteries, classed as flammable solid, or devices containing these batteries, classed as flammable solid, with the quantity of lithium and number cells in the batteries exceeding those prescribed. (Modes 1, 2, 3, 4, 5.)
10047-N	Taylor-Wharton, Division of HARSCO Corporation, Harrisburg, PA.	49 CFR 173.302, 173.304, 173.305, 178.37, 175.3.	To manufacture, mark and sell non-DOT specification seamless steel cylinders similar to DOT specification 3AA for shipment of various compressed gases. (Modes 1, 2, 3, 4.)
10048-N	Epichem, Inc., Bethlehem, PA	49 CFR 173.119, 173.134, 173.154	To authorize shipment of certain pyrophoric liquids, n.o.s., flammable liquids, n.o.s. and flammable solids, n.o.s. in non-DOT specification stainless solids, n.o.s. in non-DOT specification stainless steel cylinders (blubblers) over packed in 17C open head drums. (Modes 1, 3.)
10049-N	Martin Gas Sales, Inc., Kilgore, TX	49 CFR 173.318, 173.338	To authorize shipment of ethylene, refrigerated liquid, classed as a flammable gas, in an non-DOT specification cargo tanks comparable to DOT specification MC-338. (Mode 1.)
10050-N	Ceodeux, S.A., Lintgen, Luxembourg	49 CFR 173.327	To authorize use of pnematically operated valves on cylinders containing poison A materials in lieu of the required packless valve having a handwheel. (Mode 1.)
10051-N	Atlantic Coast Stevedores, Inc., Elizabeth, NJ.	49 CFR 171.12(d), 176.11(a)(2)(i)	To authorize shipment of radioactive materials in accordance with the IMDG Code in lieu of 49 CFR. (Modes 1, 3.)
10052-N	Hilti-Ciba-Geigy Construction Chemical, Tulsa, OK.	49 CFR 173.306, 175.3, 178.33a	To authorize shipment of limited quantities of compressed gas, n.o.s., classed as nonflammable gas, in non-DOT specification containers comparable to DOT specification 2Q. (Modes 1, 4.)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 19, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation

[FR Doc. 88-21456 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-60-M

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes October 6, 1988.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2709-X	Atlantic Research Corporation, Camden, AR.	2709
2709-X	Atlas Powder Company, Dallas, TX (See Footnote 1).	2709
2709-X	Trojan Corporation, Spanish Fork, UT.	2709
2709-X	IRECO Incorporated, Salt Lake City, UT.	2709
2709-X	Atlas Powder Company, Dallas, TX.	2709
2709-X	U.S. Department of Defense, Falls Church, VA.	2709
3630-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	3630
4575-X	EM Science, Cincinnati, OH.	4575
4575-X	Union Carbide Corporation, Danbury, CT.	4575
4631-X	Nitrochem Energy Corporation, Biwabik, MN.	4631
5022-X	National Aeronautics and Space Administration, Washington, DC.	5022
5248-X	Rockwell International Corporation, Anaheim, CA.	5248
5704-X	Atlas Powder Company, Dallas, TX (See Footnote 2).	5704
6267-X	Bio-Lab, Incorporated, Decatur, GA.	6267
6267-X	Coastal Industries, Incorporated, Carlstadt, NJ.	6267
6349-X	Union Carbide Corporation, Danbury, CT.	6349
6518-X	AKZO Chemicals, Inc., Chicago, IL.	6518
6695-X	Atochem, Paris, France	6695
6874-X	Mitsui & Company (U.S.A.), Inc., New York, NY.	6874

Application No.	Applicant	Renewal of exemption
6922-X	Great Lakes Chemical Corporation, El Dorado, AR.	6922
6922-X	Shin-Etsu Silicones of America, Inc., Torrance, CA.	6922
6922-X	Shin-Etsu Chemical Co., Ltd., Tokyo, Japan.	6922
6932-X	Atochem, Paris, France....	6932
7046-X	J.T. Baker Chemical Company, Phillipsburg, NJ.	7046
7052-X	Hydril Production Technology Division, Houston, TX.	7052
7052-X	Wimpol, Inc., Houston, TX.	7052
7285-X	Atochem, Paris, France....	7285
7495-X	Ethyl Corporation, Baton Rouge, LA (See Footnote 3).	7495
7846-X	Union Carbide Corporation, Danbury, CT.	7846
7873-X	Bromine Compounds, Limited, Beer Sheva, Israel.	7873
8063-X	Taylor-Wharton, Division of Harsco Corporation, Indianapolis, IN.	8063
8119-X	BJ-Titan Services, Houston, TX.	8119
8141-X	Whittaker-Yardney Power Systems, Waltham, MA.	8141
8214-X	Mercedes-Benz of North America, Inc., Montvale, NJ (See Footnote 4).	8214
8445-X	University of Minnesota, Minneapolis, MN.	8445
8451-X	Reynolds Industries Systems, Inc., San Ramon, CA.	8451
8451-X	Ensign-Bickford Company, Simsbury, CT.	8451
8453-X	Columbus Powder Company, Columbus, IN.	8453
8477-X	Mobay Corporation, Pittsburgh, PA.	8477
8522-X	Tuscarora Plastics, Inc., Sterling, VA.	8522
8526-X	3M, Saint Paul, MN.....	8526
8554-X	Austin Powder Company, Cleveland, OH.	8554
8554-X	Mesabi Powder Company, Cleveland, OH.	8554
8554-X	Southwestern Explosives, Inc., Cleveland, OH.	8554
8554-X	Atlas Powder Company, Dallas, TX.	8554
8554-X	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	8554
8554-X	Olson Explosives, Inc., Decorah, IA.	8554
8580-X	Priority Air, Incorporated, Sanford, FL.	8580
8679-X	MicroD International, Burnsville, MN.	8679
8723-X	A.E. Sibley, Inc., Middlefield, CT.	8723
8748-X	Battelle, Pacific Northwest Laboratories, Richland, WA.	8748
8748-X	GE/Reuter-Stokes, Inc., Twinsburg, OH.	8748
8787-X	Motorola Semiconductor Sector, Phoenix, AZ.	8787
8806-X	Natico, Inc., Chicago, IL...	8806
8867-X	3M, St. Paul, MN.....	8867
8871-X	Chase Packaging Corporation, Greenwich, CT (See Footnote 5).	8871
8873-X	Akzo Chemicals, Inc., Chicago, IL.	8873
8923-X	Union Carbide Corporation, Danbury, CT.	8923
8927-X	HTL Division of Pacific Scientific Co., Duarte, CA.	8927
8942-X	Poly Processing Company, Inc., Monroe, LA.	8942
8942-X	Poly Cal Plastics, Inc., French Camp, CA.	8942
8952-X	Trojan Corporation, Spanish Fork, UT.	8952
8958-X	GOEX, Incorporated Belin Plant, Moosic, PA.	8958
9153-X	The Dow Chemical Company, Freeport, TX.	9153
9193-X	Schluberger Well Services, Houston, TX.	9193
9197-X	Greif Brothers Corporation, Springfield, NJ.	9197
9222-X	Clean Harbors of Kingston, Inc., South Boston, MA.	9222
9271-X	Union Pacific Railroad Company, Omaha, NE.	9271
9271-X	Missouri Pacific Railroad Company, Omaha, NE.	9271
9280-X	Dow Corning Corporation, Midland, MI.	9280
9280-X	Union Carbide Corporation, Danbury, CT.	9280
9282-X	Halocarbon Products Corporation, North Augusta, SC.	9282
9302-X	Airplanes, Inc dba Cal-West Aviation, Concord, CA.	9302
9305-X	ARCO Pipe Line Company, Independence, KS.	9305
9327-X	Precision Measurement, Inc., Tulsa, OK.	9327
9331-X	Rio Linda Chemical Company, Sacramento, CA.	9331
9498-X	Rentokil, Incorporated, Norcross, GA (See Footnote 6).	9498
9548-X	Ethyl Corporation, Baton Rouge, LA.	9548
9583-X	Schlumberger Well Service, Houston, TX.	9583
9584-X	Schlumberger Well Services, Houston, TX.	9584
9618-X	ENPAC Corporation, Jacksonville, FL.	9618
9652-X	Western Atlas International, Inc., Houston, TX.	9652
9659-X	Compositek Corporation, Brea, CA.	9659
9670-X	Hercules, Incorporated, Wilmington, DE.	9670
9702-X	Chase Packaging Corporation, Greenwich, CT.	9702
9704-X	Western Atlas International (formerly Dresser), Houston, TX.	9704
9722-X	Russell-Stanley West, Inc., Rancho Cucamonga, CA (See Footnote 7).	9722
9819-X	Halliburton Company, Duncan, OK (See Footnote 8).	9819
9884-X	Puritan-Bennett Corporation, Indianapolis, IN (See Footnote 9).	9884
9923-X	Chemical Handling Equipment Company, Inc., Toledo, OH (See Footnote 10).	9923

[1] To authorize carriage of several Class A or Class B explosives in the same motor vehicle.

[2] To authorize carriage of several Class A or Class B explosives in the same motor vehicle.

[3] To authorize extension of the periodic retest and reinspection from 3 years to 5 years and replacement of the DOT MC 331 reference with DOT Specification 51.

[4] To authorize an additional device described as an air bag module, classed as Flammable solid.

[5] To authorize an additional material described as Soduim hydrosulfite and classed as Flammable solid.

[6] To authorize shipment of Copper arsenide, classed as Poison B, in a non-DOT flexible intermediate bulk polypropylene bag.

[7] To authorize several different types of materials classed as either Corrosive material, Poison B, Flammable liquid, Organic peroxide or Oxidizer.

[8] To authorize the deletion of the prototype testing requirement and the deletion of the cargo tank marking and placarding requirement.

[9] To authorize marking of the package with letters ¼ inch high instead of 2 inches high and adding an additional transport system.

[10] To authorize Combustible liquids as additional materials and cargo vessel as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
6418-P	Cenex Land O Lake, Vancouver, WA.	6418
6418-P	The McGregor Co., Colfax, WA.	6418
6418-P	Quincy Farm Chemicals, Inc., Quincy, WA.	6418
6418-P	Nexus Ag Chemicals, Inc., Quincy, WA.	6418
6418-P	Tri-River Chemical Company, Inc., Pasco, WA.	6418
6614-P	Leslie's Swimming Pool Supplies, Chatsworth, CA.	6614
7811-P	Mallinckrodt, Inc., Paris, KY.	7811
8518-P	Coast Vacuum Truck Service, Inc., Santa Maria, CA.	8518
8518-P	Parris Vacuum Service, Inc., Bakersfield, CA.	8518

Application No.	Applicant	Parties to exemption
8937-P	L-Bar Products Inc., Ravensdale, WA.	8937
9275-P	Qual-Pro-Services, Inc., Mahwah, NJ.	9275
9275-P	BIC Corp., Milford, CT.....	9275
9355-P	Matsushita Battery Industrial Co., Ltd., Moriguchi—Osaka 570 Japan.	9355
9381-P	Dominion Zinc Co., Spokane, WA.	9381
9480-P	Liquid Carbonic Specialty Gas Corp., Chicago, IL.	9480
9676-P	Mallinckrodt, Inc., Paris, KY.	9676
9708-P	Reade Manufacturing Co., Lakehurst, NJ.	9708
9708-P	Hart Metals, Inc., Tamaqua, PA.	9708
9785-P	Ivaran Agencies, Inc., New York, NY.	9785
9785-P	Farrell Lines Inc., New York, NY.	9785
9785-P	Orient Overseas Container Line Ltd., Hongkong, China.	9785
9785-P	Associated Container Transportation (U.S.A.), New York, NY.	9785

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on September 14, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 88-21457 Filed 9-19-88; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 182
Tuesday, September 20, 1988

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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Thursday, September 22, 1988, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Kerosene Heaters Petition CP 87-1

The staff will brief the Commission on petition CP 87-1 from the National Kerosene Heater Association which requests the development of a consumer product safety rule for kerosene heaters containing requirements to limit nitrogen dioxide emissions of kerosene heaters and imposing all of the requirements for kerosene heaters now set forth in the Underwriters Laboratories standard for kerosene heaters designated UL standard 647. The staff will also brief the Commission on the International Association of Fire Chief's request that the Commission require kerosene heaters be labeled to warn against flare-up fires.

Closed to the Public

2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207, 301-492-6800

September 15, 1988.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88-21477 Filed 9-16-88; 9:11 am]

BILLING CODE 6355-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, September 26, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of communications network equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 16, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-21556 Filed 9-16-88; 3:36 pm]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 53, No. 182
Tuesday, September 20, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S-836]

Farrell Lines, Inc.; Application for a Waiver of Section 804(a) of the Merchant Marine Act

Correction

In notice document 88-21255 appearing on page 36148 in the issue of Friday, September 16, 1988, make the following correction: In the third column, in the first complete paragraph, in the eighth line, "not" should read "now".

BILLING CODE 1505-01-D

federal register

Tuesday
September 20, 1988

Part II

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

September 1, 1988.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of September 1, 1988 of 22 deferrals contained in the four special messages of FY 1988. There have been no resicissions proposed. These messages were transmitted to the Congress on October 1 and 29, 1987, February 19, and July 29, 1988.

Rescissions (Table A and Attachment A)

As of September 1, 1988, There were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of September 1, 1988, $2,887.0 million in budget authority was being deferred from obligation. Atttachment B shows the history and status of each deferral reported during FY 1988.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 52, FR p. 37739, Thursday, October 8, 1987

Vol. 52, FR p. 42400, Wednesday, November 4, 1987

Vol. 53, FR p. 6734, Wednesday, March 2, 1988

Vol. 53, FR p. 29418, Thursday, August 4, 1988

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1988 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	0
Accepted by the Congress.....	0
Rejected by the Congress.....	0
Pending before the Congress.....	0

****

TABLE B

STATUS OF 1988 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	9,311.6
Routine Executive releases through September 1, 1988 (OMB/Agency releases of $6,448.9 million and cumulative adjustments of $24.3 million)	-6,424.6
Overturned by the Congress.....	0
Currently before the Congress.....	2,887.0

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-88
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D88-20	2,949,000		2-19-88	2,966,500			17,500	0
Economic support fund	D88-1	40,000		10-1-87					
	D88-1A		1,960,727	2-19-88	1,214,833				785,894
Military assistance	D88-21	608,186		2-19-88					
	D88-21A		1,000	7-29-88	580,766				28,420
International disaster assistance	D88-22	13,479		2-19-88	11,650				1,829
Special Assistance for Central America									
Promotion of stability and security in Central America	D88-2	1,000		10-1-87					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D88-3	120,425		10-1-87					
	D88-3A		10,529	2-19-88	300				130,654
Timber salvage sales	D88-4	34,841		10-1-87	10,456				24,385
Cooperative work	D88-5	628,025		10-1-87	157,084				470,941
Gifts, donations, and bequests for forest and rangeland research	D88-6	104		10-1-87	60				44
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D88-7	900		10-1-87					
	D88-7A		1,297,848	2-19-88	1,298,748				0
Family Housing									
Family housing, Defense	D88-8	51,015		10-1-87					
	D88-8A		135,940	2-19-88	186,955				0
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D88-9	636		10-1-87					
	D88-9A		149	2-19-88					
	D88-9B		611	7-29-88	26				1,369

Attachment B - Status of Deferrals - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-88
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D88-14	120		10-29-87					120
Southeastern Power Administration, Operation and maintenance	D88-15	2,000		10-29-87	2,000				0
Southwestern Power Administration, Operation and maintenance	D88-16	6,000		10-29-87					
	D88-16A		7,200	2-19-88					13,200
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D88-17	774		10-29-87					
	D88-17A		2,426	2-19-88	3,200				0
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D88-18	2,391		10-29-87					
	D88-18A		569	2-19-88					2,960
Social Security Administration									
Limitation on administrative expenses (construction)	D88-10	6,171		10-1-87					
	D88-10A		36	2-19-88					6,207
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund	D88-19	85,000		10-29-87	6,800			6,800	85,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D88-11	11,638		10-1-87	9,504				2,134

Attachment B - Status of Deferrals - Fiscal Year 1988

As of September 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-88
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D88-12	879,049		10-1-87					
	D88-12A		450,858	2-19-88					1,329,907
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D88-13	2,933		10-1-87					2,933
TOTAL, DEFERRALS		5,443,688	3,867,892		6,448,882	0		24,300	2,886,998

[FR Doc. 88-21391 Filed 9-19-88; 8:45 am]

BILLING CODE 3110-01-C

Federal Register

Tuesday
September 20, 1988

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWA-2]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Fresno Air Terminal, CA; Moline Quad City Airport, IL; Monterey Peninsula Airport, CA; and Greater Peoria Airport, IL. With the exception of Fresno, each location is an airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 u.t.c. October 20, 1988.

FOR FURTHER INFORMATION CONTACT: Betty Harrison, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 120 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On March 8, 1988, the FAA proposed to designate ARSA's at Fresno Air Terminal, CA; Moline Quad City Airport, IL; Monterey Peninsula Airport, CA; and Greater Peoria Airport, IL (53 FR 7468). Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for each of these proposed airports. Section 71.501 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

Discussion of Comments

Eleven commens were received concerning this rulemaking action. One commenter supported all four locations. The remainder offered objections and/or recommendations to a specific site.

Fresno, CA

Three commenters objected and/or offered recommendations to the Fresno, CA, ARSA. The Soaring Society of America (SSA) and its local chapter recommended that the proposed ARSA boundary be limited to the eastern edge of U.S. Highway 99. After careful review, the FAA decided that the recommendation has some merit. Even though the FAA found it could not eliminate the airspace in that area, it was decided to raise the floor to 2,500 feet MSL. This will allow easier access to Chandler Airport and should alleviate the mentioned concern.

One commenter offered an objection to the ARSA recommending instead of corridor system. The FAA finds a need to know all aircraft operating at these critical altitudes in this airspace. The corridor would not provide knowledge of aircraft operating in much of this airspace.

Moline, IL

Two commenters recommended that the floor of the 5-10-mile area be raised to 2,500 feet MSL. The FAA finds no basis for raising the floor of the 5-10-mile area. Pilots will not routinely fly under the 5-10-mile area of an ARSA unless operating to or from an airport which underlies or is in close proximity to this area, and the 2,000-foot MSL base presents no problem for such operations.

Monterey, CA

One commenter objected with no specific recommendation or objection.

The Experimental Aircraft Association (EAA) recommended that the floor be raised to 2,000 feet MSL between Toro Peak and Fritzsche Airfield. The FAA finds validity in this recommendation and has raised the floor in the area mentioned. This rule reflects those changes.

One commenter objected suggesting that the controllers were already too busy and that there were too many trainees at the facility to handle the increase in traffic. The FAA does not agree. The facility managers are confident that the controllers can handle any increase in traffic. These facilities have no more trainees proportionately than similar facilities throughout the United States.

Peoria, IL

One commenter objected without specific recommendation or objection. The other commenter suggested that there needed to be more airspace provided around Hawley Airport and that a remote transceiver should be provided for IFR aircraft operating at Hawley.

The FAA does not agree. The FAA finds that the airspace provided is sufficient for entry and exit into the Hawley Airport. The transceiver recommendation is outside the purview of this rulemaking effort.

Regulatory Evaluation Summary

The FAA has conducted a Regulatory Evaluation of this final rule to establish these additional ARSA sites. The major findings of that evaluation are summarized below, and a copy of the detailed regulatory evaluation is available in the regulatory docket.

a. Costs

Costs which potentially could result from the establishment of additional ARSA sites fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the additional ARSA sites in this rule can be implemented without requiring additional controller personnel above current authorized staffing levels, because participation at these TRSA locations is already quite high, and the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA will modify its terminal radar procedures at the proposed ARSA sites in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries. Changes in this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

This rulemaking proceeding and process will satisfy much of the need to notify the public and educate pilots about ARSA operations. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. The expenses associated with these public meetings are considered costs attributable to the rulemaking process; however, any public information costs following establishment of a new ARSA are strictly attributable to the ARSA. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately $500 for each ARSA site. This cost is incurred only once upon the initial establishment of an ARSA.

Information on ARSA's following the establishment of additional sites will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues and, therefore, will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA which will allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirements may, in some instances, result in minor delays to aircraft operations. FAA does not expect such delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the increased efficiencies due to the implementation of the ARSA. This has been the experience at most of the locations where ARSA's have been in effect for the longest period of time and is the recurring trend at the locations that have been more recently designated.

The FAA does not expect that any operator will find it necessary to install radio transceivers as a result of establishing the ARSA's in this rule. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas and, therefore, will not incur any additional costs as a result of the new ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some new ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impact will occur at the ARSA sites in this rule.

b. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable and is attributable to simplification and standardization of ARSA configurations and procedures, which should eliminate much of the confusion currently experienced by pilots when operating in

nonstandard TRSA's. Further, once experience is gained in ARSA operations, the air traffic controllers will gain greater flexibility in handling traffic within an ARSA which will enable them to move traffic more efficiently than under the current TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as VFR, as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to $300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites in this final rule will contribute to these improvements in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at the ARSA locations established in this rule will only be temporary, and that once established, the ARSA's will result in an overall improvement in efficiency in terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of the ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of these ARSA sites will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This final rule will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. 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 potentially could be affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. It the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA intends to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potentially adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects that any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

Federalism Implications

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

The Rule

This action designates Airport Radar Service Areas (ARSA) at Fresno Air Terminal, CA; Moline Quad City Airport, IL; Monterey Peninsula Airport, CA, and Greater Peroria Airport, IL. With the exception of Fresno, each location designated is a public airport at which a noregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

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

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Fresno Air Terminal, CA [New]

That airspace within a 5-mile radius of the Fresno Air Terminal Airport (lat. 36°46'28" N., long. 119°42'58" W.) extending upward from the surface to and including 4,400 feet MSL, excluding that airspace west of the railroad tracks that parallel U.S. Highway 99; and that airspace within a 10-mile radius of the airport beginning at the railroads tracks that parallel U.S. Highway 99 west of the airport clockwise to the railroad tracks that parallel U.S. Highway 99 south of the airport extending upward from 1,600 feet MSL to an including 4,400 feet MSL, and that airspace within a 10-mile radius of the airport beginning at the railroad tracks south of the airport clockwise to the railroad tracks west of the airport extending upward from 2,500 feet MSL to and including 4,400 feet MSL.

Moline Quad City Airport, IL [New]

That airspace within a 5-mile radius of the Moline Quad City Airport (lat. 41°26'55" N., long. 90°30'29" W.) extending upward from the surface to and including 4,600 feet MSL; and that airspace within a 10-mile radius of the airport extending upward from 2,000 feet MSL to and including 4,600 feet MSL.

Monterey Peninsula Airport, CA [New]

That airspace within a 5-mile radius of the Monterey Peninsula Airport (lat. 36°35'19" N., long. 121°50'52" W.) extending upward from the surface to and including 4,200 feet MSL; and that airspace within a 10-mile radius of the airport beginning at the Pacific Ocean shoreline southwest of the airport clockwise to the Pacific ocean shoreline north of the airport extending upward from 1,500 feet MSL to and including 4,200 feet MSL; and that airspace within a 10-mile radius of the airport beginning at the Pacific Ocean shoreline north of the airport clockwise to the 140° bearing from the airport extending upward from 2,500 feet MSL to an including 4,200 feet MSL. The airspace contained within Restricted Area R–2511 is excluded when it is in use.

Greater Peoria Airport, IL [New]

That airspace within a 5-mile radius of the Greater Peoria, Airport (lat. 40°39'53" N., long. 89°41'31" W.) extending upward from the surface to and including 4,700 feet MSL; and that airspace within a 10-mile radius of the airport extending upward from 2,000 feet MSL to and including 4,700 feet MSL, from the 284° bearing from the airport clockwise to the 154° bearing from the airport; and that airspace within a 10-mile radius of the airport extending upward from 1,800 feet MSL to and including 4,700 feet MSL from the 154° bearing from the airport clockwise to the 284° bearing from the airport.

Issued in Washington, DC, on September 12, 1988.

Robert G. Burns,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 88–21442 Filed 9–19–88; 8:45 am]

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Federal Register

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September 20, 1988

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171, 173 and 178

Modifications to DOT Specification 21PF-1 Overpacks; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173 and 178

[Docket No. HM-190; Amdt. Nos. 171-96, 173-206, 178-90]
RIN 2137-AA72

Modifications to DOT Specification 21 PF-1 Overpacks

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

ACTION: Final rule.

SUMMARY: This final rule amends the Hazardous Materials Regulations (HMR) by changing the requirements for the fabrication, modification, maintenance, and use of DOT 21PF-1 (49 CFR 178.121) overpacks for fissile uranium hexafluoride. This action is necessary to incorporate into the regulations the experience gained over the past 20 years from the use of the these overpacks. The intent of this final rule is to enhance safety in the transport and use of the overpacks.

DATES: This amendment is effective April 1, 1989. However, compliance with the regulations as amended herein with regard to criteria for modification of existing DOT 21PF-1 overpacks, and for fabrication of new 21PF-1 overpacks, is authorized immediately. The incorporation by reference of certain publications listed in this amendment is approved by the Director of the Federal Register as of April 1, 1989.

FOR FURTHER INFORMATION CONTACT: John A. Gale (202-366-4488), Standards Division, or A. Wendell Carriker (202-366-4545), Technical Division, Office of Hazardous Materials Transportation, RSPA, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The DOT 21PF-1 protective overpack is a cylindrical metal drum used to "overpack" a 30-inch diameter cylinder containing enriched uranium hexafluoride (UF_6). The overpack provides additional containment of the UF_6 during transport. Since about 1968, thousands of overpacks have been produced and used in domestic and international commerce.

Many of these overpacks have been damaged during the course of tranport, or have deteriorated in service. Problems have centered around corrosion of the external skin and warping of the wooden step joint, allowing in-leakage of rainwater and ocean spray. The primary difficulty encountered is a tendency for these overpacks to collect and retain water during normal use. This water, especially salt (ocean) water, accelerates the corrosion of metal parts and the decay of wooden parts. The water collects inside the overpacks during rainy weather or during ocean voyages from salt spray, and then leaks or sloshes out during dry weather. Although the water has not been contaminated with radioactive material, liquid leakage from a package marked and labeled "RADIOACTIVE" may cause considerable alarm.

On August 16, 1984, RSPA published a Notice of Proposed Rulemaking (NPRM) (Docket No. HM-190, Notice No. 84-7; 49 FR 32774) which proposed to modify existing DOT 21PF-1 overpacks and to change construction requirements for new DOT 21PF-1 overpacks. The notice was in response to a request by the Department of Energy (DOE) who investigated the safety of the DOT 21PF-1 overpack. Subsequently, the DOE developed a proposal to modify existing overpacks and for the fabrication of new overpacks, thus enhancing safety and extending their service life. The NPRM included a detailed description of the packaging experience and specific proposals for fabrication, modification, maintenance, and use of the DOT 21PF-1 overpack. In the four years since the publication of the NPRM, RSPA has received eight comments to the proposal. In addition, DOE conducted further tests on the DOT 21FP-1 overpack to assure that the modifications will provide the maximum level of safety to the general public and will provide for a longer service life. This final rule is based on the merits of comments to the notice and the results of further testing of phenolic foam saturated with water and its drying. The new design and modification requirements, drawing, bills of materials, and supporting documents are consolidated in a single report, "Proposal for Modifications to U.S. Department of Transportation Specification 21PF-1 Fire and Shock Resistant Phenolic Foam-Insulated Metal Overpack," K/SS-471, Oak Ridge Gaseous Diffusion Plant, Martin Marietta Energy Systems, November 30, 1986. A copy of that report is on file at RSPA's Dockets Unit located in room 8421 at 400 7th Street, SW., Washington, DC, 20590.

II. Comments Received

As noted above, RSPA received eight comments to the NPRM. Of the eight commenters only one did not fully support the proposal. The following is a discussion of these comments and what action, if any, RSPA has undertaken.

The Nuclear Regulatory Commission (NRC) questioned provisions of the proposal for prevention of wood degradation and warping, welding integrity requirements and welder qualifications, the need for continuous welds at the seams and joints, the need for thermal conductivity measurements, the mechanics of foam drying, and the establishment of acceptance criteria. RSPA agreed with these concerns and asked DOE to respond.

In response, the DOE developed a revised detailed packaging safety analysis report, "Safety Analysis Report for Modified UF_6 Cylinder Shipping Package, DOT Specification 21PF-1," Report No. K/D-5400, Rev. 3, Oak Ridge Gaseous Diffusion Plant, Martin Marietta Energy Systems, Inc., December 1986. A copy of that report is also on file in RSPA's Dockets Unit and is a part of the USDOE report K/SS-471 available from the address identified in § 171.7(c)(16). This report satisfied the concerns of the NRC and RSPA noted above.

Tri-State Motor Transit (TSMT) verified the need for modification to the specification, and supported the proposal. Tri-State expressed concern that the water in-leakage may affect the overpacks capability to perform to designed specifications and the possibility of a steam explosion in the case of a fire involving a water-logged overpack.

Three U.S. affiliates of Japanese entities, Marubeni America Corporation, Mitsubishi International Corporation and Mitsui and Company (U.S.A.), Inc., supported the proposal but requested that the effective date for mandatory modification of existing overpacks be extended from the proposed 18 to 24 months. Those three firms claimed that the extra time would be needed to obtain the necessary changes to their Japanese governmental license. One American company, Norfolk Southern Corporation, also requested an extension of the conversion period to 24 months. RSPA agrees with these commenters and has provided a 24-month conversion period.

ASEA-ATOM of Sweden commented that the "proposed drying method appeared to be an over specification" and that there may be more effective drying procedures than the one proposed. In addition, ASEA-ATOM believes the proposed one-piece gasket was a "tight specification" and suggested that a formed four-piece gasket be substituted in place of or in

addition to the one-piece gasket. The original drying procedure proposed in the NPRM was found by DOE to be flawed. Based on tests conducted by Nuclear Container, Inc., and Martin Marietta Energy Systems, Oak Ridge Gaseous Diffusion Plant, it was determined that in order to remove the water from the overpack insulation, a temperature between 190°F. and 200°F. is required. Based on the extensive experience gained by DOE on the proper method of drying these overpacks, RSPA believes that alternative methods of drying should be subjected to RSPA's exemption process contained in § 107.103. Therefore, RSPA denies ASEA–ATOM's request that the drying methods be at the discretion of the package owner.

In regard to ASEA–ATOM's request for a four-piece gasket, the appropriate drawings have been revised to allow an alternate gasket. This gasket is made of four to six strips which are bonded together to form an effective one-piece gasket. This alternate is a "closed cell, medium density silicon sponge rated for continuous temperature of 400°F. Bonded in place in the same manner as silastic." RSPA believes that this alternative gasket satisfies the request of ASEA–ATOM without compromising the safety of the new DOT 21PF–1 overpack design.

III. Discussion of Amendments

These amendments provide for changes to the requirements for both used and new DOT 21PF–1 overpacks. Used overpacks are required to be rehabilitated, including modifications for easier maintenance and longer service life. After modification they are to be designated as DOT 21PF–1A overpacks. New overpacks are required to meet improved design criteria incorporating hardware provisions similar to those of the modified overpacks. New overpacks are designated as DOT 21PF–1B. Accordingly, § 173.417 has been changed to authorize the use of DOT 21PF–1A and 21PF–1B. In addition, Table 6 in § 173.417 is revised to identify the DOT 21PF–1 series (i.e., DOT 21PF–1, DOT 21PF–1A, and DOT 21PF–1B). These changes result in a redesign of the closure mechanism and extensive use of stainless steel rather than carbon steel, thereby increasing durability and providing improved resistance to moisture encountered in the transport environment.

The basis for and evaluation of the changes to the DOT 21PF–1 overpack are contained in USDOE report K/SS–471. This evaluation culminated in new engineering drawings and bills of materials for the construction and modification of DOT 21PF–1 overpacks and are contained in CAPE–1662, Revision 1 and Supplement 1. Therefore, RSPA is updating the regulatory reference to CAPE–1662 and is incorporating USDOE report K/SS–471 into the specification. The following is a description of regulatory references and other modifications relative to reconditioning and manufacture of the DOT 21PF–1 overpack.

Regulatory References

CAPE–1662 is a package of drawings, incorporated by reference in § 171.7(d)(16), used in the construction of the 20PF and 21PF series of overpacks. To update the regulatory reference in § 171.7(d)(16), CAPE–1662 is amended to "CAPE–1662, Revision 1, and Supplement 1" to identify the following drawings and bills of materials: (1) E–S–31536–J, Revision P and S1E–31536–J2, Revision B which describes the new DOT 21PF–1 design (DOT 21PF–1B); and (2) S1E–31536–J1, Revision D which describes the modifications necessary to existing DOT 21PF–1 overpacks (DOT 21PF–1A).

Also in regard to availability, 49 CFR 171.7(c)(16) is revised to add at the end of the last sentence "and from the USDOE, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831."

Many of the detailed design changes are not listed in the amended portions of 49 CFR 178.121, but are instead shown in CAPE–1662, Revision 1 and Supplement 1 and K/SS–471. These documents are available from the USDOE at the addresses identified in § 171.7(c)(16). In addition, reference has been made in §§ 171.7(d)(16) and 178.121–1(a) to identify K/SS–471 and its importance to the construction of DOT 21PF–1A and 1B overpacks.

On July 6, 1987, RSPA published Notice No. 87–7 under Docket HM–166V (52 FR 25342), proposing modification to § 173.420 which pertains to the packaging of UF_6 for transport. This Notice was supplemented on April 6, 1988, (53 FR 11320) which proposed to update the regulatory reference to ANSI Standard N14.1–1987 and to provide a higher filling density for cylinders of UF_6. The updating of ANSI N14.1 affects this final rule because § 173.417 requires DOT 21PF–1 overpacks to be handled and packaged in accordance with ANSI N14.1–1982. Because no adverse comments were received to the supplementary proposed rule change regarding the updating of ANSI N14.1, RSPA is incorporating as part of this final rule the amendatory language proposed in that rule, limited to the regulatory update of ANSI N14.1. This action is necessary to provide regulatory consistency in the transport of packages containing UF_6. The additional proposals contained in HM–166V published July 6, 1987 and supplemented April 6, 1988, are not affected by this rule change.

Existing Overpacks

The first set of changes involves existing overpacks. The major changes are designed to remove (by drying) water which may be retained in the overpack, to drill drain holes in the external stiffener braces which tend to collect water, and to seal those joints which easily admit water. The sealing involves installation of a new joint cover and gasket, and application of a sealant compound to the stiffener joints and outer shell joints.

A carbon steel step-joint cover must be installed on the joint for the lower half of the overpack where experience indicates that water accumulation has been most significant. Step joint gaskets have been changed from a vinyl foam or expanded rubber to either a Silastic E RTV rubber or a silicon sponge. Inspection for wood warpage is required.

Corroded outer shells, inner liners, and support framing must be inspected, replaced and repaired as necessary to meet specified acceptance criteria. Additional welding performance and inspection requirements and welder qualification criteria are specified. Moisture absorption measurement techniques are specified. Vent holes are to be covered with a seal which will remain intact during normal conditions of transport. Modified DOT 29PF–1 overpacks are to be redesignated as DOT 21PF–1A overpacks.

New Construction

The second part of the amendment involves future construction of DOT 21PF–1 overpacks. These design changes are more comprehensive than those proposed for existing overpacks. The most significant of these changes involve (1) use of stainless steel instead of mild (carbon) steel for the metal shell, and (2) the step-joint at the overpack closure is reversed from a step-down to step-up joint. Continuous welds will assure the integrity of body seams and joints for the liner, shell, and step-joint. Welding requirements and welder qualifications are similar to those required for existing overpacks.

Wood materials are amended to include white oak as well as hard or sugar maple. All metal parts are changed from carbon steel to stainless

steel, thereby eliminating the need for painting the metal for weather resistance. The wood step-joint must be covered with stainless steel painted with a fire-retardant (intumescent) paint.

Silastic 732 RTV adhesive/sealant is added between the intermittent welds for all stiffeners, angles, plates, etc. Identification plates are required to indicate the initial tare weight of the overpack to allow for determination of possible water in-leakage. Cover support legs have been relocated for stronger attachment. New DOT 21PF–1 overpacks are to be designated as DOT 21PF–1B overpacks.

Under this final rule, existing overpacks must be removed from service and modified. The NPRM proposed an eighteen-month period for this modification. As a result of the merits of the comments received, the conversion period has been extended to 24 months from the effective date of this amendment. During the interim period, unmodified overpacks may be continued to be used. After the 24 months, the use of unmodified overpacks is prohibited.

No new construction to the previous design criteria is permitted on or after the effective date of this amendment. In the NPRM an effective date of six months after the publication of the final rule was proposed. RSPA has provided this in the final rule. However, there may be new overpacks already under construction. Those overpacks under construction on the effective date of this amendment are required to be modified, on the same time schedule, to the same specification as existing overpacks.

RSPA received a request from DOE to further amend the regulatory requirements pertaining to the DOT 21PF–1 series overpack. DOE's request is summarized as follows:

(1) DOT 21PF–1A and 1B overpacks should be recertified every 5 years beginning after modification or initial fabrication, as applicable; and

(2) Persons modifying, fabricating, recertifying or making repairs to DOT 21PF–1, 21PF–1A or 1B overpacks, should be required to have an approved quality assurance program.

(3) The regulatory references to the USDOE report ORO–651 entitled, "Uranium Hexafluoride Handling Procedures and Container Criteria," should be updated to Revision 5, 1987 edition.

RSPA did not incorporate these requests into the final rule because the public was not provided an opportunity to comment on these requests. However, RSPA may address these issues in future rulemaking actions.

IV. Administrative Notices

RSPA has determined that this rulemaking: (1) Is not a "major rule" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the docket.

Based on limited information concerning the size and nature of entities likely to be affected, I certify that this regulation will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on the States, on the Federal-State relationship or on the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications as defined in Executive Order 12612.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Regulatory Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Regulatory Agenda.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 173

Hazardous materials transportation, Packaging, Radioactive materials.

49 CFR Part 178

Hazardous materials transportation, Packaging, Specifications and standards.

In consideration of the foregoing, 49 CFR Parts 171, 173, and 178 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 continues to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 171.7, paragraphs (c)(16), (d)(4)(iii) and (d)(16) are revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(16) *USDOE:* United States Department of Energy, Washington, DC 20545. Regulations of the USDOE are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Other publications by the USDOE may be obtained from the USDOE, Office of Scientific and Technical Information, P.O. Box 62, Oak Ridge, TN 37831.

* * * * *

(d) * * *

(4) * * *

(iii) American National Standard N14.1 is titled, "Uranium Hexafluoride Packaging for Transport," 1987 edition.

* * * * *

(16) USDOE, CAPE–1662, Revision 1, and Supplement 1, one of the series of "Civilian Applications Program Engineering Drawings". This is a package of information including drawings and bills of material, describing phenolic-foam insulated, DOT 21PF–1 and 21PF–2 protective overpacks.

(i) USDOE, Material and Equipment Specification No. SP–9, Rev. 1, and Supplement, is titled "Fire Resistant Phenolic Foam."

(ii) USDOE, ORO–651 is titled, "Uranium Hexafluoride Handling Procedures and Container Criteria," Revision 3, 1972 edition.

(iii) USDOE, K/SS–471, November 30, 1986, as titled "Proposal For Modifications to U.S. Department Of Transportation Specification 21PF–1 Fire and Shock Resistant Phenolic Foam-Insulated Metal Overpack." This report contains several supporting documents which are a part of K/SS–471:

(1) "Quality Assurance/Control in the Fabrication, Modification, Use, and Maintenance of the DOT 21PF–1 shipping Package";

(2) K/D–5400; Revision 3;

(3) K–2057 Revision 1;

(4) K/PS–1128;

(5) K/PS–5068; and

(6) Several engineering drawings and two bills of materials.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. The authority for Part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

4. In § 173.417, paragraph (a)(8) is revised and in paragraph (b)(5) the text preceding Table 6 is revised to read as follows:

§ 173.417 Authorized packaging—fissile material.

(a) * * *

(8) Packagings as prescribed in paragraph (b)(5) of this section, for materials, quantities and conditions as authorized and prescribed therein.

(b) * * *

(5) DOT Specifications 20PF-1, 20PF-2, or 20PF-3 (§ 178.120 of this subchapter), or Specifications 21PF-1, 21PF-1A, 21PF-1B, or 21PF-2 (§ 178.121 of this subchapter) phenolic-foam insulated overpack with snug fitting inner metal cylinders, meeting all requirements of §§ 173.24, 173.411, and 173.412, and the following:

(i) Handling procedures and packaging criteria must be in accordance with DOE Report ORO-651 or ANSI N14.1.

(ii) DOT Specification 21PF-1 overpacks in use or under construction before April 1, 1989, must be modified to DOT Specification 21PF-1A before April 1, 1991. Use of unmodified DOT 21PF-1 overpacks is prohibited after March 31, 1991. All new construction to DOT Specification 21PF-1 beginning after March 31, 1989, must meet DOT Specification 21PF-1B.

(iii) Quantities of uranium hexafluoride are authorized as shown in Table 6, with each package to be shipped as Fissile Class II, and assigned a minimum transport index as also shown:

* * * * *

§ 173.417 [Amended]

5. In § 173.417, paragraph (b)(5), the entry "21PF-1[1]" in the first column of Table 6 is revised to read "21PF-1 Series[1, 4]" and a fourth footnote is added following the Table to read:

[4] 21PF-1 series includes the 21PF-1, 21PF-1A, and 21PF-1B. Allowable quantities are identical for all three overpacks. See the limitations on usage in paragraph (b)(5) of this section.

§ 173.420 [Amended]

6. In § 173.420, the term "N14.1-1982" is changed to "N14.1" in paragraphs (a)(1), (a)(2)(i), (b), and (c).

PART 178—SHIPPING CONTAINER SPECIFICATIONS

7. The authority citation for Part 178 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR Part 1.

8. In § 178.121-1, paragraphs (a) and (d) are revised to read as follows:

§ 178.121-1 General requirements.

(a) Each overpack must meet all of the applicable requirements of §§ 173.24, 173.411, and 173.412 of this subchapter.

(1) Specification 21PF-1 overpacks includes the series of 21PF-1, 21PF-1A, and 21PF-1B models. Details of the three models are included in CAPE-1662, Revision 1 and Supplement 1.

(2) Drawings in CAPE-1662, Revision 1 and Supplement 1, which include bills of materials, and K/SS-471, are a part of this specification.

* * * * *

(d) Specification 21PF-1 overpacks in use or under construction before April 1, 1989, must be modified to Specification 21PF-1A before April 1, 1991. All new construction to Specification 21PF-1 beginning after March 31, 1989, must meet Specification 21PF-1B. Use of unmodified 21PF-1 overpacks after March 31, 1991, is prohibited.

9. In § 178.121-2, paragraphs (b) and (g) are revised to read as follows:

§ 178.121-2 Materials of construction and other requirements.

* * * * *

(b) Gaskets for inner liner, outer shell, or where otherwise specified in CAPE-1662, Revision 1, must be as specified in CAPE-1662, Revision 1.

* * * * *

(g) *Waterproofing.* Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with either:

(1) Waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or

(2) As specified in CAPE-1662, Revision 1.

* * * * *

10. Sections 178.121-3 and 178.121-4 are revised and new §§ 178.121-5 and 178.121-6 are added to read as follows:

§ 178.121-3 Modification of Specification 21PF-1 overpacks.

(a) Each Specification 21PF-1 overpack for which construction began or was completed before to April 1, 1989, in conformance with drawing E-S-31536-J, Revision 11, of CAPE-1662 must be modified in conformance with drawing S1E-31536-J1-D of CAPE-1662, Revision 1, Supplement 1, before April 1, 1991.

(b) Each such existing Specification 21PF-1 overpack must be dried and weighed in accordance with the following procedures:

(1) Drill out or otherwise clean the plug material from the vent holes originally provided for foam expansion. See drawing S1E-31536-J1-D of CAPE-1662, Revision 1, Supplement 1, for locations.

(2) Weigh each packaging element (top and bottom halves) separately to an accuracy of +/−5 pounds (+/−2.3 kilograms) and record the weights. If this measured weight is greater than 25 pounds (11.3 Kg) more than the initially measured weight at the time of fabrication (indicating a significant retained water content), the packaging element must be dried.

(3) Place overpack element in drying oven; maintain temperature between 190° and 210°F (87.8-98.9 °C) for a minimum of 72 hours. The oven should have a provision for air exchange or other means of removing moisture driven from the foam structure.

(4) Drying may be discontinued after 72 hours if the weight of the packaging element is not higher than 25 pounds (11.3 Kg) more than the initially measured tare weight of that element at the time of fabrication. If the weight of the packaging element is greater than 25 pounds (11.3 Kg) more than the initial fabricated weight (indicating a significant remaining water content), drying must be continued until the weight differential is not higher than 25 pounds (11.3 Kg), or until the rate of weight loss is less than 2.5 pounds (1.1 Kg) per day.

(5) As an alternate moisture measurement, a calibrated moisture meter reading for 20 percent maximum water content may be used to indicate an end point in the drying cycle (see details in report "Renovation of DOT Specification 21PF-1 Protective Shipping Packages," Report No. K-2057, Revision 1, November 21, 1986, available from the USDOE and part of USDOE Report No. K/SS-471).

(6) Following drying, each overpack element (top and bottom halves) must be weighed and the weight in both pounds and kilograms must be engraved on the identification plate required by § 178.121-5(c).

(c) After modification as provided for herein, each Specification 21PF-1 overpack must be marked "USA-DOT-21PF-1A". See the marking requirements of § 178.121-5(b).

§ 178.121-4 Construction of Specification 21PF-1B overpacks.

(a) Each Specification 21PF-1 overpack for which construction began after March 31, 1989, must meet the

requirements of Specification 21PF–1B, in conformance with drawings E–S–31536–J–P, and S1E–31536–J2–B of CAPE–1662, Revision 1, Supplement 1.

(b) With the exception of the closure nuts and bolts, all metal parts of the Specification 21PF–1B must be of stainless steel as shown on the drawings referred to in paragraph (a) of this section.

§ 178.121–5 Required markings.

(a) Markings must be as prescribed in § 173.24 of this subchapter.

(b) Specification marking on the outside of each overpack must be as follows: "USA–DOT–21PF–1", "1A", "1B", or "2", as appropriate.

(1) For Specifications 21PF–1 and 21PF–2 only, if the inner shell is constructed of stainless steel, additional marking such as "304L–SS" are to be marked on the outside of the overpack to indicate the type of stainless steel used.

(2) For Specification 21PF–1 and 21PF–2 only, "TARE WT: * * * lbs. (* * * kg)" where * * * is the tare weight in pounds and kilograms, respectively, of the assembled overpack without the inner product container.

(3) For Specification 21PF–1A and 21PF–1B only: "TARE WT. of Cover: * * * lbs (* * * kg) TARE WT. of BOTTOM: * * * lbs (* * * kg)" where * * * is the tare weight in pounds and kilograms, respectively, of the separate halves of the overpack without the inner product container. For Specification 21PF–1A overpacks, the previous tare weight must be changed to reflect the modified tare weight value or must be covered or removed.

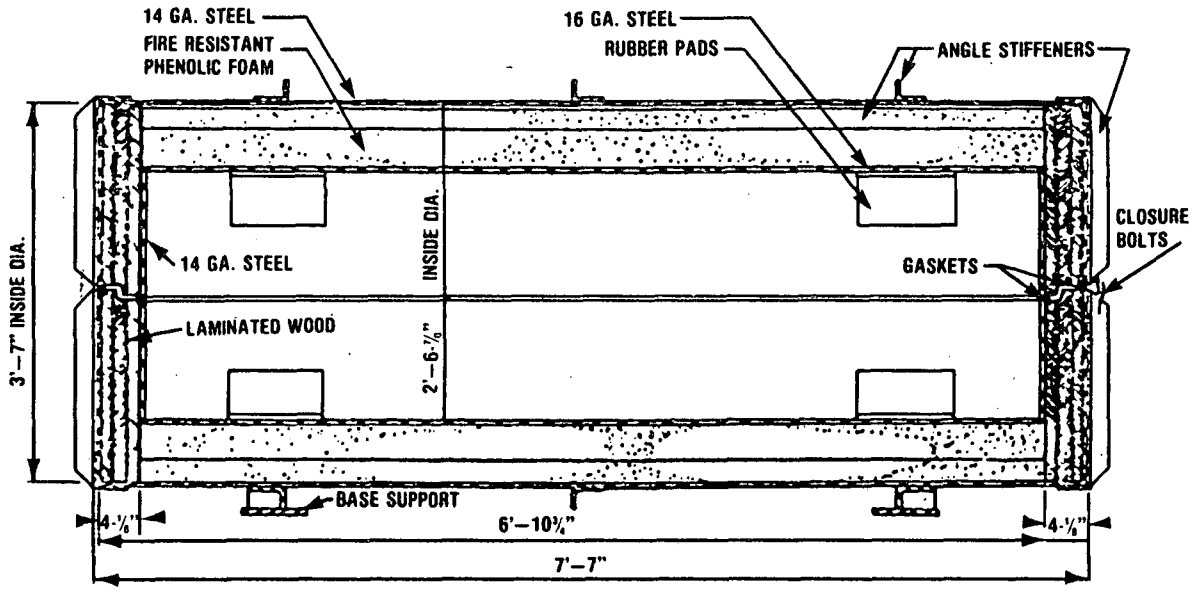
(4) Year of manufacture followed by the year of modification, if applicable.

(5) The name or symbol of maker or party certifying compliance with specification requirements. A symbol, if used, must be registered with the Director, OHMT.

(c) For Specification 21PF–1A and –1B only, the markings required by this section must be affixed to each overpack by inscription upon a metal identification plate 11 inches wide X 15 inches long (28 cm X 38 cm), fabricated of 16 to 20 gauge stainless steel sheet, ASTM A–240, Type 304L.

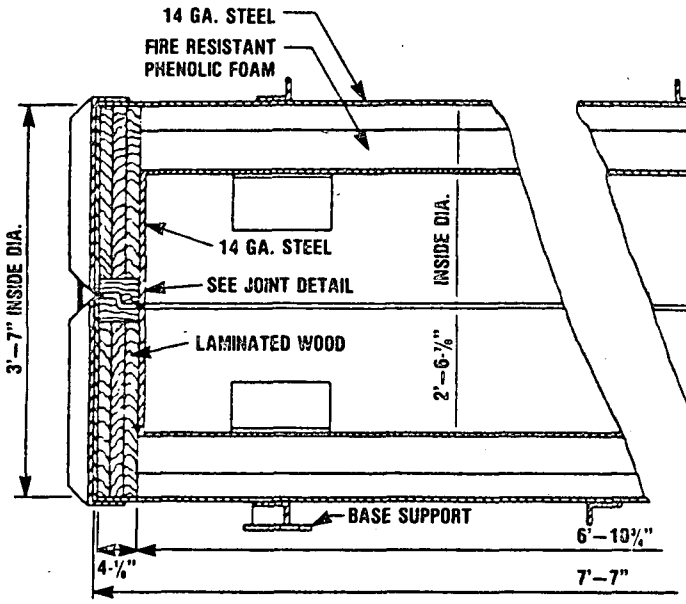
§ 178.121–6 Typical assembly detail.

(a) Specification 21PF–1 (horizontal loading overpack).

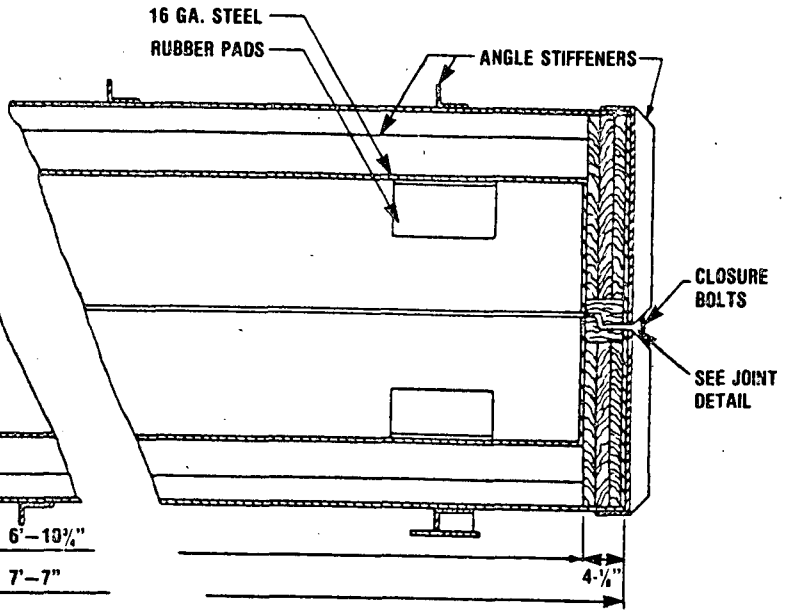


BILLING CODE 4910–60–M

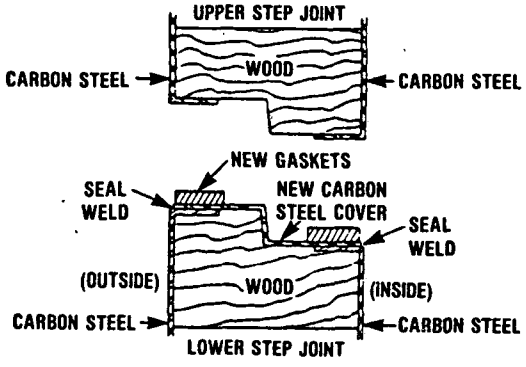
(b) Specification 21PF–1A and 21PF–1B (horizontal loading overpack).



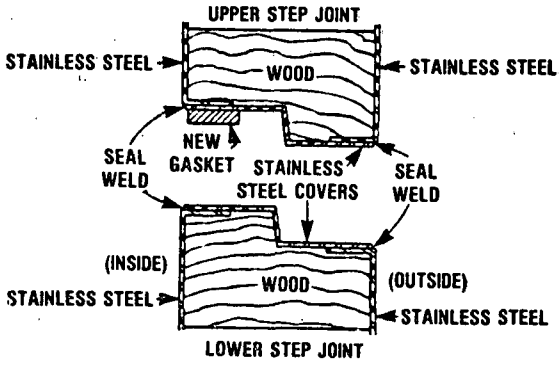
SECTION
DOT SPECIFICATION 21PF-1A
OVERPACK



SECTION
DOT SPECIFICATION 21PF-1B
OVERPACK



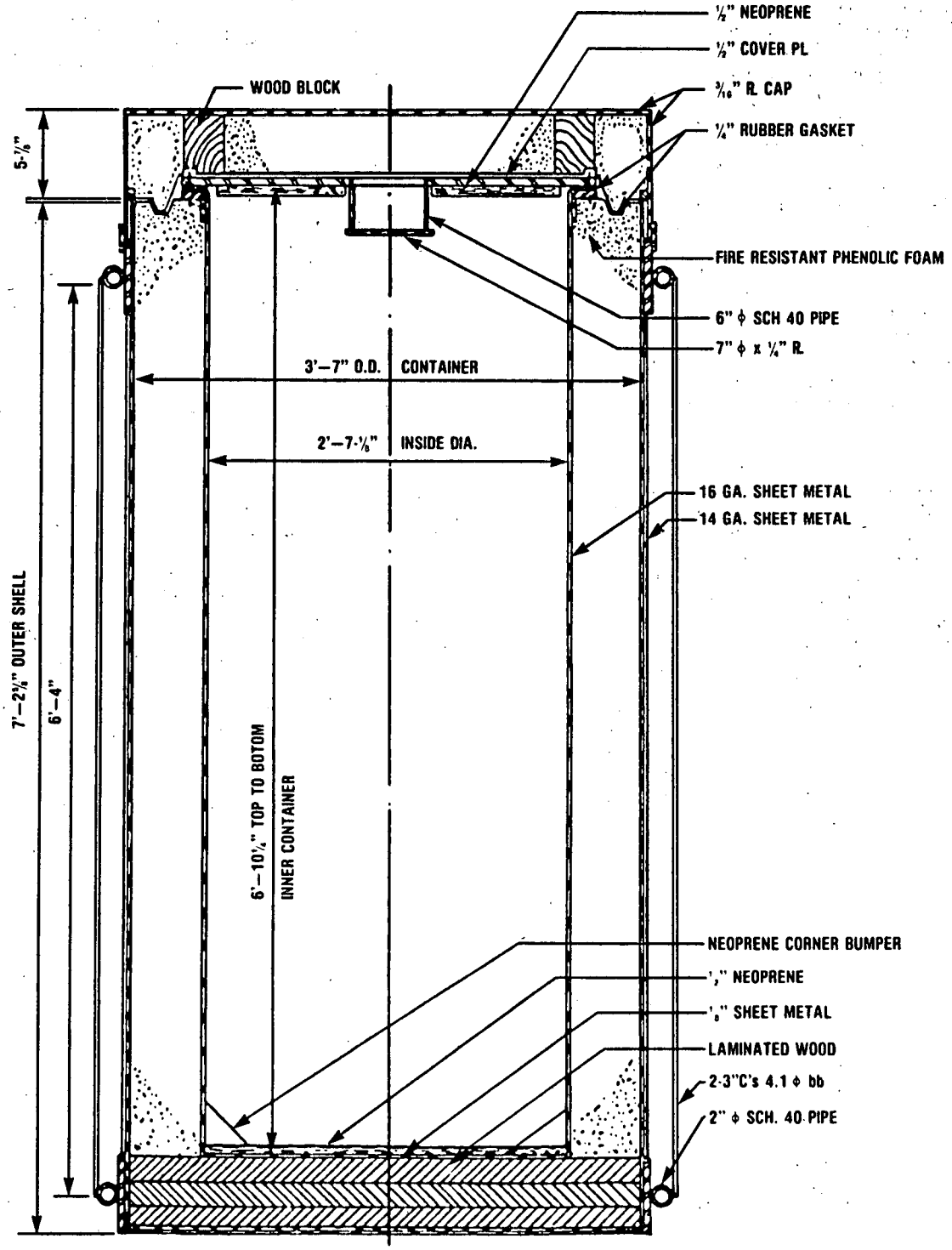
JOINT DETAIL
DOT SPECIFICATION 21PF-1A
OVERPACK



JOINT DETAIL
DOT SPECIFICATION 21PF-1B
OVERPACK

BILLING CODE 4910-60-C

(c) Specification 21PF–2 (end loading overpack).



* * * * *

Issued in Washington, DC, on September 13, 1988 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 88–21269 Filed 9–19–88; 8:45 am]

BILLING CODE 4910–60–M

federal register

Tuesday
September 20, 1988

Part V

Department of the Treasury

Comptroller of the Currency

12 CFR Part 8

Assessment of Fees; National Banks; District of Columbia Banks; Extension of Time for Submission of Comments; Proposed Rulemaking

DEPARTMENT OF THE TREASURY

Comptroller of The Currency

12 CFR Part 8

Assessment of Fees; National Banks; District of Columbia Banks

AGENCY: Comptroller of the currency; Treasury.

ACTION: Notice of proposed rulemaking; extension of time for submission of comments.

SUMMARY: This document extends until October 3, 1988, the Office of the Comptroller of the Currency (OCC) deadline for submission of comments on the proposed increase in OCC's semiannual assessment for national banks, District of Columbia banks and federally licensed branches and agencies of foreign banks.

DATE: Comments must be submitted on or before October 3, 1988.

ADDRESS: Comments should be directed to Docket No. 88-13, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., 5th Floor, Washington DC, 20219, Attention: Anne Smith. Comments will be available for inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Roger Tufts, Financial Economist, Economic and Policy Analysis Division, (202) 447-1924, or Ferne Fishman Rubin, Attorney, Legal Advisory Services Division, (202) 447-1880.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking was published in the **Federal Register** on August 19, 1988 (53 FR 31705), and comments were to be received on or before September 19, 1988. A correction was published on September 6, 1988 (53 FR 34307). The new deadline for submission of comments is October 3, 1988.

The OCC has received a request for extension of the comment period from an association representing approximately 2,000 national banks. The association stated that the original thirty-day comment period does not allow adequate time for the association members to fully assess the proposal.

OCC has extended the comment period by 14 days. Any interested person may file comments during this period.

September 19, 1988.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 88-21603 Filed 9-19-88; 10:43 am]

BILLING CODE 4810-33-M

Reader Aids

Federal Register

Vol. 53, No. 182

Tuesday, September 20, 1988

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 453/Pub. L. 100-431

Designating September 16, 1988, as "National POW/MIA Recognition Day." (Sept. 15, 1988; 102 Stat. 1637; 1 page) Price: $1.00

S.J. Res. 295/Pub. L. 100-432

To provide for the designatior of September 15, 1988, as "National D.A.R.E. Day." (Sept. 15, 1988; 102 Stat. 1638; 2 pages) Price: $1.00