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

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 210

[INS NO. 1221-89]

Adjustment to Permanent Resident Status

AGENCY: Immigration and Naturalization Service; Justice.

ACTION: Final rule.

SUMMARY: This rule amends procedures for the adjustment of status of applicants under section 210 of the Immigration and Nationality Act (Act) from temporary resident status to permanent resident status and adds the definition of the term ADIT. This rule removes the requirement for a determination that an alien has maintained temporary resident status prior to adjustment.

EFFECTIVE DATE: This rule is effective December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Aaron Bodin, Deputy Assistant Commissioner, Special Agricultural Worker Program (SAW), 202-786-3658.

SUPPLEMENTARY INFORMATION: On August 3, 1989, a proposed rule with request for comments was published in the Federal Register at 54 FR 31966. The comment period expired on September 5, 1989. The Service received 4 comments during the comment period.

Most commentors commended the Service for choosing an efficient, rational method for adjusting SAWs to permanent resident status, consistent with language in the Act. These commentors requested that the Service conduct a broad public education campaign to educate SAWs on the procedures, to ensure understanding of the process, and to ensure there is no confusion with the second stage procedures applicable to Section 245A legalization applicants.

The Service intends to notify all eligible aliens by mail when to appear for processing for their permanent resident status. Additionally, the Service will conduct outreach activities and a media campaign to inform SAW temporary residents of their rights and responsibilities.

The term ADIT in the interim rule refers to Alien Documentation, Identification and Telecommunications card, Form I-89 which is used by the Service for production of the Alien Registration Receipt Card, Form I-551. Form I-551, commonly called the "green card" is an alien's proof of permanent resident status. The definition of the term ADIT has been added to the regulations to insure understanding by persons outside the agency.

One commentor recommended the Service provide more detail in the regulations with regard to ADIT processing and verification of eligibility for permanent residence prior to adjustment to ensure uniformity of processing. The Service believes uniformity of processing will not be a problem since ADIT processing has been an ongoing function of the Service for many years.

One commentor suggested the process be streamlined even more by granting both temporary and permanent status simultaneously to those qualifying SAWs whose applications have been backlogged beyond one year. The Service is attempting to adjudicate all applications prior to the adjustment date. However, in the event that an application is approved subsequent to the adjustment date a notice will advise the alien of his/her adjustment to permanent resident status and to appear for ADIT processing. This is a procedural matter and will not be included in the rule.

One commentor opposed the automatic adjustment of status proposed because of the high number of fraudulent cases that were approved before the Immigration and Naturalization Service was made aware of fraud profiles. The commentor felt the Service should review the cases before adjusting them to permanent resident. As stated in the preamble to the proposed rule, the Service has determined that the procedures for determining maintenance of status are unduly burdensome on aliens and the Service and are not necessary because aliens who are found deportable are subject to deportation even after adjustment.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 210

Aliens, Permanent resident status.

Accordingly, part 210 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 210—SPECIAL AGRICULTURAL WORKERS

1. The authority citation for part 210 continues to read as follows:

Authority: 8 U.S.C. 1103, 1160, 8 CFR Part 2.

2. In § 210.1, paragraphs (b) through (r) are redesignated as paragraphs (c) through (s) and a new paragraph (b) is added to read as follows:

§ 210.1 Definition of terms used in this part.

(b) *ADIT. Alien Documentation, Identification and Telecommunications card, Form I-89.* Used to collect key data concerning an alien. When processed together with an alien's photographs, fingerprints and signature, this form becomes the source document for generation of Form I-551 Alien Registration Receipt Card.

3. Section 210.5 is amended by revising the heading of paragraph (b), revising paragraph (b)(1), removing paragraph (b)(2) and redesignating paragraph (b)(3) as (b)(2) and revising it, to read as follows:

§ 210.5 Adjustment to permanent resident status.

(b) *ADIT processing*—(1) *General.* To obtain proof of permanent resident status an alien described in paragraph

(a) of this section must appear at a legalization or Service office designated for this purpose for preparation of Form I-551, Alien Registration Receipt Card. Such appearance may be prior to the date of adjustment, but only upon invitation by the Service. Form I-551 shall be issued subsequent to the date of adjustment.

(2) Upon appearance at a Service office for preparation of Form I-551, an alien must present proof of identity, suitable ADIT photographs, and a fingerprint and signature must be obtained from the alien on Form I-89.

Dated: November 3, 1989.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 89-28417 Filed 12-5-89; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 264

[INS Number: 1247-89]

RIN 1115-AA39

Applicant Processing for the Legalization Program; Conforming Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule provides for the reporting and recordkeeping requirements for registration of aliens, including applicants for permanent residence under the Legalization Program as authorized by the Immigration Reform and Control Act of 1986 (IRCA). The purpose of this rule is to correct an inadvertent deletion of a portion of 8 CFR 264.1(c). Futhermore, this rule adds the requirement that aliens adjusted from temporary resident status to permanent resident status pursuant to section 210(a)(2) of the Act file Form I-90, Application by a Lawful Permanent Resident for an Alien Registration Receipt Card, Form I-551.

DATES: This interim rule is effective December 6, 1989. Comments must be received on or before January 5, 1990.

ADDRESSES: Written comments should be mailed in triplicate to the Assistant Commissioner, Legalization, Immigration and Naturalization Service, 425 "I" Street, NW., Washington, DC 20536 or delivered to Room 5250 at the same address.

FOR FURTHER INFORMATION CONTACT: Terrance M. O'Reilly, Assistant Commissioner, Legalization, (202) 786-3658.

SUPPLEMENTARY INFORMATION: When the Service published an interim rule, a portion of 8 CFR 264.1(c) was inadvertently removed. On October 31, 1988 rule, 8 CFR 264.1(c) was amended to provide for the submission of Form I-695 to legalization and other Service offices. The replacement of text was to have started at the beginning of the sentence which read "Application by an alien lawfully admitted for temporary residence *"

The replacement text was, however, inserted in the wrong place, beginning with the sentence which read, Application by an alien lawfully admitted for permanent residence *" This rule provides for the return of the inadvertently omitted portion of § 264.1(c) and makes grammatical and structural changes.

Section 264.1(c) is also being amended to require Special Agricultural Worker (SAW) temporary residents who automatically adjust their status to that of a permanent resident pursuant to section 210(a)(2) of the Act to file Form I-90, Application by a Lawful Permanent Resident for an Alien Registration Receipt Card, Form I-551. The filing of the I-90 will allow SAWs to obtain proof of their lawful permanent resident status. The Service has determined that the verification of eligibility, identification of the alien, costs and card processing are the same for all permanent residents, including SAWs, to obtain proof of alien registration. The fee required by 8 CFR103.7(b) will be collected. The interim rule is being issued to allow for the timely processing of Group I SAWs who will be automatically adjusted to permanent resident status on December 1, 1989, while allowing for public comment.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the definition of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requirements contained in this regulation have been cleared by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The Office of Management and Budget control numbers for these collections are contained in 8 CFR part 299.5.

List of Subjects in 8 CFR Part 264

Reporting and recordkeeping requirements.

Accordingly, part 264 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

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

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

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301-1305; 66 Stat. 173, 191, 223-225; 71 Stat. 641.

2. In § 264.1 paragraph (c) is revised to read as follows:

§ 264.1 Registration and fingerprinting.

(c) *Replacement of registration.* Any alien whose evidence of registration has been lost, mutilated, or destroyed, shall immediately apply for new evidence of registration.

(1) *Nonimmigrants.* (i) Application for replacement of Form I-185, Nonresident Alien Canadian Border Crossing Card, shall be made on Form I-175.

(ii) Application for Replacement of Form I-186, Nonresident Alien Mexican Border Crossing Card, shall be made on Form I-190.

(iii) Application for replacement of Form I-94, Arrival-Departure Record, or Form I-95, Crewman's Landing Permit, shall be made on Form I-102, except that a new form I-94 may be issued in lieu of one lost, mutilated, or destroyed without application therefor, when the alien is an applicant for extension of his or her temporary stay or change of nonimmigrant classification.

(2) *Permanent residents*—Application by an alien lawfully admitted for permanent residence for Form I-551, Alien Registration Receipt Card, shall be made on Form I-90. (i) *Who can file.* An I-90 application may be filed by a lawful permanent resident:

(A) To replace a lost, stolen or destroyed card;

(B) To replace a mutilated card;

(C) To obtain a card when it is established that Form I-551 was never received;

(D) To replace evidence of permanent residence issued on alien registration cards predating the use of Form I-151 and I-551;

(E) To correct a card;

(F) To change a name or other biographic data;

(G) Who has attained the age of 14 and is seeking to be registered and fingerprinted pursuant to section 262(b) of the Act;

(H) Who is an alien commuter taking up actual permanent residence in the United States; or

(I) Whose status was automatically adjusted from temporary residence pursuant to § 210.5 of this chapter.

(ii) *Fee* An I-90 application must be submitted with the nonrefundable fee required by § 103.7(b)(1), except that a fee is not required when the application is filed under paragraphs (c)(2)(i)(C) through (c)(2)(i)(H) of this section.

(iii) *Accompanying documents.*—(A) *Photographs.* An I-90 application must be filed with two color photographs meeting the specifications on the application form.

(B) *Prior evidence of alien registration.* An I-90 application filed under paragraph (c)(2)(i) (B), (D), (E), (F), (G) or (H) of this section must be filed with the prior Alien Registration Receipt Card or other evidence of permanent residence or commuter status.

(C) *Evidence of name or other biographic change.* An I-90 application filed under paragraph (c)(2)(i)(F) of this section must be filed with the order, issued by a court of competent jurisdiction, changing the applicant's name, or with the applicant's marriage certificate. An application to change other biographic data on a card must be filed with documentary evidence conclusively establishing the new data.

(D) *Fingerprint chart.* An I-90 application shall be filed under paragraph (c)(2)(i)(G) of this section must be filed with a completed Form FD-258 Fingerprint Chart.

(iv) *Filing.*— (A) *Where to file.* An I-90 application shall be filed by the applicant, in person, at the Service office that has jurisdiction over his or her place or residence. If the applicant's place of residence is outside the United States and there is no Service office in that foreign country, the application shall be filed by the applicant, in person, at the American Consulate with jurisdiction over his or her place of residence.

(B) *Data collection form.* An applicant must execute the signature and fingerprint blocks of Form I-89, Data Collection Form, at a Service office when filing an I-90 application.

(v) *Processing.*—(A) *Interview.* An applicant may be required to appear before an immigration officer or consular officer and be interviewed under oath concerning eligibility.

(B) *Waiver of requirements.* The Service may waive the photograph, in person filing and I-89 execution requirements of this section in cases of confinement due to advanced age or physical infirmity.

(vi) *Decision.* If an application is denied, the applicant shall be notified of the reasons for denial. No appeal shall lie from this decision.

(3) *Temporary residents.* Application by an alien lawfully admitted for temporary residence for Form I-688, Temporary Resident Card, shall be made on Form I-695. (i) *Who can file.* An I-695 application may be filed by a lawful temporary resident:

(A) To replace a lost, stolen, or detroyed card;

(B) To replace a mutilated card;

(C) To change a name or other biographic data.

(ii) *Fee.* An I-695 application must be submitted with the fee required by § 103.7(b)(1) of this chapter.

(iii) *Accompanying documents.*—(A) *Photographs.* An I-695 application must be filed with two color photographs meeting the specifications on the application form.

(B) *Prior evidence of alien registration.* Any Form I-688 in the applicant's possession must be submitted with the application.

(C) *Evidence of name or other biographic change.* An I-695 application filed under paragraph (c)(2)(i)(D) of this section must be filed with the order, issued by a court of competent jurisdiction, changing the applicant's name, or with the applicant's marriage certificate. An application to change other biographic data on a card must be filed with documentary evidence conclusively establishing the new data.

(iv) *Filing.*—(A) *Where to file.* An application by an alien within the United States for replacement of evidence of registration shall be submitted to the legalization or Service office having jurisdiction over the applicant's place of residence in the United States. An alien outside the United States shall appear at an American Consulate or Service office abroad and present a full account of the circumstances involving the loss or destruction of Form I-688. A cable shall be sent to the Service's Central Office Records Management Branch for verification of status. Subsequent to verification that temporary residence was granted, a transportation letter will be issued to the temporary resident alien. Upon entry to the United States, the alien shall submit the I-695 to the legalization or Service office having jurisdiction over the applicant's place of residence in the United States.

(B) *Camera ready card.* Prior to the issuance of Form I-688, all applicants, regardless of age, shall appear at the appropriate legalization or Service office for placement of fingerprint and signature on I-688.

(v) *Processing.*—(A) *Interview.* An alien who files application Form I-695 may be required to appear in person before an immigration officer prior to the adjudication of the application and be interviewed under oath concerning his or her eligibility for issuance of I-688 as evidence of his or her registration.

(b) *Waiver of requirements.* The Service may waive the photograph, interview or the placement of fingerprint and signature on the I-688 for a child under 14 or when it is impractical because of the health or advanced age of the applicant.

(c) *Fingerprint chart.* An applicant may be required to present a completed fingerprint chart, FD-258.

(vi) *Decision.* The decision on an application for replacement of evidence of registration shall be made by the Regional Processing Facility director having jurisdiction over the alien's place of residence in the United States. No appeal shall lie from the decision of the Regional Processing Facility director denying the application.

Dated: November 17, 1989.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

FR Doc. 89-28418 Filed 12-5-89; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 345

[Docket No. CAS-RM-79-112-C]

Energy Conservation Voluntary Performance Standards for New Commercial and Multi-Family High Rise Residential Buildings; Mandatory for New Federal Buildings

AGENCY: U.S. Department of Energy (DOE).

ACTION: Preliminary Statement of Reasons for Adoption of Standby Loss Criteria; Corrections.

SUMMARY: On November 30, 1989 (54 FR 49724), DOE published a preliminary statement of reasons for adoption of standby loss criteria. The Preliminary Statement was published pursuant to the October 6, 1989, Memorandum and Order of the United States District Court for the District of Columbia in Civil Action No. 89-1315, Gas Appliance Manufacturers Association, Inc. et al., v. Secretary of Energy. The Preliminary Statement as published contained

editorial errors. These errors are corrected as set forth below.

FOR FURTHER INFORMATION CONTACT: Peter A. Greenlee (202) 586-9507

On page 49725, the last line of the second full paragraph of the first column should read, "modification to the service water heating criteria of ANSI/ASHRAE/IES Standard 90A-1980 was developed during that period."· page 49731, in the twelfth line as continued to the thirteenth line of the third paragraph of the first column [Ruegg 1988] should be replaced with [Lippiatt and Ruegg 1988]; page 49732, the second line of the second column "¾ in. should be replaced with "1 in."· page 49732, line 15 as continued to line 16 of the second full paragraph "[ASHRAE 1985]" should be replaced with "[ASHRAE 1987]"· page 49732, line eight of the third paragraph of the second column "¾ in. should be replaced with "1 in."· page 49734, in lines five and six of the fourth paragraph of the first column the figures "$38.94" and "$49.01" should be replaced with the figures "$39.61" and "$52.33" respectively; page 49734, the second full paragraph of text in the second column "The oil heater analyzed was. " should be replaced with, "The oil-fired water heater analyzed was similar in geometry to a commercially available model manufactured by A.O. Smith—6 in. flue, 23.75 in. wide tank, 47.9 in. high tank (A.O. Smith 1988)"

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 89-28628 Filed 12-5-89; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Doc. No. R-0672]

Truth in Lending; Determination of Effect on State Law (Wisconsin)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Preemption determination.

SUMMARY: The Board is publishing in final form a determination that certain provisions in the law of Wisconsin dealing with disclosures and adjustment notices for variable-rate transactions are not inconsistent with the Truth in Lending Act and Regulation Z, and are therefore not preempted by federal law.

FOR FURTHER INFORMATION CONTACT: Sharon Bowman or Mary Jane Seebach, Staff Attorneys, Division of Consumer and Community Affairs, at (202) 452-3667 For the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: (1) *General.* Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between chapters 1, 2, and 3 of the federal act or the implementing provisions of the regulation and any state law relating to the disclosure of information in connection with consumer credit transactions. Preemption determinations are issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(3)).

(2) *Discussion of specific request and final determination.* The Board was asked to determine whether specific provisions of the Wisconsin Statutes requiring disclosures and adjustment notices for certain variable-rate transactions are inconsistent with amendments to Regulation Z (12 CFR 226.18(f)(1), 226.19(b)(2), and 226.20(c)) which regulate disclosure of closed-end variable-rate transactions. The requesting party asked whether Wisconsin Statutes § 138.056(4) and (6) requiring creditors to provide consumers with notice of a change in the interest rate and disclosures, respectively, in the case of certain variable-rate transactions are preempted by § § 226.18(f)(1), and 226.19(b) and 226.20(c). The requesting party also questioned whether Wisconsin Statutes § 422.421(5) is preempted by § 226.20(c).

The Board published a proposed determination on August 4, 1989 (54 FR 32089). The Board proposed a determination that the Wisconsin provisions dealing with disclosures and adjustment notices are not inconsistent with the federal law or regulation. One comment letter was received which opposed the determination on the basis that the Board had not balanced its decision by weighing the "informed use of credit" by consumers against the cost to creditors of establishing specific procedures for transactions in Wisconsin. After careful review of the issue, and for the reasons discussed below, the Board has determined these Wisconsin provisions are not inconsistent with the federal law and therefore preemption is not appropriate.

The Board concluded that certain substantive and timing requirements of Wisconsin's variable-rate provisions do not contradict federal requirements since a creditor can comply with both sets of requirements without violating either the state or federal law. (See the notice of proposed preemption determination for further detail on the sections reviewed by the Board.) In certain circumstances, the state law required additional or different information from the required by the federal law. Generally, state law requirements that call for the disclosure of information not covered by the federal law, or that require more detailed disclosure, do not contradict the federal requirements.

In general, the state and the federal disclosures can be combined. Certain disclosures, however, are required by § 226.17(a) to be segregated from other information although they may all appear on the same page. In addition, creditors should note that if the state and federal disclosures are combined, the timing requirements of Regulation Z will be controlling.

This notice does not contain an effective date since the Board has determined there is no preemption of state law. A concern was raised about delaying the effective date of this determination to allow creditors to change their uniform procedures, forms and computer systems to comply with both the federal and state disclosures. The commentary to Regulation Z provides that creditors may independently apply the Board's preemption standards to a state law and, if they conclude that the state law is inconsistent with federal law, choose not to give the state-required disclosures. (See comment 28(a)-4.) However, the commentary further notes that nothing in § 226.28(a) provides the creditor with immunity for violations of state law if the creditor chooses not to make state disclosures and the Board later determines that the state law is not preempted. Accordingly, the Board has not delayed the effective date of this determination.

After careful review of the Wisconsin sections discussed above, the Board has determined the state law is not inconsistent with the Truth in Lending Act and Regulation Z, and therefore not preempted.

List of Subjects in 12 CFR Part 226

Advertising; Banks; Banking; Consumer protection; Credit· Federal Reserve System; Finance; Penalties; Truth in Lending.

Board of Governors of the Federal Reserve System, November 30, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-28446 Filed 12-5-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-135-AD; Amdt. 39-6414]

Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Aerospatiale Model ATR42 series airplanes, which requires modification or replacement of certain fuselage and wing structural components. This amendment is prompted by reports of cracking discovered during full-scale fatigue testing of the Model ATR42 airframe. This condition, if not corrected, could result in structural failure of the fuselage or wing.

EFFECTIVE DATE: January 12, 1990.

ADDRESSES: 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, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. 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 a new airworthiness directive, applicable to all Aerospatiale Model ATR-42 series airplanes, which requires modification or replacement of certain fuselage and wing structural components, was published in the **Federal Register** on August 22, 1989 (54 FR 34778).

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

The commenter, Aerospatiale, recommended that the applicability of paragraph G. be amended to read "for airplane Serial Numbers 003 to 152, since Modification 1931 has been introduced on airplanes with Serial Number 152. The FAA does not concur. Paragraph G., which currently applies to airplanes "Serial Numbers 003 through 151, appropriately covers all airplanes requiring this modification.

Since the issuance of the Notice, Aerospatiale has issued Service Bulletin ATR42-53-0004, Revision 4, dated July 25, 1989, and Service Bulletin ATR42-57-0027 Revision 2, dated July 6, 1989, which clarify and update the procedures to reinforce the fuselage center section and center wing box. Paragraphs D. and G. of the final rule have been revised to reflect the latest revision to these service bulletins.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 50 airplanes of U.S. registry will be affected by this AD. The entire cost of the modifications and replacements required by this AD would be borne by the manufacturer; therefore, there is no cost impact on U.S. operators.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§39.13 [Amended]

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

Aerospatiale: Applies to Model ATR42 series airplanes, certificated in any category. Compliance is required prior to the accumulation of 10,000 landings, or within the next 300 landings after the effective date of this AD, whichever occurs later, unless previously accomplished.

To prevent failure of structural components of the fuselage and wing, accomplish the following:

A. For airplane Serial Numbers 003 through 151: Reinforce fuselage frame 26, in accordance with Aerospatiale Service Bulletin ATR42-53-0042, dated May 3, 1989.

B. For airplane Serial Numbers 003 through 032, 034, and 035: Reinforce the fuselage secondary frames, in accordance with Aerospatiale Service Bulletin ATR42-53-0023, Revision 2, dated May 25, 1989.

C. For airplane Serial Numbers 003 through 059: Perform a cold expansion of the outer wing lower skin attach fastener holes, in accordance with Aerospatiale Service Bulletin ATR42-57-0010, Revision 1, dated May 20, 1989.

D. For airplane Serial Numbers 003 through 071: Reinforce fuselage frames 24 and 28, in accordance with Aerospatiale Service Bulletin ATR42-53-0004, Revision 4, dated July 25, 1989.

E. For airplane Serial Numbers 003 through 084, 086, 087 and 089 through 093: Perform a cold expansion of attach holes and reinforce wing/fuselage junction fittings, in accordance with Aerospatiale Service Bulletin ATR42-53-0031, Revision 1, dated May 20, 1989.

F For airplane Serial Numbers 003 through 119: Perform a cold expansion of the wing front and rear spar attach holes, in accordance with Aerospatiale Service Bulletin ATR42-57-0021, Revision 1, dated May 20, 1989.

G. For airplane Serial Numbers 003 through 151: Replace the wing center box, in accordance with Aerospatiale Service Bulletin ATR42-57-0027 Revision 2, dated July 6, 1989.

H. 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 will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

I. 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 request to Aerospatiale, 216 Route de Bayonne, 31060, Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 12, 1990.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-28441 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-118-AD; Amdt. 39-6413]

Airworthiness Directives; Airbus Industrie Models A300, A310, and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Industrie Models A300, A310, and A300-600 series airplanes, which requires modification of the nose landing gear (NLG) barrel. This amendment is prompted by fatigue testing of the NLG barrel which revealed fatigue cracks between the attachment clevis of the telescopic strut and the upper bearing of the shock absorber. This condition, if not corrected, could lead to collapse of the NLG.

EFFECTIVE DATE: January 12, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. 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 a new airworthiness directive, applicable to Airbus Industrie Models A300, A310, and A300-600 series airplanes, which require modification of the nose landing gear barrel hinge, was published in the **Federal Register** on July 26, 1989 (54 FR 31047).

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

One commenter supported the rule.

The other commenter questioned the need for the rule since the referenced service bulletin will become a part of the Significant Structural Inspection Program (SSIP). The FAA does not concur with this commenter's assessment that this AD is unnecessary. The FAA acknowledges that the service bulletin may be part of the SSIP· however, the SSIP document is currently in preparation and its date of issuance is not known. Once the SSIP is finalized and issued, the FAA may consider further, separate rulemaking to address it. Since some operators may currently have airplanes that are approaching the specified number of cycles where the actions described in the service bulletin are necessary, the FAA has determined that it is appropriate to proceed with this rulemaking to require those actions.

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

It is estimated that 90 airplanes of U.S. registry will be affected by this AD, that it will take approximately 62 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for parts is $77,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,153,200.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Airbus Industrie: Applies to all Models A300, A310, and A300-600 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent collapse of the nose landing gear (NLG), accomplish the following:

A. Prior to the accumulation of 26,000 landings or within 30 days after the effective date of this AD, whichever occurs later, modify the NLG barrel, in accordance with one of the following service bulletins, as applicable:

Airplane Model	Service Bulletins
A300	A300-32-385, Rev. 1, dated October 15, 1988.
A310	A300-32-2039, Rev. 1, dated October 15, 1988.
A300-600	A300-32-6022, Rev. 1, dated October 15, 1988.

Note.—The above-referenced service bulletins reference Messier-Hispano-Bugatti Service Bulletin 470-32-577 for additional modification procedures.

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, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. 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 request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Ways South, Seattle, Washington.

This amendment becomes effective January 12, 1990.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

FR Doc. 89-28440 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-3M

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14 CFR Part 39

[Docket No. 89-NM-142-AD; Amdt. 39-6412]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Mystere Falcon 50 and 900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Mystere Falcon 50 and 900 series airplanes, which currently requires repetitive inspections of the main landing gear (MLG) door emergency release mechanism to detect broken or damaged unlocking pins, and replacement of the pins, if necessary. Broken or damaged unlocking pins, if not corrected, could prevent emergency extension of the MLG. This amendment requires installation of a modification of the emergency release mechanism of each MLG door uplock unit, which terminates the need for the repetitive inspections. This amendment is prompted by development of new pins and levers which are not service life limited.

EFFECTIVE DATE: January 12, 1990.

ADDRESSES: The applicable service information may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. 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 by revising AD 89-06-05, Amendment 39-6151 (54 FR 11163; March 17 1989), applicable to Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Mystere Falcon 50 and 900 series airplanes, to require installation of a modification of the emergency release mechanism of each main landing gear (MLG) uplock unit, was published in the **Federal Register** on August 22, 1989 (54 FR 34787).

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

Falcon Jet, representing the manufacturer, pointed out that one service bulletin number called out in the proposal was incorrect, and that the maintenance manual procedure for the Falcon 900 was not identified. The FAA concurs with this comment, and the final rule has been corrected to indicate the correct service bulletin numbers and to include the specific maintenance manual references for each affected model.

The commenter also requested deleting paragaph A.2., which would require that inspection of the main landing gear (MLG) emergency unlocking system be repeated prior to the accumulation of 2,000 landings if no damage was discovered during the initial inspection. The commenter noted that the parallel French AD requires additional inspections at 50 landing intervals only upon *accumulation* of 2,000 landings, and contends that the intent of the rule will be more clearly understood if paragraph A.2. is deleted. This commenter also noted that the repetitive inspections beginning at 2,000 hours are intended to be performed whether or not damage is noted during the initial inspection at 1,000 landings. In addition, the commenter requested changing the compliance time of proposed paragraph D. from "Within 120 days after the effective date of this AD, modify to "Prior to the accumulation of 2,000 landings since delivery of the airplane, or within 120 days after the effective date of this AD, whichever occurs later, modify The reason given by the commenter for this request is to make the French and U.S. AD's parallel in terms of compliance time for the required action. The FAA concurs with these comments. The suggested changes in wording make the intent of the required actions clearer, and result in commonality with the French AD. The compliance times reflected in paragraphs A. and B. do not change, and the incorporation of the 2,000 landings grace period in paragraph D. does not result in a reduction in safety because the inspections mandated by paragraphs A. through C. will assure system integrity for up to 2,000 landings. Acordingly, the final rule has been changed to reflect these comments.

In addition to the above, the commenter provided clarification regarding the part numbers of the MLG door unlocking system pins and levers. This commenter noted that the two different part number pins addressed by the service bulletin and this action are interchangeable, and that the life limit of 2,000 landings on the pins has to do with the use of the original part number lever. Neither the old nor the new part number pin is life limited when used with the new design lever. This comment is considered to be for information only. The commenter did not request any change to the rule regarding this clarification.

A second commenter supported the rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above. These changes will neither increase the economic burden on any operator nor increase the scope of the rule.

It is estimated that 171 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for parts is $645 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $192,375.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

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.

2. Section 39.13 is amended by amending Amendment 39-6151 (54 FR 11163; March 17 1989), AD 89-06-05, as follows:

Avion Marcel Dassault-Breguet Aviation (AMD-BA): Applies to Model Mystere Falcon 50 and 900 series airplanes as listed in AMD-BA Service Bulletins F-50-208, Revision 1, and F-900-52, Revision 1, both dated July 25, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent inability to open the main landing gear (MLG) door for MLG emergency extension, accomplish the following:

A. Prior to the accumulation of 1,000 landings on the MLG door emergency unlocking pin, or within 7 days after March 24, 1989 (the effective date of AD 89-05-05, Amendment 39-6151), whichever occurs later, verify the integrity of the MLG door emergency unlocking system by operating the manual opening system, in accordance with the instructions in the AMD-BA Falcon 50 Maintenance Manual Work Card 480.0, paragraph 3, or Falcon 900 Maintenance Procedure No. 32-120, as applicable. If the unlocking pin is broken or damaged, replace the pin with a serviceable pin of the same part number prior to further flight.

B. Upon accumulation of 2,000 landings on the MLG door emergency unlocking pin, or within 50 landings after the effective date of this AD, whichever occurs later, repeat the inspection described in paragraph A., above, and continue to perform this inspection at intervals not to exceed 50 landings.

C. Following the replacement of any unlocking pin with a new pin, repeat the inspections required by paragraphs A. and B., above.

D. Prior to the accumulation of 2,000 landings on the airplane, or within 120 days after the effective date of this AD, whichever occurs later, modify the emergency release mechanism of each MLG door uplock unit in accordance with AMD-BA Service Bulletin F50-208 (F50-32-18), Revision 1, or F900-52 (F900-32-4), Revision 1, both dated July 25, 1989. Accomplishment of this modification constitutes terminating action for the inspections required by paragraphs A. through C. of this AD.

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, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

F. 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 request to Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment amends Amendment 39-6151, AD 89-06-05.

This amendment becomes effective January 12, 1990.

Issued in Seattle, Washington, on November 27, 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 89-28439 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-10-AD; Amdt. 39-6385]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, Correction.

SUMMARY: This action corrects the amendment number of an airworthiness directive (AD) previously published in the Federal Register on November 3, 1989 (54 FR 46370). There are no other changes in the AD, which is applicable to all Boeing Model 727 series airplanes and requires inspection of the Number 1 and 3 engine aft mount support fittings, and repair or replacement, if necessary.

DATES: This corrective action is effective December 6, 1989. The effective date of Amendment 39-6385, AD 89-23-17 continues to be December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Airframe Branch, ANM-120S; telephone (206) 431-1525. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On October 25, 1989, the FAA issued a final rule, AD 89-23-17 applicable to all Boeing Model 727 series airplanes, which requires inspection of the Number 1 and 3 engine aft mount support fittings, and repair or replacement, if necessary. When the final rule was published in the Federal Register on November 3, 1989 (54 FR 46370), an incorrect amendment number of "39-6395" was cited. This action corrects the amendment number to "Amendment 39-6385."

Since this action only corrects an amendment number in a final rule, it has no adverse economic impact and imposes no additional burden on any

person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective upon publication in the **Federal Register**.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft, Air transportation, Safety.

Adoption of the Correction

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

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.

2. Section 39.13 is amended by correcting the amendment number of AD 89-23-17 Docket 89-NM-10-AD, published in the **Federal Register** on November 3, 1989 (54 FR 46370), to read Amendment 39-6385.

This correction is effective December 6, 1989.

The effective date of Airworthiness Directive 89-23-17 Amendment 39-6385, is December 11, 1989.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-28438 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-ASW-11; Amdt. 39-6403]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI), Model 204B, 205A, 205A-1, 212, and 412 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain BHTI Model 204B, 205A, 205A-1, 212, and 412 helicopters by individual letters. The AD required inspections of the main transmission spiral bevel gear for evidence of gear tooth failure and replacement, as necessary. This AD is necessary to prevent failure of the transmission spiral bevel gear which could result in possible loss of the helicopter.

EFFECTIVE DATE: Effective January 3, 1990, as to all persons except those persons to whom it was made immediately effective by Priority Letter AD 89-08-05, issued April 12, 1989, which contained this amendment.

Compliance: Compliance required as indicated, unless already accomplished.

ADDRESS: The applicable AD-related material may be examined at the Regional Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, Room 158, Bldg. 3B, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Tyrone D. Millard, Rotorcraft Directorate, Rotorcraft Certification Office, ASW-170, FAA, Southwest Region, Fort Worth, Texas 76193-0170, telephone (817) 624-5177

SUPPLEMENTARY INFORMATION: On April 12, 1989, Priority Letter AD 89-08-05 was issued and made effective immediately as to all known U.S. owners and operators of certain BHTI Model 204B, 205A, 205A-1, 212, and 412 helicopters. The AD required inspections of the transmission spiral bevel gear for evidence of gear tooth failure and replacement of any unserviceable main transmission spiral bevel gear with a serviceable part. The AD was prompted by a report received by the FAA in which a pilot of a Bell Model 212 helicopter heard an occasional and unusual noise coming from the transmission area during flight. Upon returning to base, an inspection of the helicopter revealed two large pieces of gear tooth material fractured from the main transmission spiral bevel gear, part number (P/N) 204-040-701-103. A metallurgical examination of the failed gear teeth attributes this failure to the presence of a low alloy metallic inclusion which occurred during processing of the gear material. This condition may result in early failure, prior to 250 hours' time in service, of some of these gears. AD action was necessary to prevent failure of the transmission spiral bevel gear, which could result in possible loss of the helicopter. The AD, as published, includes a new paragraph (e) to provide for ferry flights in accordance with FAR 21.197 and 21.199, adds serial number (S/N) 33185 and removes S/N 33188 in the NOTE following the applicability paragraph, and adds S/N A-4229 in the NOTE after paragraph (b)(3). The S/N's 33185 and A-4229 were inadvertently omitted from the priority letter AD, and S/N 33188 was determined not to be affected by the AD.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued April 12, 1989, to all known U.S. owners and operators of certain BHTI Model 204B, 205A, 205A-1, 212, and 412 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive 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 action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26 1979). If it is determined that this emergency regulation would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Regional Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. Section 39.13 is amended by adding the following new AD:

Bell Helicopter Textron, Inc.. Applies to all Bell Helicopter Textron, Inc., (BHTI) Model 204B, 205A, 205A-1, 212, and 412 helicopters, certificated in any category, with main transmission spiral bevel gear, P/N 204-040-701-103, having less than 250 hours' time in service upon effective date of this AD and delivered as spares or in a new transmission between January 1, 1988, and April 4, 1989. The spare (uninstalled) spiral bevel gears, P/N 204-040-701-103, affected serial numbers are as follows:

A-3819	A-4069	A-4275
A-3821	A-4071	A-4280
A-3825	A-4075	A-4282
A-3826	A-4077	A-4288
A-3829	A-4078	A-4289
A-3833	A-4079	A-4290
A-3834	A-4080	A-4303
A-3836	A-4081	A-4319
A-3838	A-4083	A-4320
A-3840	A-4084	A-4325
A-3845	A-4085	A-4327
A-3847	A-4087	A-4328
A-3848	A-4089	A-4329
A-3850	A-4090	A-4332
A-3855	A-4091	A-4333
A-3856	A-4092	A-4334
A-3857	A-4093	A-4335
A-3858	A-4094	A-4336
A-3861	A-4095A	A-4337
A-3878	A-4096	A-4358
A-3880	A-4097	A-4366
A-3885	A-4098	A-4368
A-3886	A-4107	A-4369
A-3889	A-4108	A-4370
A-3891	A-4109	A-4371
A-3892	A-4147	A-4372
A-3893	A-4184	A-4374
A-3895	A-4186	A-4376
A-3896	A-4187	A-4377
A-3897	A-4188	A-4378
A-3899	A-4191	A-4379
A-3901	A-4192	A-4380
A-3911	A-4193	A-4383
A-3915	A-4213	A-4385
A-3916	A-4229	A-4386
A-3919	A-4233	A-4387
A-3920	A-4235	A-4394
A-4008	A-4236	A-4395
A-4014	A-4241	A-4397
A-4017	A-4243	A-4400
A-4019	A-4244	A-4401
A-4020	A-4245	A-4403
A-4021	A-4254	A-4411
A-4027	A-4266	A-4417
A-4029	A-4267	A-4418
A-4068	A-4274	A-4428

The following Model 212 serial numbered helicopters were delivered with affected main transmission spiral bevel gears: S/N's 31304, 31305, and 31307 The following Model 412 serial numbered helicopters were delivered with the affected main transmission spiral bevel gears: S/N's 33175, 33177 33178, 33179, 33181, 33182, 33185, 33186, 33190, 33192, 33194, and 33195. (Docket No. 89-ASW-11)

Compliance is required as indicated, unless already accomplished.

To prevent failure of the main transmission spiral bevel gear which could result in possible loss of the helicopter, accomplish the following:

(a) Within the next 10 hours time in service upon effective date of this AD, and thereafter, before the first flight of each day, accomplish the following:

(1) Remove and inspect the transmission internal sump oil filter for evidence of metal contamination (e.g., steel particles in splinter, granular, or flake form).

(2) If the metal contamination is evident, disassemble the main transmission to determine the extent of damage and replace any unserviceable parts with serviceable parts before further flight.

(b) Within the next 10 hours' time in service upon effective date of this AD and thereafter, at intervals not to exceed 50 hours' time in service from the last inspection, accomplish the following:

(1) Remove a quill pad cover, P/N 204-040-174-001, or rotor brake quill from the transmission main ring gear case to gain access to the main transmission spiral bevel gear.

(2) Utilizing a bright light and a dental mirror, inspect all teeth in the spiral bevel gear, P/N 204-040-701-103, for evidence of cracks, chipping, and metal deformation. If cracks, chipping, or metal deformation is evident, the part must be removed from service and replaced with a serviceable part before the further flight.

(3) Reinstall pad cover, P/N 204-040-174-001, or rotor brake quill, whichever is applicable.

(c) The provisions of this AD do not apply when the time in service of the spiral bevel gear, P/N 204-040-701-103, reaches or exceeds 250 hours' time in service.

Note.—Spiral bevel gear, P/N 204-040-701-103, affected by this AD may be returned to Bell Helicopter Textron, Inc., Attn: CPR Monitor, 3000 South Norwood & Trinity Boulevard, Hurst, Texas 76053, for inspection and reidentification. After reidentification, the provisions of this AD no longer apply.

(d) An alternate method of compliance or adjustment of the compliance time, which provides an equivalent level of safety, may be used when approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, Aircraft Certification Service, FAA, Southwest Region, Fort Worth, Texas.

(e) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the inspection requirements of this AD may be accomplished.

This amendment becomes effective January 3, 1990, as to all persons except those persons to who it was made immediately effective by Priority Letter AD 89-08-05, issued April 12, 1989, which contained this amendment.

Issued in Fort Worth, Texas, on November 16, 1989.

James D. Erickson,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 89-28437 Filed 12-5-89; 8:45am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing certain option contracts traded on the London Futures and Options Exchange to be offered or sold to persons located in the United States. This Order is issued pursuant to Commission Rule 30.3(a), 17 CFR 30.3(a) (1988), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered in the United States.[1]

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: David A. Naatz, Esq. or Victoria R. Hartke, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW Washington, DC 20581.[2] Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under CFTC Rule 30.3(a) Permitting Option Contracts Traded on the London Futures and Options Exchange to be Offered or Sold in the United States Thirty Days After Notice to the Commission and Publication in the Federal Register of the Option Contracts to be Traded

On July 23, 1987 the Commission adopted final rules governing the domestic offer or sale of commodity

See 52 FR 28980, 28998 (August 5, 1987). Notwithstanding the prohibition in Commission Rule 30.3(a), non-domestic exchange-traded options which are traded pursuant to the trade option exemption in Commission Rule 32.4(a), 17 CFR 32.4(a) (1988), may continue to be offered or sold.

In considering requests under Rule 30.3(a), the Commission notes that it has received a significant number of comments that the offer or sale of foreign options should be permitted. *See* advance notice of proposed rulemaking, 49 FR (July 25, 1984), proposed rules, 51 FR 12104 (April 8, 1986) and final rules, 52 FR 28980 (August 5, 1987). The Commission continues to welcome comments on this process. On July 20, 1988, the Commission issued orders authorizing certain option contracts traded on the Montreal Exchange, the Singapore International Monetary Exchange and the Sydney Futures Exchange to be offered or sold in the United States. On September 12, 1989, the Commission issued an order authorizing certain option contracts traded on the London International Financial Futures Exchange to be offered or sold in the United States.

futures and option contracts traded on or subject to the rules of a foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which became effective on February 1, 1988, establish, among other things, a regulatory framework for the offer or sale of foreign options to persons located in the United States.[3] Specifically, Rule 30.3(a) provides that:

[N]otwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer or sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States 52 FR 28988.

In view of the history of abuses in the options markets prior to the imposition of the options ban,[4] the Commission determined to phase in foreign options on a market-by-market basis through particularized review of applications submitted by individual markets and issuance of an authorization order, as appropriate, by the Commission. In adopting the final rules which implement that procedure, the Commission stated that notwithstanding Part 30, which provides a regulatory framework to govern transactions in both foreign futures *and* foreign options, and which has been the subject of extensive notice and comment, it would be unlawful for any person to engage in the offer or sale of a particular foreign option product until the Commission specifically authorizes such foreign option to be offered or sold in the United States.[5] As a consequence, Rule 30.3(a) permits the Commission, as stated in the release accompanying the proposed rules, to consider, among other things, its ability to determine whether or not a particular trade has been transmitted to and executed on a foreign exchange as part of its decision to authorize transactions in specific foreign exchange-traded options.[6]

By letter dated June 6, 1989, the London Commodity Exchange (1986) Limited ("London Fox"), a recognized investment exchange ("RIE") under United Kingdom law which is subject to regulatory oversight by the United Kingdom Securities and Investments Board ("SIB"), requested that the Commission authorize the offer or sale of option contracts traded on London Fox to persons located in the United States under Commission Rule 30.3(a).

In issuing this Order, the Commission has considered: (1) the existence of information sharing arrangements relevant to preventing abuses in the trading of option contracts on London Fox; [7] (2) the arrangements in place for assuring that sales practice abuses in such options do not occur, including that sales practice compliance audits commensurate with those which apply to domestic products will be conducted with respect to firms engaged in the offer or sale of its foreign option products in the United States; (3) the arrangements for United States customers to redress grievances with respect to matters directly pertaining to the conduct of trading or other activities relevant to the offer or sale of such products occurring within the jurisdiction where the option is traded; and (4) the regulatory environment in which such foreign options are traded, including, among other things, the determination by the Commission under Rule 30.10, 17 CFR 30.10 (1988), to exempt specified firms in the United Kingdom from the application of certain of the Commission's rules governing foreign futures and option transactions based on the existence of a generally comparable regulatory system in effect in the United Kingdom.[8]

In determining that London Fox's showing with respect to the foregoing matters is sufficient to warrant the issuance of the Order herein, the Commission notes that as it acquires further experience it may determine that other considerations are also relevant. To this end, the Commission expects to continue to monitor the offer or sale of the products subject to this Order.[9]

Based upon the representations of London Fox contained in its letter dated June 6, 1989, as supplemented, SIB's letter dated July 28, 1989 in which SIB confirms that it monitors London Fox for compliance with its obligations as an RIE, [10] the existence of information sharing arrangements with SIB and other relevant United Kingdom authorities, [11] the determination of the Commission to grant Rule 30.10 relief to specified firms in the United Kingdom by Orders dated May 15, 1989, the memorandum from the Division of Trading and Markets to the Commission dated November 6, 1989 ("Staff Memorandum") recommending the approval of the Order herein, and pursuant to Commission Rule 30.3(a), the Commission hereby authorizes the offer or sale in the United States of options traded on London Fox subject to the following conditions:

(1) except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, that no offer or sale of any London Fox option product in the United States shall be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to this Order;

(2) that SIB and London Fox represent that London Fox is an RIE under the Financial Services Act and, as such, is subject to regulatory obligations under that Act, that transactions on London Fox in the London Fox option(s) referenced in the **Federal Register** notice [12] will be subject to the rules

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Rule 30.1(b), 17 CFR § 30.1(b) (1988), defines a foreign option as any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option, "privilege, "indemnity, "bid, "offer, "put, "call, "advance guaranty" or "decline guaranty, made or to be made on or subject to the rules of a foreign board of trade.

Although the statutory prohibition on the offer or sale of foreign options formerly contained in section 4(c) of the Commodity Exchange Act ("Act") has been removed, *see* Futures Trading Act of 1986, Pub. L. No. 99-641, section 102, 100 Stat. 3556 (1988), the regulatory prohibition in Commission Rule 32.11, 17 CFR 32.11 (1988), adopted pursuant to section 4c(b) of the Act, remains in effect.

52 FR 28980, 28998.

51 FR 12104, 12105.

See 51 FR 12104, 12105. The pattern of abuses that was characteristic of option sales practices in the past, and which contributed to the Commission's decision to suspend all option sales in 1978, included the unavailability of data necessary to permit determination whether orders for options had in fact been executed. *See* 43 FR 16155 (April 17, 1978).

See Orders of the Commission dated May 15, 1989 granting Rule 30.10 relief to the Securities and Investments Board, the Association of Futures Brokers and Dealers, The Securities Association and the Investment Management Regulatory Organisation. 54 FR 21599 (May 19, 1989). In issuing such Orders, the Commission determined that the requirements in Appendix A to Part 30, "Interpretative Statement with Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules, which sets forth the elements the Commission will evaluate in determining whether particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10, had generally been satisfied. *Id.*

[9] The Commission has not sought to analyze the individual option contracts under the requirements which apply to the designation of an option contract proposed to be traded on United States contract market. In particular, the Commission has not analyzed whether these instruments would meet the Commission's economic purpose test, 17 CFR 33.4(a)(5)(i)(1988), or other criteria relating to the specific terms and conditions of such foreign option contract. *See* 17 CFR 33.4. The Commission, however, has plenary authority with respect to option products. *See* section 4c of the Act.

[10] *See* letter from M.B. Cittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

[11] *See, e.g.*, "Memorandum of Understanding on Exchange of Information between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Securities and Between the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Futures" signed on September 23, 1986, as supplemented by "Memorandum Relating to UK/US MOU" signed on November 22, 1988 adding the SIB as signatory to the MOU (hereinafter collectively referred to as "UK/US MOU"), and the "Side Letter Relating to UK/US MOU" signed on May 15, 1989.

[12] The option contracts which will initially be offered or sold pursuant to this Order, summary of the terms and conditions for which are attached hereto as Exhibit A, are options on cocoa, coffee, raw sugar and white sugar.

of London Fox and that SIB and/or London Fox provide the Commission with information as to all material changes thereto promptly;

(3) that options on futures on stock indices [13] and options on futures on foreign government debt securities [14] will not be permitted to be offered or sold hereunder absent certain additional procedures;

(4) that options traded pursuant to this Order may only be offset on London Fox or another market with respect to which the Commission has issued an order under Commission Rule 30.3(a) authorizing its option products to be offered or sold in the United States;

(5) that options traded pursuant to the Order herein may only be offered or sold by persons registered in the appropriate capacity under the Commodity Exchange Act or by persons who have been granted an exemption from registration under Rule 30.10 based on comparability of regulation, provided such persons also provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7, 17 CFR 33.7 (1988), and, if the persons elect not to collect the full premium for the contract as margin from the customer at the time of purchase, the Addendum thereto attached hereto as Exhibit B, but may not be offered or sold by persons doing business in the United States pursuant to interim relief granted and extended by the Commission (*see* 53 FR 3338 (February 5, 1988) and subsequent orders and letters of the Commission); and

(6) if experience demonstrates that the continued effectiveness of this Order would be contrary to public policy or the public interest or that the operation or execution of the systems and arrangements in place for the trading of the option products subject hereto, or the exchange of information with respect to such products, do not warrant continuation of the authorization granted herein, the Commission may modify, suspend, terminate or otherwise restrict the authorization granted in this Order, as appropriate, on its own motion. In such event, appropriate arrangements to service existing positions will be made.

This Order is issued based on the information provided to the Commission and its staff as set forth herein and in the Staff Memorandum. Any changes or material omissions might require the Commission to reconsider the authorization granted in this Order.

Issued in Washington, DC on November 30, 1989.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[13] *See* 52 FR 28980, 28982 n.6 and section 2a(1) of the Act.

[14] *See* section 2a(1) of the Act, section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder.

Exhibit A

Traded Options on the Robusta Coffee Contract

Basic contract terms

Trading months: January, March, May, July, September, November.

Trading hours: 09:45 to 12:32 hours. 14:30 to 17:00 hours. (As for the underlying Futures Contract trading in Traded Options will continue until trading in the underlying Futures Contracts has ceased).

Contract unit: 5 tonnes.

Minimum price fluctuation: £1 per tonne.

Exercise/Strike price increments: £50 per tonne.

Quoted trading months: Identical to the first six quoted months on the underlying futures, subject to the introduction of a new position immediately on expiry of the "old" option month. Six months always quoted.

Expiry date: Shall be the close of business on the third Wednesday in the preceding month. Declaration (or non-declaration) instructions shall be given to the Clearing House not later than one hour after the close of business.

Traded Options on the No. 5 White Sugar Contract

Basic contract terms

Trading months: March, May, August, October, December.

Trading hours: 09:45 to 19:10 hours.

Contract unit: 50 tonnes.

Minimum price fluctuation: $0.05 per tonne.

Exercise/Strike price increments:

Quoted trading months: Identical to the first six quoted months on the underlying futures, subject to the introduction of a new position immediately on expiry of the "old" option month. Six months always quoted.

Expiry date: Shall be the close of business on the first business day in the preceding month. Declaration (or non-declaration) instructions shall be given to the Clearing House not later than one hour after the close of business.

Traded Options on the No. 6 Raw Sugar Contract

Basic contract terms

Trading months: March, May, August, October, December.

Trading hours: 10:30 to 12:30 hours. 14:30 to 19:00 hours. (As for the underlying Futures Contract trading in Traded Options will continue until trading in the underlying Futures Contracts has ceased).

Contract unit: 50 tonnes.

Minimum price fluctuation: $0.05 per tonne.

Exercise/Strike price increments: $10 per tonne.

Quoted trading months: Identical to the first six quoted months on the underlying futures, subject to the introduction of a new position immediately on expiry of the "old" option month. Six months always quoted.

Expiry date: Shall be the close of business on the third Wednesday in the preceding month. Declaration (or non-declaration) instructions shall be given to the Clearing House not later than one hour after close of business.

Traded Options on the No. 7 Cocoa Contract

Basic contract terms

Trading months: March, May, July, September, December.

Trading hours: 10:00 to 12:58 hours. 14:30 to 16:45 hours. (As for the underlying Futures Contract trading in Traded Options will continue until trading in the underlying Futures Contracts has ceased).

Contract unit: 10 tonnes.

Minimum price fluctuation: £1 per tonne.

Exercise/Strike price increments: £50 per tonne.

Quoted trading months: Identical to the first six quoted months on the underlying futures, subject to the introduction of a new position immediately on expiry of the "old" option month. Six months always quoted.

Expiry date: Shall be the close of business on the third Wednesday in the preceding month. Declaration (or non-declaration) instructions shall be given to the Clearing House not later than one hour after the close of business.

Exhibit B—Addendum to CFTC Options Disclosure Statement (CFTC Rule 33.7)

The CFTC "Options Disclosure Statement, a copy of which is attached, is modified as set forth below to reflect some particular features of London Fox options:

(i) London Fox is a board of trade (exchange) located *outside* the United States on which certain options are authorized by the CFTC for sale in the United States;

(ii) London Fox option contracts have provision for deferred payment of the option premium, are market-to-market and are subject to initial margin requirements. Consequently, the futures commission merchant ("FMC") or a firm granted an

exemption from the FCM registration requirement might not require the purchaser of a London Fox option to put up the full premium at purchase.

Although there is provision for deferred payment of premium, the purchaser of an option is still subject to the risk of losing the entire purchase price of the option, that is, the option premium plus all transaction costs. Consequently, before *purchasing* an option, an individual should fully understand the applicable margin requirements, and particularly should be aware of the obligation to pay variation margin in the case of adverse market movement. Although the purchaser may receive some accruing profit during the life of the option, he should be aware that in order to realize and retain any value from the option, it will be necessary either to offset the option position or to exercise the option.

November 6, 1989.

Memorandum

To: The Commission.

From: The Division of Trading and Markets.

Subject: Order Under Commission Rule 30.3(a) Permitting Certain Option Contracts Traded on the London Futures and Options Exchange to be Offered or Sold in the United States.

Recommendation: That the Commission publish in the **Federal Register** this memorandum and approve and publish the attached order permitting option contracts traded on the London Futures and Options Exchange to be offered or sold in the United States upon thirty days notice.

Other Divisions and Offices Consulted:

Division of Economic Analysis
Division of Enforcement
Office of the Executive Director
Office of the General Counsel

I. INTRODUCTION

On July 23, 1987 the Commission adopted final rules governing the domestic offer or sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which became effective on February 1, 1988, establish, among other things, a regulatory framework for the offer or sale of foreign option products to persons located in the United States.[1] Specifically, Rule 30.3(a) provides that:

[N]otwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer or sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States 52 FR 28988.

In this regard, in view of the history of abuses in the options markets prior to the imposition of the options ban,[2] the Commission determined to phase in foreign options on a market-by-market basis through particularized review of applications submitted by individual markets and issuance of an authorization order, as appropriate, by the Commission.[3] In adopting the final rules which implement that procedure, the Commission stated that notwithstanding part 30, which provides a regulatory framework to govern transactions in both foreign futures *and* foreign options, and which has been the subject of extensive notice and comment, it would be unlawful for any person to engage in the offer or sale of a particular foreign option product to a customer resident in the United States until the Commission specifically authorizes such foreign option to be offered or sold in the United States.[4] As a consequence, Rule 30.3(a) permits the Commission, as stated in the release accompanying the proposed rules, to consider, among other things, its ability to determine whether or not a particular order has been transmitted to and executed on a foreign exchange in determining whether to authorize transactions in specific foreign exchange-traded options.[5]

By letter dated June 6, 1989, the London Commodity Exchange (1986) Limited ("London Fox"), a recognized investment exchange ("RIE") under United Kingdom law which is subject to regulatory oversight by the United Kingdom Securities and Investments Board ("SIB"),[6] requested that the Commission authorize the offer or sale of option contracts traded on London Fox to persons located in the United States.

II. Recommendation

The Division of Trading and Markets ("Division") has carefully reviewed and considered the application of London Fox to offer or sell option products traded on London Fox in the United States, in particular addressing: (1) the availability of certain information relevant to preventing abuses in the trading of such contracts; (2) the arrangements in place for monitoring compliance with sales practice obligations; (3) the ability of United States customers to redress grievances with respect to the conduct of trading and other offshore activities relevant to the offer or sale of London Fox option products; and (4) the regulatory environment in which such options are traded.

The review of London Fox's petition under Commission Rule 30.3(a) has been facilitated by the Commission's determination by Orders issued on May 15, 1989, under Rule 30.10, 17 CFR § 30.10 (1988), to exempt specified firms in the United Kingdom from the application of certain of the Commission's rules governing foreign futures and option transactions based on the existence of a generally comparable regulatory system in effect in the United Kingdom. Specifically, on May 15, 1989, the Commission granted the Rule 30.10 petitions of the SIB and of certain self-regulating organisations ("SROs"), *i.e.*, the Association of Futures Brokers and Dealers ("AFBD"), The Securities Association ("TSA") and the Investment Management Regulatory Organization ("IMRO"), which are responsible for regulating the investment business activities of firms which they designate. In granting such petitions, the Commission determined that the requirements in Appendix A to part 30, "Interpretative Statement with Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules,[7] generally had been satisfied and that compliance with the rules of the SIB and/or the equivalent rules of the relevant SRO may be substituted, subject to certain conditions, for

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Rule 30.1(b), 17 CFR 30.1(b) (1988), defines a foreign option as any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option, "privilege, "indemnity, "bid, "offer," "put, "call, "advance guaranty," or "decline guaranty, made or to be made on or subject to the rules of a foreign board of trade.

See 51 FR 12104, 12105 (April 8, 1986). The pattern of abuses that was characteristic of option sales practices in the past, and which contributed to the Commission's decision to suspend all option sales in 1978, included the unavailability of data necessary to permit a determination whether orders for options had in fact been executed. *See* 43 FR 16155 (April 17, 1978).

Although the statutory prohibition on the offer or sale of foreign options formerly contained in section 4c(c) of the Commodity Exchange Act ("Act") has been removed, *see* Futures Trading Act of 1986, Pub. L. No. 99-641, section 102, 100 Stat. 3556 (1987), the regulatory prohibition in Commission Rule 32.11, 17 CFR 32.11 (1988), adopted pursuant to section 4c(b) of the Act, remains in effect.

52 FR 28980, 28998. Notwithstanding the prohibition in Commission Rule 30.3(a), non-domestic exchange-traded options which are traded pursuant to the trade option exemption in Commission Rule 32.4(a), 17 CFR 32.4(a) (1988), may continue to be offered or sold.

51 FR 12104, 12105.

See Section 37 of the Financial Services Act ("FSA") and Order of SIB dated April 25, 1988 declaring London Fox to be an RIE attached as Appendix 3 to the June 6, 1989 Petition of London Fox.

SIB has confirmed that it monitors all RIEs, including London Fox, for compliance with their obligations as RIEs. *See* letter from M.B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

Appendix A sets forth the elements the Commission will evaluate in determining whether a particular regulatory progam may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.

compliance with specified sections of the Commodity Exchange Act.

As discussed more fully below, based upon its determinations with respect to the foregoing matters, and subject to the terms and conditions specified herein, the Division recommends that the Commission publish in the **Federal Register** this memorandum and approve and publish the attached Order permitting certain option contracts traded on London Fox to be offered or sold in the United States.[8]

III. Discussion

Information Sharing

Prior to the imposition of the options ban in 1978, the ability of the Commission to address problems which occurred with respect to the offer or sale of certain ostensibly foreign options in the United States was impeded by the inaccessibility of information from their purported jurisdiction of origin. As a consequence, in determining to lift the options ban with respect to foreign products, the Commission indicated that a primary consideration would be the availability of transaction information.[9]

Information sharing arrangements have been the subject of extensive discussion between the Commission and the United Kingdom regulatory bodies in connection with the execution of the "Memorandum of Understanding between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in matters relating to Securities and between the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in matters related to Futures" signed on September 23, 1986, as supplemented by the "Memorandum Relating to UK/US MOU" signed on November 22, 1988 adding the SIB as a signatory to that document, (hereinafter collectively referred to as "UK/US MOU" and the Side Letter Relating to UK/US MOU ("Side Letter") entered into on May 15, 1989 by the SIB and the Commission. In particular, the Side Letter provides for information sharing necessary to monitor compliance with applicable Part 30 rules and the terms and conditions of any order issued by the Commission under part 30, including any foreign option order issued pursuant to Commission Rule 30.3(a). In addition, the Financial Information Sharing Memorandum of Understanding ("FISMOU") entered into on September 1, 1988 by, among others, the SIB, the Commission and United Kingdom and United States SROs and the Addendum to the FISMOU signed on May 15, 1989 provides for routine and "as needed" information sharing in connection with the financial condition of firms which are exempt from compliance with certain financial requirements pursuant to the FISMOU and the Addendum thereto.

Further, in its June 6, 1989 Petition, London Fox has represented that it is committed to cooperating with United Kingdom regulatory authorities by sharing information with such authorities and that, as an RIE, London Fox is obligated to do so under the FSA.[10]

Sales Practice Audits

In developing its pilot program for domestic exchange-traded options, the Commission specifically required as a condition of designation that the contract market seeking approval of an option adequately provide for the monitoring and detection of sales practice abuses.[11] As such abuses ultimately contributed to the banning of options trading altogether in 1978, the Commission has indicated that any options offered in the United States must be subject to an adequate sales practice audit program.[12] In this connection, London Fox represents that under the FSA, SIB or the SRO to which a specific firm belongs is responsible for establishing sales practice rules and monitoring compliance with such rules. Specifically, London Fox represents, and the Commission staff determined in connection with its review of the relevant Rule 30.10 petitions, that SIB, AFBD, TSA and IMRO each has sales practice rules which address, without limitation, customer complaints, supervision of employees and accounts, solicitation, notification of disciplinary actions, risk disclosure, contents of customer accounts, discretionary accounts and misleading advertising.[13] Further, SIB and the SROs have rules relating to "best execution. These rules are intended to prevent a firm from taking advantage of a customer's order, whether for its own account or for that of another customer. For example, SIB Conduct of Business Rule 5.15 establishes the priorities to be given to customers' orders in instances where a firm also is trading for its own account.

Additionally, the SIB and United Kingdom SROs have procedures for conducting sales practice audits of firms in the United Kingdom selling London Fox options into the United States.[14] In particular, under part 15 of SIB's Conduct of Business Rules, firms are required to establish and maintain written rules and compliance procedures to ensure compliance with the requirements of the FSA and the rules or regulations made by SIB under the FSA. SIB has established a direct regulation division to maintain continuous oversight with respect to firms which it has authorized. As a condition of recognition by SIB as an SRO, the SRO must demonstrate to SIB that it has rules relating to, among other things, protection of investors, the monitoring and enforcement of compliance with its rules and the promotion and maintenance of high standards of integrity and fair dealing which provide protection to investors "at least equivalent" to that provided by SIB under its rules. Also, the National Futures Association ("NFA") has confirmed by letter dated August 16, 1989 that the sales practices of firms located in the United States engaged in such activities will be audited.[15]

In conjunction with the SROs' sales practice programs, London Fox, through its Compliance Committee, conducts surveillance to monitor members' compliance with London Fox's rules.[16]

See Exhibit A of the Order recommended herein which contains the list of option contracts and a summary of their terms and conditions. Additional London Fox option contracts may be offered or sold thirty days after publication of the terms and conditions of the specific option contract in the Federal Register. The Division believes that review of the individual foreign option contracts should be limited at this time to the regulatory issues discussed above and should not include an analysis of whether these foreign option contracts would meet the Commission s economic purpose test, 17 CFR 33.4(a)(5)(i) (1988), or other criteria relating to the specific terms and conditions of the option contract. *See* 17 CFR 33.4.

52 FR 28980, 28988.

[10] *See* FSA, Schedule 4, paragraph 5 and Appendix 3 to June 6, 1989 Petition of London Fox, to which is attached a Memorandum of Understanding between SIB and London Fox.

[11] *See* 46 FR 54500, 54502 (November 3, 1981).

[12] *Id.*

[13] *See* Rules of SIB, AFBD, TSA and IMRO as discussed in Staff Memoranda dated May 5, 1989 recommending that the Commission grant the Rule 30.10 petition of the above-referenced entities.

[14] *Id.*

[15] On January 14, 1988, the Commission approved amendments to NFA's Bylaws and the adoption of new Bylaws to provide for the regulation of the foreign futures and option activities of NFA members and associates. By letter dated August 16, 1989, from Daniel A. Driscoll, Vice-President of NFA, to Andrea M. Corcoran, Commission, NFA confirmed that arrangements have been made to provide sales practice audits of firms in the United States selling London Fox options.

[16] *See* Appendix 5 to June 6, 1989 Petition of London Fox; *see also* London Fox Floor Trading Rules and Procedures submitted with letter dated October 10, 1989 from P.A.S. Rucker, London Fox, to Andrea M. Corcoran, Commission.

London Fox has represented that the compliance function is undertaken by, among others, two Compliance Officers and its Membership Secretary as follows: [17]

(i) *The Compliance Officer*—The Compliance Officer has overall responsibility for ensuring the compliance function within [London Fox] by overseeing the Markets through Market staff and dealing with any infractions brought to his attention. He also undertakes investigations into certain areas which, from time to time, he considers need attention. He is responsible directly to the Chairman of [London Fox] and is involved in the wider aspects of relations with other Exchanges, the regulatory bodies and the [International Commodities Clearing House ("ICCH")]. In conjunction with the Director of Operations he monitors Members' positions both on a day to day basis and during the liquidation of the Spot positions.

(ii) *The Membership Secretary*—The Membership Secretary is responsible for the maintenance of all membership records, processing new applications for membership and the maintenance of net worth and financial monitoring of all classes of membership in conjunction with the Director of Finance, a Chartered Accountant, who ensures that Members' accounts are scrutinised.

(iii) *The Assistant Compliance Officer (Audit)*—The role of this Officer is to undertake an audit on a weekly basis of a particular market, certain Members etc. by thoroughly investigating all trading slips that are relevant to the particular audit and ensuring that they agree with the time/sales print out, are correctly timed and dated and that no unusual trading pattern is evident. Infractions in trading or writing of slips are brought to the attention of the Compliance Officer and/or the market Managers for action as necessary. Any unusual trading pattern is fully investigated to ensure that no irregularities are being perpetrated.

(iv) *The Exchange Floor and the Market Managers*—These Officers have the day to day running of the Markets in their charge and are charged with ensuring that the Trading Rules are complied with, that discipline is maintained on the Floor and that the trading slips are correctly produced and entered for registration by [ICCH]. They are also responsible for the price reporting input for the market and quote vendor screens.

London Fox has also represented that trade reporting on its floor is as follows: [18]

1. All trades effected on the Floor of [London Fox] are required under the Rules (Rule 24.02) to be registered with [ICCH] and to be traded in accordance with the Trading Rules from time to time in force (In the case of Traded Options Section 37 of the Rule Book applies).

2. Upon completion of a trade the two parties to it complete Buyers and Sellers trading slips and present these to the Rostrum Staff for checking and inputting into the system for registration with [ICCH].

3. Slips must be timed and dated in the section provided and then submitted to the Rostrum within 15 minutes of the trade taking place. These are verified with the time/sales print out by the Assistant Compliance Officer (Audit) when auditing the work of the Markets. Traders may hand write the time [to the minute] [19] and date or, alternatively, use a time stamp machine provided by [London Fox] for their use. These are controlled centrally to ensure accurate time keeping.

4. Rostrum Clerks are employed to enter the details of the trades into the [ICCH] computer system and these are "matched" by the computer and are registered by [ICCH]. After 15 minutes an "unmatched" trade is shown on a screen by the mnemonic of that party who has put in a slip and who is expecting his counterparty to put in his slip. It is the duty of the Trader concerned to do so immediately and the Market staff to ensure that this is done. To leave an "unmatched" trade unattended is considered by [London Fox] to be a serious offence.

5. Rostrum Clerks are also employed to input the price details to a computer on a second by second basis so that screens are constantly updated on the Markets, in Members' offices and to quote vendors who buy the signal for dissemination worldwide. Print outs are available for audit purposes and are also available, of course, to Members, the public, etc. and are used to check queries and complaints

Dispute Resolution

The availability of a forum to address complaints with respect to trade execution is relevant to any determination to lift the ban on foreign option products. This is because the provision of such a forum evidences the relevant foreign jurisdiction's intention to afford practical mechanisms to address complaints originating with customers not located in that jurisdiction and to assure a fair trading environment.

In recommending that the Commission grant the Rule 30.10 petition of SIB, AFBD, TSA and IMRO, the Staff Memoranda dated May 5, 1989 noted that SIB and each of the United Kingdom SROs have procedures for dispute resolution to redress customer complaints. However, to facilitate a customer's access to a dispute resolution forum, the Commission granted Rule 30.10 relief subject to the condition that each United Kingdom firm consent to participate in NFA's expended arbitration program to cover disputes between United States customers and non-NFA member foreign firms in connection with transactions subject to part 30. Such consent, however, is subject to NFA's stated policy to reject any request for arbitration involving a claim arising primarily out of delivery, clearing, settlement or floor practices on any foreign exchange. Further, United Kingdom firms may require their United States customers to first exhaust certain mediation or conciliation procedures made available in the United Kingdom prior to initiating an NFA arbitration proceeding.[20]

In its June 6, 1989 Petition London Fox states that its arbitration rules in section 23 provide for the compulsory referral of disputes arising out of any London Fox contract to arbitration in accordance with London Fox rules. Its Petition further states, however, that § 23.01 of its arbitration rules provides that London Fox may nevertheless determine that "another arbitration tribunal has jurisdiction over the dispute and that the dispute should be referred to that tribunal. [21] In this connection, London Fox has clarified its position regarding a United States customer's access to an arbitration forum as follows: [21]

[London Fox's] position in respect of options is that where the dispute arises primarily out of delivery, clearing, settlement or floor practices, jurisdiction should normally be retained by London Fox In other disputes, London Fox would consider declining jurisdiction if arbitration by some other body (*e.g.* NFA or AFBD) was available and seemed more appropriate.[22]

Where the dispute does not arise primarily out of delivery, clearing, settlement or floor practices, London Fox's position on arbitration is such that a United States customer may elect the forum in which he desires to arbitrate, NFA or United Kingdom arbitration.[23]

London Fox's arbitration program is fully available to United States customers of London Fox members. The rules envisage that the parties to the dispute may not be located in the United Kingdom and generally provide for written submissions by the parties. In

[17] *Id.*

[18] *See* Appendix 6 to June 6, 1989 Petition of London Fox.

[19] *See* letter dated October 10, 1989 from P.A.S. Rucker, London Fox, to Andrea M. Corcoran, Commission.

[20] The United Kingdom mediation/conciliation and arbitration programs were examined in connection with the issuance of the Commission's Rule 30.10 Orders, and NFA's new international arbitration program was reviewed in connection with the Commission's approval of amendments to NFA's rules which became effective on June 12, 1989.

[21] *See also* Appendix 2 of the June 6, 1989 Petition of London Fox, which contains London Fox Rulebook, and letter dated September 14, 1989 from J.P.B. Hecks, London Fox, to Jean A. Webb, Commission, transmitting recent amendments to London Fox rules.

[22] *See* letter dated October 10, 1989 from P.A.S. Rucker, London Fox, to Andrea M. Corcoran, Commission.

[23] *See* letter dated October 27, 1989 from P.A.S. Rucker, London Fox, to Jane C. Kang, Commission.

this connection London Fox has stated: [24]

Rule 23.07(a) provides for a *viva voce* (that is, oral) hearing, if a request for a hearing is made within strict time limits. Otherwise, the arbitrators have discretion to refuse such a hearing and to decide the case on the basis of written submissions. London Fox generally would expect arbitrators, where they have discretion to take into account the practicality and cost of attendance at a *viva voce* hearing by a party not located in the United Kingdom in deciding how to exercise their discretion in this regard. London Fox would also expect them to take into account any request made by either party, the need to avoid injustice, and the need to ensure that a fair ruling can be given. London Fox is considering amending its rule to give, in all cases, the arbitrators discretion whether or not to hold a hearing.

In any event, a party need not appear at the hearing in person but may be represented by any agent engaged in the business of finance.[25]

Failure by a London Fox member to refer or to participate in the reference of a dispute to arbitration under London Fox rules or to comply with an award made against him is a disciplinary offense which may result in such member's suspension or expulsion from London Fox.[26] The party obtaining an award in his favor may obtain a judgment in any court of competent jurisdiction to enforce the award. The decision of the arbitrators will be final, but a party may refer an issue to the High Court in England with the Court's leave on a point of law, on the grounds that the arbitrators engaged in improper conduct during the proceedings, the award was improperly procured or on certain other bases.

Regulatory Environment

When options were originally banned in the United States, they had not been subjected to a full regulatory program. It is appropriate, therefore, to inquire as to whether the market which proposes to offer option products in the United States has a regulatory structure which addresses market integrity and the sales practices of firms doing options business with United States firms or customers.[27]

This review is for the purpose of establishing the existence of a supervised marketplace and does not constitute a comparability analysis of the nature required under Rule 30.10 for certain other relief the Commission may accord under its foreign futures and option rules.[28] The United Kingdom regulatory system under the Financial Services Act, however, was the subject of detailed scrutiny during the Commission s consideration of the petitions submitted by SIB, AFBD, TSA and IMRO on behalf of designated firms for relief from the application of certain Commission rules under Commission Rule 30.10. In reviewing such petitions, the Commission's staff examined, among other things, the regulation of United Kingdom RIEs, including London Fox. In addition, in connection with this petition, SIB has confirmed that:

In issuing any Order pursuant to section 37 of the Financial Services Act 1986 declaring an exchange to be a recognised investment exchange ("RIE"), the Securities and Investments Board ("SIB") must determine, among other things, that such an exchange has adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules.

In connection with the foregoing, as the United Kingdom authority with supervisory responsibilities over RIEs, the SIB confirms to the Commodity Futures Trading Commission that it monitors all RIEs for compliance with their obligations as RIEs.[29]

Further, Commission staff analyzed the rules of SIB, AFBD, TSA and IMRO as they related to fitness review or qualifications of persons, minimum financial requirements, protection of customer funds, recordkeeping and reporting requirements and sales practice and compliance standards. The Staff Memoranda dated May 5, 1989 concluded that subject to the terms and conditions recommended therein, the systems and rules in effect in the United Kingdom afforded protections comparable to those in effect in the United States.

The only matter of note in connection with London Fox's petition under Rule 30.3(a) which was not considered in the context of the Commission's consideration of the Rule 30.10 petitions of the SIB, AFBD, TSA and IMRO relates to the requirement that any firm which offers or sells any such London Fox option product must provide the Commission's options risk disclosure statement in Rule 33.7

The Commission stated in granting the Rule 30.10 petitions of SIB, AFBD, TSA and IMRO that in considering any petition requesting that United Kingdom option products subject to Part 30 be approved for offer or sale to customers resident in the United States, the Commission would assess the degree to which the United Kingdom s options risk disclosure statement addresses the same matters as those set forth in the Commission's options risk disclosure statement in determining whether the United Kingdom's statement may be substituted for the language in Commission Rule 33.7 The Division has reviewed the general risk disclosure statements required to be provided under the rules of SIB and the United Kingdom SROs [30] and believes that the risks addressed in such disclosure statements in connection with option transactions are not as comprehensive as the risk disclosures contained in Commission Rule 33.7 Accordingly, the Division recommends that the Commission require as a condition of granting London Fox's petition that any firm, including a firm in the United Kingdom granted relief under Rule 30.10, provide customers resident in the United States with the options risk disclosure statement required by Rule 33.7 That disclosure document contemplates that the full premium for the option will be paid by the customer.

However, all option contracts traded on London Fox are designed with a provision for deferred payment (on exercise or expiry) of the option premium rather than payment at purchase.[31] In this connection, London Fox has represented that in order to maintain prudent cover against the risk of loss in option positions, a system of margining supports the form of contract. This system is similar in principle and practice to that used for futures contracts, and involves three elements: [32]

(i) Daily revaluation of positions (marking-to-market) resulting in positive or negative variation margin;

[24] *See* letter dated October 10, 1989 from P.A.S. Rucker, London Fox, to Andrea M. Corcoran, Commission.

[25] *See* London Fox rule 23.07(c).

[26] *See* London Fox rule 23.10(a).

[27] Although the Commission has not indicated an intention to review the terms and conditions of foreign option products, *see* S. Rep. No. 384, 97th Cong., 2d Sess. 45–46 (1982), the Commission's authority with respect to options is plenary.

[28] 52 FR 28980, 29001.

[29] *See* letter from M.B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

[30] *See* SIB Conduct of Business Rules 4.15(3)(a) and 4.16(3) and AFBD Rules 5.45.1 and 5.45.4.

[31] By letters dated July 11 and 27, 1989, the Chicago Board of Trade and the Chicago Mercantile Exchange, respectively, petitioned the Commission for repeal of Commission Regulation 33.4(a)(2), 17 CFR 33.4(a)(2) (1988), which requires the full payment of the premium in connection with the purchase of a domestic-exchange traded option. On March 14, 1989, the Commission published a Notice of Petition for Rulemaking and a Request for Comments to delete Commission Regulation 33.4(a)(2) in order to permit the development of "futures-style margining" of commodity options. 54 FR 11233 (March 17, 1989).

[32] *See* June 6, 1989 Petition of London Fox.

(ii) Initial margin calculated to provide protection against short term position risk; and

(iii) Full integration with the margining of related futures contracts.

The form of the option contract and associated margining do not affect the "traditional" characteristic of purchased options in that the maximum potential loss is limited to the price of the option (*i.e.* premium).

In the staff memorandum dated August 30, 1989 recommending that LIFFE option products be approved under Commission Rule 30.3(a), the staff summarized a supplement filed by LIFFE which described the main benefits of the option margining system operated by ICCH in respect of LIFFE options.[33] London Fox has represented that ICCH operates the same system of margining in respect of London Fox options.[34] A summary of the LIFFE supplement is set forth below:

—Improve utilisation of funds and cash flow.
As for futures contracts, the buyer of the option contracts does not need to pay the full price at the time of purchase, and the daily variation margin results in improved cash flow.

—Profits made available *without* the need for early exercise.
Cash-flow problems are reduced where options are used in hedging strategies in conjunction with futures or other options. By making available profits through daily variation margin, there is less likely to be a need to liquidate a position for reasons of cash flow rather than risk—an important advantage at times of major market movements, such as occurred in October 1987

—Encouragement of risk-management.
Major users have commented that daily variation margin assists them in monitoring profit and loss, and [the Exchange] believes that this has proved to be a significant benefit. This is consistent with what happens with futures contracts and builds on that experience.

—Appreciation by users of the risks involved in option trading.
A positive feature is that option margining discourages the naked writing of options as the seller is prevented from using options to generate immediate cash in order to avoid problems elsewhere.

In connection with the foregoing, in order to ensure that customers in the United States solicited to trade a London Fox option contract understand that London Fox permits the deferred payment of premium on such product, the Division further recommends that the Commission require as a condition of issuing the Order attached hereto that firms provide the Addendum attached to that Order as Exhibit B if they elect not to collect the full premium as margin from customers at the time of purchases.

IV Conclusion

Based upon the foregoing, the representations of London Fox contained in its letter dated June 28, 1989, as supplemented, SIB's letter dated July 28, 1989 confirming that it monitors London Fox for compliance with its obligations as an RIE, the issuance by the Commission or Rule 30.10 petitions to SIB, AFBD, TSA and IMRO on May 15, 1989, the existence of, among other things, information sharing arrangements as discussed above and pursuant to Commission Rule 30.3(a), the Division recommends that the Commission publish in the **Federal Register** this memorandum and approve and publish the attach Order authorizing the offer or sale in the United States of options traded on London Fox subject to the following terms and conditions:

(1) except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, that no offer or sale of any London Fox option product in the United States will be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to the Order;

(2) that SIB and London Fox represent that London Fox is an RIE under the FSA and, as such, is subject to regulatory obligations under that Act, that transactions of London Fox in the London Fox option(s) referenced in the **Federal Register** notice will be subject to the rules of London Fox and that SIB and/or London Fox will provide the Commission will information as to all material changes thereto promptly;

(3) that options on futures on stock indices [35] and options on futures on foreign government debt securities [36] will not be permitted to be offered or sold absent certain additional procedures;

(4) that options traded pursuant to the Order may only be offset on London Fox or another market with respect to which the Commission has issued an order under Commission Rule 30.3(a) authorizing its option products to be offered or sold in the United States;

(5) that options traded pursuant to the Order may only be offered or sold by persons registered in the appropriate capacity under the Commodity Exchange Act or by persons who have been granted an exemption from registration under Rule 30.10 based on comparability of regulation, provided such persons also provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7 and, if the persons elect not to collect the full premium for the contract as margin from the customer at the time of purchase, the Addendum thereto attached to the Order as Exhibit B, but may not be offered or sold by persons doing business in the United States pursuant to interim relief granted and extended by the Commission (*see* 53 FR 3338 (Feb. 5, 1988) and subsequent orders and letters of the Commission); and

(6) if experience demonstrates that the continued effectiveness of the Order would be contrary to public policy or the public interest or that the operation or execution of the systems and arrangements in place for the trading of the option products subject thereto, or the exchange of information with respect to such products, do not warrant continuation of the authorization granted therein, the Commission may modify, suspend, terminate or otherwise restrict the authorization granted in the Order, as appropriate, on its own motion.

London Fox has specified that the following option contracts, a summary of the terms and conditions for which are attached hereto, will initially be offered or sold in the United States: Options on cocoa, coffee, raw sugar and white sugar. As noted in condition (6) above, the Division recommends that the Commission retain the authority to terminate the Order granting authorization to offer or sell London Fox options in the United States or to take such other steps as may be appropriate in light of the circumstances. In that connection, if the Order is approved by the Commission, the Division intends to monitor the offer or sale of London Fox options to persons in the United States pursuant to the terms of the recommended Order and to make recommendations for further action to the Commission, as appropriate, in light of the operation of that program.

List of Subjects in 17 CFR Part 30

Commodity futures.

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1) (A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a (1982).

2. Appendix B—to part 30 is amended by adding the following entry alphabetically:

[33] *See* June 6, 1989 supplement by LIFFE to its May 24, 1989 Petition.

[34] *See* letter dated October 10, 1989 from P.A.S. Rucker, London Fox, to Andrea M. Corcoran, Commission.

[35] *See* 52 FR 28980, 29882 n.6 and section 2a(1) of the Act.

[36] *See* section 2a(1) of the Act, section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder.

Appendix B—Option Contracts Permitted To Be Offered and Sold in the U.S. Pursuant to § 30.3(a)

Exchange	Type of contract	FR date and citation
London futures and options exchange	Options on robusta coffee, No. 5 white sugar, No. 6 raw sugar, and No. 7 cocoa..	December ____, 1989; 54 FR ____

[FR 89-28457 Filed 12-5-89; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Part 30

Foreign Option Transactions; London

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing certain option contracts traded on the International Petroleum Exchange of London ("IPE") to be offered or sold to persons located in the United States. This Order is issued pursuant to Commission Rule 30.3(a), 17 CFR 30.3(a) (1988), which makes it unlawful for any person to engage in the offer or sale of a foreign option to be offered in the United States.[1]

EFFECTIVE DATE: January 5, 1990.

FOR FURTHER INFORMATION CONTACT: David A. Naatz, Esq. or Victoria R. Hartke, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.[2] Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

United States of America Before the Commodity Futures Trading Commission

Order Under CFTC Rule 30.3(a) Permitting Option Contracts Traded on the International Petroleum Exchange of London to be Offered or Sold in the United States Thirty Days after Notice to the Commission and Publication in the **Federal Register** of the Option Contracts to be Traded

On July 23, 1987 the Commission adopted final rules governing the domestic offer or sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which became effective on February 1, 1988, establish, among other things, a regulatory framework for the offer or sale of foreign options to persons located in the United States.[3] Specifically, Rule 30.3(a) provides that:

> [N]otwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer or sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States 52 FR 28988.

In view of the history of abuses in the options markets prior to the imposition of the options ban,[4] the Commission determined to phase in foreign options on a market-by-market basis through particularized review of applications submitted by individual markets and issuance of an authorization order, as appropriate, by the Commission. In adopting the final rules which implement that procedure, the Commission stated that notwithstanding part 30, which provides a regulatory framework to govern transactions in both foreign futures and foreign options, and which has been the subject of extensive notice and comment, it would be unlawful for any person to engage in the offer or sale of a particular foreign option product until the Commission specifically authorizes such foreign option to be offered or sold in the United States.[5] As a consequence, Rule 30.3(a) permits the Commission, as stated in the release accompanying the proposed rules, to consider, among other things, its ability to determine whether or not a particular trade has been transmitted to and executed on a foreign exchange as part of its decision to authorize transactions in specific foreign exchange-traded options.[6]

By letter dated June 28, 1989, the International Petroleum Exchange of London Limited ("IPE"), a recognized investment exchange ("RIE") under United Kingdom law which is subject to regulatory oversight by the United Kingdom Securities and Investment Board ("SIB"), requested that the Commission authorize the offer or sale of option contracts traded on IPE to persons located in the United States under Commission Rule 30.3(a).

In issuing this Order, the Commission has considered: (1) The existence of information sharing arrangements relevant to preventing abuses in the trading of option contracts on IPE; [7] (2) the arrangements in place for assuring that sales practice abuses in such options do not occur, including that sales practice compliance audits

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See 52 FR 28980, 28998 (August 5, 1987). Notwithstanding the prohibition in Commission Rule 30.3(a), non-domestic exchange-traded options which are traded pursuant to the trade option exemption in Commission Rule 32.4(a), 17 CFR 32.4(a) (1988), may continue to be offered or sold.

[2] In considering requests under Rule 30.3(a), the Commission notes that it has received a significant number of comments that the offer or sale of foreign options should be permitted. *See* advance notice of proposed rulemaking, 49 FR (July 25, 1984), proposed rules, 51 FR 12104 (April 8, 1986) and final rules, 52 FR 28980 (August 5, 1987). The Commission continues to welcome comments on this process. On July 20, 1988, the Commission issued orders authorizing certain option contracts traded on the Montreal Exchange, the Singapore International Monetary Exchange and the Sydney Futures Exchange to be offered or sold in the United States. On September 12, 1989, the Commission issued an order authorizing certain option contracts traded on the London International Financial Futures Exchange to be offered or sold in the United States.

Rule 30.1(b), 17 CFR 30.1(b) (1988), defines a foreign option as any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option, "privilege, "indemnity," "bid, "offer, "put, "call, "advance guaranty" or "decline guaranty, made or to be made on or subject to the rules of a foreign board of trade.

Although the statutory prohibition on the offer or sale of foreign options formerly contained in section 4c(c) of the Commodity Exchange Act ("Act") has been removed, *see* Futures Trading Act of 1986, Public Law No. 99-641, section 102, 100 Stat. 3556 (1988), the regulatory prohibition in Commission Rule 32.11, 17 CFR 32.11 (1988), adopted pursuant to section 4c(b) of the Act, remains in effect.

52 FR 28980, 28998.

51 FR 12104, 12105.

See 51 FR 12104, 12105. The pattern of abuses that was characteristic of option sales practices in the past, and which contributed to the Commission's decision to suspend all option sales in 1978, included the unavailability of data necessary to permit a determination whether orders for options had in fact been executed. *See* 43 FR 16155 (April 17, 1978).

commensurate with those which apply to domestic products will be conducted with respect to firms engaged in the offer or sale of its foreign option products in the United States; (3) the arrangements for United States customers to redress grievances with respect to matters directly pertaining to the conduct of trading or other activities relevant to the offer or sale of such products occurring within the jurisdiction where the option is traded; and (4) the regulatory environment in which such foreign options are traded, including, among other things, the determination by the Commission under Rule 30.10, 17 CFR 30.10 (1988), the exempt specified firms in the United Kingdom from the application of certain of the Commission's rules governing foreign futures and option transactions based on the existence of a generally comparable regulatory system in effect in the United Kingdom.[8]

In determining that IPE's showing with respect to the foregoing matters is sufficient to warrant the issuance of the Order herein, the Commission notes that as it acquires further experience it may determine that other considerations are also relevant. To this end, the Commission expects to continue to monitor the offer or sale of the products subject to this Order.[9]

Based upon the representations of IPE contained in its letter dated June 28, 1989, as supplemented, SIB's letter dated July 28, 1989 in which SIB confirms that it monitors IPE for compliance with its obligations as an RIE,[10] the existence of information sharing arrangements with SIB and other relevant United Kingdom authorities,[11] the determination of the Commission to grant Rule 30.10 relief to specified firms in the United Kingdom by Orders dated May 15, 1989, the memorandum from the Division of Trading and Markets to the Commission dated November 6, 1989 ("Staff Memorandum") recommending the approval of the Order herein, and pursuant to Commission Rule 30.3(a), the Commission hereby authorizes the offer or sale in the United States of options traded on IPE subject to the following conditions:

(1) Except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, that no offer or sale of any IPE option product in the United States shall be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to this Order;

(2) That SIB and IPE represent that IPE is an RIE under the Financial Services Act and, as such, is subject to regulatory obligations under that Act, that transactions on IPE in the IPE option(s) referenced in the **Federal Register** notice [12] will be subject to the rules of IPE and that SIB and/or IPE provide the Commission with information as to all material changes thereto promptly;

(3) That options on futures on stock indices [13] and options on futures on foreign government debt securities [14] will not be permitted to be offered or sold hereunder absent certain additional procedures;

(4) That options traded pursuant to this Order may only be offset on IPE or another market with respect to which the Commission has issued an order under Commission Rule 30.3(a) authorizing its option products to be offered or sold in the United States;

(5) That options traded pursuant to the Order herein may only be offered or sold by persons registered in the appropriate capacity under the Commodity Exchange Act or by persons who have been granted an exemption from registration under Rule 30.10 based on comparability of regulation, provided such persons also provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7 17 CFR 33.7 (1988), and, if the persons elect not to collect the full premium for the contract as margin from the customer at the time of purchase, the Addendum thereto attached hereto as Exhibit B, but may not be offered or sold by persons doing business in the United States pursuant to interim relief granted and extended by the Commission (*see* 53 FR 3338 (February 5, 1988) and subsequent orders and letters of the Commission); and

(6) If experience demonstrates that the continued effectiveness of this Order would be contrary to public policy or the public interest or that the operation or execution of the systems and arrangements in place for the trading of the option products subject hereto, or the exchange of information with respect to such products, do not warrant continuation of the authorization granted herein, the Commission may modify, suspend, terminate or otherwise restrict the authorization granted in this Order, as appropriate, on its own motion. In such event, appropriate arrangements to service existing positions will be made.

This Order is issued based on the information provided to the Commission and its staff as set forth herein and in the Staff memorandum. Any changes or material omissions might require the Commission to reconsider the authorization granted in this Order.

Issued in Washington, DC, on November 30, 1989.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

Exhibit A—Option on Brent Crude Oil Future

Unit of Trading: One lot of 1,000 net barrels of IPE's underlying crude oil futures contract.

Delivery Months: The first three months quoted on the underlying futures contract with a new position being introduced immediately on expiry of the first option month. Three months will always be quoted.

Declaration Date: Any trading day for the duration of the contract and up to one hour after cessation of trading in the spot month.

Last Trading Day: Close of business on the 3rd business day before the cessation of trading in the underlying crude oil futures contract.

Quotation: US Dollars & Cents.

Minimum Price Fluctuation: One US Cent per barrel.

Strike Price Increments: Multiples of fifty cents per barrel.

Initial Margin: The initial margin charged by the Clearing House for long and short options positions is calculated with reference to daily published risk factors and the level of initial margin for

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See Orders of the Commission dated May 15, 1989 granting Rule 30.10 relief to the Securities and Investments Board, the Association of Futures Brokers and Dealers, The Securities Association and the Investment Management Regulatory Organisation. 54 FR 21599 (May 19, 1989). In issuing such Orders, the Commission determined that the requirements in Appendix A to part 30, "Interpretative Statement with Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules, which sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10, had generally been satisfied. *Id.*

[9] The Commission has not sought to analyze the individual option contracts under the requirements which apply to the designation of an option contract proposed to be traded on a United States contract market. In particular, the Commission has not analyzed whether these instruments would meet the Commission's economic purpose test, 17 CFR 33.4(a)(5)(i) (1988), or other criteria relating to the specific terms and conditions of such foreign option contract. *See* 17 CFR 33.4. The Commission, however, has plenary authority with respect to option products. *See* section 4c of the Act.

[10] *See* letter from M. B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

[11] *See e.g.*, "Memorandum of Understanding on Exchange of Information between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Securities and Between the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Futures" signed on September 23, 1986, as supplemented by "Memorandum Relating to UK/US MOU" signed on November 22, 1988 adding the SIB as a signatory to the MOU (hereinafter collectively referred to as "UK/US MOU"), and the "Side Letter Relating to UK/US MOU" signed on May 15, 1989.

[12] The option contracts which will initially be offered or sold pursuant to his Order, summary of the terms and conditions for which are attached hereto as Exhibit A, are options on gas oil and crude oil.

[13] *See* 52 FR 28980, 28982 n.6 and section 2a(1) of the Act.

[14] *See* section 2a(1) of the Act, section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder.

the related futures contract which it cannot exceed.

The initial margin is reduced for all options and options futures combinations which include offsetting positions.

Options Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option. Positions are marked—to market daily.

Automatic Exercise: Options that are 26 cents or more in-the-money at time of expiry are automatically exercised.

Trading Hours: 0925–1730 hours inclusive.

Options on Gas Oil Future

Unit of Trading: One lot of 100 metric tonnes of IPE's underlying gas oil contract.

Delivery Months: The first three months quoted on the underlying futures contract with a new position being introduced immediately on expiry of the first option month. Three months will always be quoted.

Declaration Date: Any trading day for the duration of the contract and up to one hour after cessation of trading in the spot month.

Last Trading Day: Close of business on the 3rd Wednesday of the month prior to the month in which notice to deliver is given.

Quotation: US dollars & cents.

Minimum Price Fluctuation: 5 US cents per tonne.

Strike Price Increments: Multiples of US $5.00 per tonne.

Initial Margin: The initial margin charged by the Clearing House for long and short option positions is calculated with reference to daily published risk factors and the level of initial margin for the related futures contract which it cannot exceed.

The initial margin is reduced for all options and options-futures combinations which include offsetting positions.

Options Price: The contract price is payable by the buyer to the seller on exercise or expiry of the option. Positions are marked—to market daily.

Automatic Exercise: Options that are $2.51 or more in-the-money at time of expiry are automatically exercised.

Trading Hours: 0915–1724 hours inclusive.

Exhibit B—Addendum to CFTC Options Disclosure Statement (CFTC Rule 33.7)

The CFTC "Options Disclosure Statement, a copy of which is attached, is modified as set forth below to reflect some particular features of IPE options:

(i) IPE is a board of trade (exchange) located *outside* the United States on which certain options are authorized by the CFTC for sale in the United States;

(ii) IPE options contracts have provision for deferred payment of the option premium, are market-to-market and are subject to initial margin requirements. Consequently, the futures commission merchant ("FCM") or a firm granted an exemption from the FCM registration requirement might not require the purchaser of an IPE option to put up the full premium at purchase.

Although there is provision for deferred payment of premium, the purchaser of an option is still subject to the risk of losing the entire purchase price of the option, that is, the option premium plus all transaction costs. Consequently, before *purchasing* an option, an individual should fully understand the applicable margin requirements, and particularly should be aware of the obligation to pay variation margin in the case of adverse market movement. Although the purchaser may receive some accruing profit during the life of the option, he should be aware that in order to realize and retain any value from the option, it will be necessary either to offset the option positon or to exercise the option.

November 6, 1989.

Memorandum

To: The Commission.

From: The Division of Trading and Markets.

Subject: Order Under Commission Rule 30.3(a) Permitting Certain Option Contracts Traded on the International Petroleum Exchange of London to be Offered or Sold in the United States.

Recommendation: That the Commission publish in the **Federal Register** this memorandum and approve and publish the attached order permitting option contracts traded on the International Petroleum Exchange of London to be offered or sold in the United States upon thirty days notice.

Other Divisions and Offices Consulted: Division of Economic Analysis, Division of Enforcement, Office of the Executive Director, Office of the General Counsel.

I. Introduction

On July 23, 1987 the Commission adopted final rules governing the domestic offer or sale of commodity futures and option contracts traded on or subject to the rules of foreign board of trade. 52 FR 28980 (August 5, 1987). These rules, which became effective on February 1, 1988, establish, among other things, a regulatory framework for the offer or sale of foreign option products to persons located in the United States.[1] Specifically, Rule 30.3(a) provides that:

[N]otwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer or sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States * 52 FR 28988.

In this regard, in view of the history of abuses in the options markets prior to the imposition of the options ban,[2] the Commission determined to phase in foreign options on a market-by-market basis through particularized review of applications submitted by individual markets and issuance of an authorization order, as appropriate, by the Commission.[3] In adopting the final rules which implement that procedure, the Commission stated that notwithstanding part 30, which provides a regulatory framework to govern transactions in both foreign futures *and* foreign options, and which has been the subject of extensive notice and comment, it would be unlawful for any person to engage in the offer or sale of a particular foreign option product to a customer resident in the United States until the Commission specifically authorizes such foreign option to be offered or sold in the United States.[4] As a consequence, Rule 30.3(a) permits the Commission, as stated in the release accompanying the proposed rules, to consider, among other things, its ability to determine whether or not a particular order has been transmitted to and executed on a foreign exchange in determining whether to authorize

[1] Rule 30.1(b), 17 CFR 30.1(b) (1988), defines foreign option as any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option, "privilege, "indemnity, "bid, "offer, "put," "call, "advance quaranty" or "decline quaranty, made or to be made on or subject to the rules of a foreign board of trade.

See 51 FR 12104, 12105 (April 8, 1986). The pattern of abuses that was characteristic of option sales practices in the past, and which contributed to the Commission's decision to suspend all option sales in 1978, included the unavailability of data necessary to permit a determination whether orders for options had in fact been executed. *See* 43 FR 16155 (April 17, 1978).

Although the statutory prohibition on the offer or sale of foreign options formerly contained in section 4c(c) of the Commodity Exchange Act ("Act") has been removed, *see* Futures Trading Act of 1986, Public Law No. 99–64, section 102, 100 Stat. 3556 (1987), the regulatory prohibition in Commission Rule 32.11, 17 CFR 32.11 (1988), adopted pursuant to section 4c(b) of the Act, remains in effect.

52 FR 28980, 28998. Notwithstanding the prohibition in Commission Rule 30.3(a), non=domestic exchange=traded options which are traded pursuant to the trade option exemption in Commission Rule 32.4(a), 17 CFR 32.4(a) (1988), may continue to be offered or sold.

transactions in specific foreign exchange-traded options.[5]

By letter dated June 28, 1989, the International Petroleum Exchange of London Limited ("IPE"), a recognized investment exchange ("RIE") under United Kingdom law which is subject to regulatory oversight by the United Kingdom Securities and Investments Board ("SIB"),[6] requested that the Commission authorize the offer or sale of option contracts traded on IPE to persons located in the United States.

II. Recommendation

The Division of Trading and Markets ("Division") has carefully reviewed and considered the application of IPE to offer or sell option products traded on IPE in the United States, in particular addressing: (1) The availability of certain information relevant to preventing abuses in the trading of such contracts; (2) the arrangements in place for monitoring compliance with sales practice obligations; (3) the ability of United States customers to redress grievances with respect to the conduct of trading and other offshore activities relevant to the offer or sale of IPE option products; and (4) the regulatory environment in which such options are traded.

The review of IPE's petition under Commission Rule 30.3(a) has been facilitated by the Commission's determination by Orders issued on May 15, 1989, under Rule 30.10, 17 CFR 30.10 (1988), to exempt specified firms in the United Kingdom from the application of certain of the Commission's rules governing foreign futures and option transactions based on the existence of a generally comparable regulatory system in effect in the United Kingdom. Specifically, on May 15, 1989, the Commission granted the Rule 30.10 petitions of the SIB and of certain self-regulating organisations ("SROs"), *i.e.*, the Association of Futures Brokers and Dealers ("AFBD"), The Securities Association ("TSA") and the Investment Management Regulatory Organisation ("IMRO"), which are responsible for regulating the investment business activities of firms which they designate. In granting such petitions, the Commission determined that the requirements in Appendix A to part 30, "Interpretative Statement with Respect to the Commission's Exemptive Authority Under § 30.10 of its Rules,[7] generally had been satisfied and that compliance with the rules of the SIB and/or the equivalent rules of the relevant SRO may be substituted, subject to certain conditions, for compliance with specified sections of the Commodity Exchange Act.

As discussed more fully below, based upon its determinations with respect to the foregoing matters, and subject to the terms and conditions specified herein, the Division recommends that the Commission publish in the **Federal Register** this memorandum and approve and publish the attached Order permitting certain option contracts traded on IPE to be offered or sold in the United States.[8]

III. Discussion

Information Sharing

Prior to the imposition of the options ban in 1978, the ability of the Commission to address problems which occurred with respect to the offer or sale of certain ostensibly foreign options in the United States was impeded by the inaccessibility of information from their purported jurisdiction of origin. As a consequence, in determining to lift the options ban with respect to foreign products, the Commission indicated that a primary consideration would be the availability of transaction information.[9]

Information sharing arrangements have been the subject of extensive discussion between the Commission and the United Kingdom regulatory bodies in connection with the execution of the "Memorandum of Understanding between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in matters relating to Securities and between the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in matters related to Futures" signed on September 23, 1986, as supplemented by the "Memorandum Relating to UK/US MOU" signed on November 22, 1988, adding the SIB as a signatory to that document, (hereinafter collectively referred to as "UK/US MOU"), and the Side Letter Relating to UK/US MOU ("Side Letter") entered into on May 15, 1989, by the SIB and the Commission. In particular, the Side Letter provides for information sharing necessary to monitor compliance with applicable Part 30 rules and the terms and conditions of any order issued by the Commission under Part 30, including any foreign option order issued pursuant to Commission Rule 30.3(a). In addition, the Financial Information Sharing Memorandum of Understanding ("FISMOU") entered into on September 1, 1988, by, among others, the SIB, the Commission and United Kingdom and United States SROs and the Addendum to the FISMOU signed on May 15, 1989, provides for routine and "as needed" information sharing in connection with the financial condition of firms which are exempt from compliance with certain financial requirements pursuant to the FISMOU and the Addendum thereto.

Further, in its June 28, 1989 Petition, IPE has represented that it is committed to cooperating with United Kingdom regulatory authorities by sharing information with such authorities and that, as an RIE, IPE is obligated to do so under the FSA.[10]

Sales Practice Audits

In developing its pilot program for domestic exchange-traded options, the Commission specifically required as a condition of designation that the contract market seeking approval of an option adequately provide for the monitoring and detection of sales practice abuses.[11] As such abuses ultimately contributed to the banning of options trading altogether in 1978, the Commission has indicated that any options offered in the United States must be subject to an adequate sales practice audit program.[12] In this connection, IPE represents that under the FSA, SIB or the SRO to which a specific firm belongs is responsible for establishing sales practice rules and monitoring compliance with such rules. Specifically, IPE represents, and the

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51 FR 12104, 12105.

See Section 37 of the Financial Services Act ("FSA") and Order of SIB dated April 25, 1988, declaring IPE to be an RIE attached as Appendix 3 to the June 28, 1989, Petition of IPE. SIB has confirmed that it monitors all RIEs, including IPE, for compliance with their obligations as RIEs. *See* letter from M.B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

Appendix A sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.

See Exhibit A of the Order recommended herein which contains the list of option contracts and a summary of their terms and conditions. Additional IPE option contracts may be offered or sold thirty days after publication of the terms and conditions of the specific option contract in the **Federal Register**. The Division believes that review of the individual foreign option contracts should be limited at this time to the regulatory issues discussed above and should not include an analysis of whether these foreign option contracts would meet the Commission's economic purpose test, 17 CFR 33.4(a)(5)(i) (1988), or other criteria relating to the specific terms and conditions of the option contract. *See* 17 CFR 33.4.

52 FR 28980, 28988.

[10] *See* FSA, Schedule 4, paragraph 5 and Appendix 3 to June 28, 1989 Petition of IPE, to which is attached a Memorandum of Understanding between SID and IPE.

[11] *See* 46 FR 54500, 54502 (November 3, 1981).

[12] *Id.*

Commission staff determined in connection with its review of the relevant Rule 30.10 petitions, that SIB, AFBD, TSA and IMRO each has sales practices rules which address, without limitation, customer complaints, supervision of employees and accounts, solicitation, notification of disciplinary actions, risk disclosure, contents of customer accounts, discretionary accounts and misleading advertising.[13] Further, SIB and the SROs have rules relating to "best execution." These rules are intended to prevent a firm from taking advantage of a customer's order, whether for its own account or for that of another customer. For example, SIB Conduct of Business Rule 5.15 establishes the priorities to be given to customers' orders in instances where a firm also is trading for its own account.

Additionally, the SIB and United Kingdom SROs have procedures for conducting sales practice audits of firms in the United Kingdom selling IPE options into the United States.[14] In particular, under part 15 of SIB's Conduct of Business Rules, firms are required to establish and maintain written rules and compliance procedures to ensure compliance with the requirements of the FSA and the rules or regulations made by SIB under the FSA. SIB has established a direct regulation division to maintain continuous oversight with respect to firms which it has authorized. As a condition of recognition by SIB as an SRO, the SRO must demonstrate to SIB that it has rules relating to, among other things, protection of investors, the monitoring and enforcement of compliance with its rules and the promotion and maintenance of high standards of integrity and fair dealing which provide protection to investors "at least equivalent" to that provided by SIB under its rules. Also, the National Futures Association ("NFA") has confirmed by letter dated August 16, 1989 that the sales practices of firms located in the United States engaged in such activities will be audited.[15]

In conjunction with the SROs' sales practice programs, IPE conducts daily surveillance of both its members and the market. IPE has represented that its surveillance procedures encompass the following: [16]

Description of the Surveillance Procedures of the IPE

The Surveillance of both the members and the market is carried out under the coordination of the Compliance Officer of [IPE]. The objective of the surveillance is to ensure that a fair, orderly and secure market is maintained in accordance with IPE rules and the requirements of the FSA and the SIB.

Floor Surveillance

The day to day surveillance of floor trading is carried out by the Floor Operations Manager and his staff to ensure that the IPE trading procedures and the IPE rules are complied with.

Financial Integrity

The financial integrity of members is maintained by both the IPE, AFBD and [the International Commodities Clearing House Ltd. ("ICCH")]. Members are required to submit annual audited accounts to the IPE together with more frequent returns to AFBD and ICCH. The IPE has agreements with both these bodies to report to [IPE] problems of a financial nature to do with the IPE members.

The level of initial margin to be called from clients is set by the Board of Directors of the IPE in close consultation with [ICCH]. Should there be violent changes in price or volatility then [ICCH] or [IPE] may initiate an intra day margin call.[17]

The size of a member's open position is monitored daily by the IPE and independently by [ICCH] to ensure there are no undue concentrations of positions on either options or futures contracts.

[IPE] is in close contact with [ICCH] on matters concerning trading positions, expires, deliveries, margin levels etc. and also invites a director of ICCH to attend all of its Board meetings.

The IPE Compliance Officer is a member of the Joint Exchange Committee of compliance officers. The Committee consists of the Compliance Officers of all the London futures exchanges where compliance issues are discussed and aired and if appropriate formulated for joint implementation.

In addition to the foregoing, IPE has described its trade reporting and time stamping procedures as follows:

The IPE supervises and regulates trading in energy futures and options contracts through the operation of a conventional "Open outcry—Pit System" of execution. The trading cycle basically falls into three distinct phases; pre-trade, points of trade and post trade activity and is managed by the operation of three main systems.

1. *The Floor Procedures.*

[IPE has issued a] detailed manual, promulgated from and having equal status in terms of enforcement with [IPE] Rules. The Floor Procedures establish a standardised code of practice and conduct relative to the receipt and administration of orders, the market terminology and methodology to be used in publicly quoting, accepting, confirming and reporting business executed and the after trade management of business processing leading to the receipt of a matched trade by [ICCH], from which the final allocation registration and guarantee of business can be effected. The Floor Procedures also cover other trade support activities, particularly trade dispute resolution, disciplinary and certain emergency fall back procedures

2. *The Price Reporting System* ("PRS").

The purpose of the IPE "PRS" is to provide members, staff and market users with a real time display of price quotations (bids and offers) and transaction levels both on and remote to the market floor, in support of the pre-trade and point of trade activity. The system achieves its purpose by displaying on screen and electronic wall boards, located on the market floor, formats of continuously updated quotations and transaction/volume information.

At the same time the data flow (un-edited) is transmitted via an agency quote vendor system to all major international quote vendors, from whom all market users and other interested parties may gain easy access to current market information. The responsibility for "PRS" input and the quality control

[13] *See* rules of SIB, AFBD, TSA and IMRO as discussed in Staff Memoranda dated May 5, 1989 recommending that the Commission grant the Rule 30.10 petition of the above-referenced entities.

[14] *Id.*

[15] On January 14, 1988, the Commission approved amendments to NFA's Bylaws and the adoption of new Bylaws to provide for the regulation of the foreign futures and option activities of NFA members and associates. By letter dated August 16, 1989, from Daniel A. Driscoll, Vice-President of NFA, to Andrea M. Corcoran, Commission, NFA confirmed that arrangements have been made to provide sales practice audits of firms in the United States selling IPE options.

[16] *See* Appendix 5 to June 28, 1989 Petition of IPE; *see also* IPE Floor Operations Manual submitted with letter dated October 9, 1989 from Graham Wright, IPE, to Andrea M. Corcoran, Commission.

[17] In this connection, IPE has stated that:

The initial margin called by ICCH is prudently set in accordance with current daily fluctuations. Should the price of contract move (up or down) to such a degree as to substantially reduce the level of cover provided by the initial margin then this would be deemed a violent movement in price.

Option premiums are determined by, among other things, the volatility of the underlying market. Thus if the volatility (implied or historic) moved such that the cover provided by the initial margin on the option premium [was] substantially reduced then this would be deemed a violent change in volatility.

See letter dated October 9, 1989 from Graham Wright, IPE, to Andrea M. Corcoran, Commission.

of the information carried is vested in [IPE] staff, who, as independent observers of the trading activity, have supervisory powers to enforce and ensure compliance with all floor procedures and may rule invalid and therefore eliminate all false or erroneous information at source. In addition to the real time display and data feed, the IPE "PRS" also includes on a daily basis a retrievable data file, commonly referred to as a "Time & Sales" record. This facility, is regarded as a "Public" document and in addition to its availability to operations staff and compliance offices for the purposes of trade analysis and dispute resolution function, is also available, unconditionally, to members, non-members, clients and prospective users of [IPE].

3. *The Trade Matching System* ("TMS")

[The purpose of "TMS"] is to match, (in real time), the independent sellers and buyers of all transactions executed on [IPE] and to transmit to [ICCH's] central computer a continuous stream of matched trades for subsequent allocation, registration and guarantee. Apart from this primary function "TMS" also serves to identify in real time those transactions which may for certain reasons be subject to error or dispute

4. The Execution cycle of a typical client order through the IPE market is as follows:

(i) [T]he details of any client order must be recorded on an order slip, and the order slip must then be time-stamped.

(ii) As a minimum requirement the following details must be clearly recorded: Contract type, delivery month, quantity, price and instruction whether to sell or buy. In traded options the relevant exercise or strike price, together with additional contract designation relative to Call or Put options must also be shown. Upon completion the order may either be physically carried, declared by voice call or hand signalled to a qualified trader in the appropriate pit.

(iii) Consistent with standard market terminology the order will then be quoted and executed with relevant data being input to the "PRS" by independent [IPE] officials. Upon execution of the order the trader will note details of the trade and his counterparty onto a dual purpose trading card/clearing [slip]

[A] copy of the slip must be submitted for entry into "TMS" no later than 15 minutes after the recording of the first transaction on the slip. The manual recording of the time [to the minute] [18] of each transaction upon the slip is a mandatory requirement of [IPE].

The details of all trades recorded on the transaction slip are entered and timed into the "TMS" which continuously matches purchase and sale slips throughout the business day

(iv) For the purpose of audit and/or compliance inquiry, members are required to retain all trader cards/slips and order slips for a minimum period of 6 months. [IPE] similarly retains on site all clearing slips for 1 month prior to archiving for retrieval within 24 hours notice, all slips for the previous 2 years.

5. The capacity and performance criteria of the Trade Supervision procedures and systems are constantly monitored and upgraded. In this context it is proposed to add the following refinements to "PRS" and "TMS" within the next 6 months.

(i) An upgraded "TMS" facility to incorporate trade allocation in addition to trade match at floor level, together with improved mismatch display and inquiry formats.

(ii) The introduction of a combined video and audio pit surveillance system to support the "PRS" and Time and sales activities.

Dispute Resolution

The availability of a forum to address complaints with respect to trade execution is relevant to any determination to lift the ban on foreign option products. This is because the provision of such a forum evidences the relevant foreign jurisdiction's intention to afford practical mechanisms to address complaints originating with customers not located in that jurisdiction and to assure a fair trading environment.

In recommending that the Commission grant the Rule 30.10 petition of SIB, AFBD, TSA and IMRO, the Staff Memoranda dated May 5, 1989 noted that SIB and each of the United Kingdom SROs have procedures for dispute resolution to redress customer complaints. However, to facilitate a customer's access to a dispute resolution forum, the Commission granted Rule 30.10 relief subject to the condition that each United Kingdom firm consent to participate in NFA's expanded arbitration program to cover disputes between United States customers and non-NFA member foreign firms in connection with transactions subject to part 30. Such consent, however, is subject to NFA's stated policy to reject any request for arbitration involving a claim arising primarily out of delivery, clearing, settlement or floor practices on any foreign exchange. Further, United Kingdom firms may require their United States customers to first exhaust certain mediation or conciliation procedures made available in the United Kingdom prior to initiating an NFA arbitration proceeding.[19]

In its June 28, 1989 Petition, IPE states that its arbitration rules in section H provide for the compulsory referral of disputes arising out of any IPE contract to IPE arbitration. Its Petition further states, however, that rule 144(g) of its arbitration rules provides that IPE may nevertheless determine that "another arbitration tribunal has jurisdiction over the dispute and that the dispute shall be referred to that tribunal." [20] In this connection, IPE has clarified its position regarding a United States customer's access to an arbitration forum as follows:

> [IPE's] position is that where the dispute arises primarily out of delivery, clearing, settlement or floor practices, IPE would normally retain jurisdiction. In other disputes, IPE would consider declining jurisdiction if arbitration by some other body (*e.g.* NFA or AFBD) was available and seemed more appropriate. [21]
>
> Where the dispute does not arise primarily out of delivery, clearing, settlement or floor practices, IPE's position on arbitration is such that a [United States] customer may elect the forum in which he desires to arbitrate, NFA or United Kingdom arbitration.[22]

IPE's arbitration program is fully available to United States customers of IPE members. The rules envisage that the parties to the dispute may not be located in the United Kingdom and generally provide for written submissions by the parties. Although rule 146 provides for the possibility of a *viva voce* (that is, oral) hearing, paragraph (i) of rule 146 gives the arbitrators discretion to refuse such a hearing and to decide the case on the

[18] *See* letter dated October 9, 1989 from Graham Wright, IPE, to Andrea M. Corcoran, Commission.

[19] The United Kingdom mediation/conciliation and arbitration programs were examined in connection with the issuance of the Commission's Rule 30.10 Orders, and NFA's new international arbitration program was reviewed in connection with the Commission's approval of amendments to NFA's rules which became effective on June 12, 1989.

[20] *See also* Appendix 2 of the June 28, 1989 Petition of IPE, which contains IPE rulebook, and letter dated September 19, 1989 from Graham Wright, IPE, to Jean A. Webb, Commission, transmitting recent amendments to IPE rules.

[21] *See* letter dated October 9, 1989 from Graham Wright, IPE, to Andrea M. Corcoran, Commission.

[22] *See* letter dated October 18, 1989 from Graham Wright, IPE, to Jane C. Kang, Commission.

basis of written submissions. In this connection, IPE has further stated: [23]

That it would expect its arbitrators to take into account the practicality and cost of attendance at a hearing by a party not located in the United Kingdom. In addition, [IPE] would expect arbitrators to take into account any request made by either party for a hearing with or without witnesses made (in accordance with IPE rule 146(i)) not later than 14 days after lodgement of the statement of defense and the need to avoid injustice and to ensure that a fair ruling can be given.

In any event, a party need not appear at the hearing in person but may be represented by any agent engaged in the business of finance.[24]

Failure by an IPE member to refer or to participate in the reference of a dispute to arbitration or to comply with an award made against him is a disciplinary offense which may result in such member's suspension or expulsion from IPE.[25] The party obtaining an award in his favor may obtain a judgment in any court of competent jurisdiction to enforce the award. The decision of the arbitrators will be final, but a party may refer an issue to the High Court in England with the Court's leave on a point of law, on the grounds that the arbitrators engaged in improper conduct during the proceedings, the award was improperly procured or on certain other bases.

Regulatory Environment

When options were originally banned in the United States, they had not been subjected to a full regulatory program. It is appropriate, therefore, to inquire as to whether the market which proposes to offer option products in the United States has a regulatory structure which addresses market integrity and the sales practices of firms doing options business with United States firms or customers.[26] This review is for the purpose of establishing the existence of a supervised marketplace and does not constitute a comparability analysis of the nature required under Rule 30.10 for certain other relief the Commission may accord under its foreign futures and option rules.[27] The United Kingdom regulatory system under the Financial Services Act, however, was the subject of detailed scrutiny during the Commission's consideration of the petitions submitted by SIB, AFBD, TSA and IMRO on behalf of designated firms for relief from the application of certain Commission rules under Commission Rule 30.10. In reviewing such petitions, the Commission's staff examined, among other things, the regulation of United Kingdom RIEs, including IPE. In addition, in connection with this petition, SIB has confirmed that:

In issuing any Order pursuant to section 37 of the Financial Services Act 1986 declaring an exchange to be a recognized investment exchange ("RIE"), the Securities and Investments Board ("SIB") must determine, among other things, that such an exchange has adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules.

In connection with the foregoing, as the United Kingdom authority with supervisory responsibilities over RIEs, the SIB confirms to the Commodity Futures Trading Commission that it monitors all RIEs for compliance with their obligations as RIEs.[28]

Further, Commission staff analyzed the rules of SIB, AFBD, TSA and IMRO as they related to fitness review or qualifications of persons, minimum financial requirements, protection of customer funds, recordkeeping and reporting requirements and sales practice and compliance standards. The Staff Memoranda dated May 5, 1989 concluded that subject to the terms and conditions recommended therein, the systems and rules in effect in the United Kingdom afforded protections comparable to those in effect in the United States.

The only matter of note in connection with IPE's petition under Rule 30.3(a) which was not considered in the context of the Commission's consideration of the Rule 30.10 petitions of the SIB, AFBD, TSA and IMRO relates to the requirement that any firm which offers or sells any such IPE option product must provide the Commission's options risk disclosure statement in Rule 33.7

The Commission stated in granting the Rule 30.10 petitions of SIB, AFBD, TSA and IMRO that in considering any petition requesting that United Kingdom option products subject to Part 30 be approved for offer or sale to customers resident in the United States, the Commission would assess the degree to which the United Kingdom's options risk disclosure statement addresses the same matters as those set forth in the Commission's options risk disclosure statement in determining whether the United Kingdom's statement may be substituted for the language in Commission Rule 33.7 The Division has reviewed the general risk disclosure statements required to be provided under the rules of SIB and the United Kingdom SRO's [29] and believes that the risks addressed in such disclosure statements in connection with option transactions are not as comprehensive as the risk disclosures contained in Commission Rule 33.7 Accordingly, the Division recommends that the Commission require as a condition of granting IPE's petition that any firm, including a firm in the United Kingdom granted relief under Rule 30.10, provide customers resident in the United States with the options risk disclosure statement required by Rule 33.7 That disclosure document contemplates that the full premium for the option will be paid by the customer.

However, all option contracts traded on IPE are designed with a provision for deferred payment (on exercise or expiry) of the option premium rather than payment at purchase.[30] In this connection, IPE has represented that in order to maintain prudent cover against the risk of loss in option positions, a system of margining supports the form of contract. This system is similar in principle and practice to that used for futures contracts, and involves three elements: [31]

(i) Daily revaluation of positions (marking-to-market) resulting in positive or negative variation margin;

(ii) Initial margin calculated to provide protection against short term position risk;

(iii) Full integration with the margining of related futures contracts.

The form of the option contract and associated margining do not affect the "traditional" characteristic of purchased options in that the maximum potential loss is limited to the price of the option (*i.e.* premium).

In the staff memorandum dated August 30, 1989 recommending that

[23] *See* letter dated October 9, 1989 from Graham Wright, IPE, to Andrea M. Corcoran, Commission.

[24] *See* IPE rule 146(k).

[25] *See* IPE rules 4.3 and 151.

[26] Although the Commission has not indicated an intention to review the terms and conditions of foreign option products, *see* S. Rep. No. 384, 97th Cong., 2d Sess. 45–46 (1982), the Commission's authority with respect to options is plenary.

[27] 52 FR 28980, 29001.

[28] *See* letter from M.B. Gittins, SIB, to Andrea M. Corcoran, Commission, dated July 28, 1989.

[29] *See* SIB Conduct of Business Rules 4.15(3)(a) and 4.16(3) and AFBD Rules 5.45.1 and 5.45.4.

[30] By letters dated July 11 and 27, 1989, the Chicago Board of Trade and the Chicago Mercantile Exchange, respectively, petitioned the Commission for repeal of Commission Regulation 33.4(a)(2), 17 CFR 33.4(a)(2) (1988), which requires the full payment of the premium in connection with the purchase of a domestic-exchange traded option. On March 14, 1989, the Commission published Notice of Petition for Rulemaking and a Request for Comments to delete Commission Regulation 33.4(a)(2) in order to permit the development of "futures-style margining" of commodity options. 54 FR 11233 (March 17, 1989).

[31] *See* June 28, 1989 Petition of IPE.

London International Financial Futures Exchange ("LIFFE") option products be approved under Commission Rule 30.3(a), the staff summarized a supplement filed by LIFFE which described the main benefits of the option margining system operated by ICCH in respect of LIFFE options.[32] IPE has represented that ICCH operates the same system of margining in respect of IPE options.[33] A summary of the LIFFE supplement is set forth below:

—Improved utilisation of funds and cash flow.

As for futures contracts, the buyer of the option contracts does not need to pay the full price at the time of purchase, and the daily variation margin results in improved cash flow.

—Profits made available *without* the need for early exercise.

Cash-flow problems are reduced where options are used in hedging strategies in conjunction with futures or other options. By making available profits through daily variation margin, there is less likely to be a need to liquidate a position for reasons of cash flow rather than risk—an important advantage at times of major market movements, such as occurred in October 1987

—Encouragement of risk-management.

Major users have commented that daily variation margin assists them in monitoring profit and loss, and [the Exchange] believes that this has proved to be a significant benefit. This is consistent with what happens with futures contracts and builds on that experience.

—Appreciation by users of the risks involved in option trading.

A positive feature is that option margining discourages the naked writing of options as the seller is prevented from using options to generate immediate cash in order to avoid problems elsewhere.

In connection with the foregoing, in order to ensure that customers in the United States solicited to trade an IPE option contract understand that IPE permits the deferred payment of premium on such product, the Division further recommends that the Commission require as a condition of issuing the Order attached hereto that firms provide the Addendum attached to that Order as Exhibit B if they elect not to collect the full premium as margin from customers at the time of purchase.

[32] *See* June 6, 1989 supplement by LIFFE to its May 24, 1989 Petition.

[33] *See* letter dated October 9, 1989 from Graham Wright, IPE, to Andrea M. Corcoran, Commission.

IV Conclusion

Based upon the foregoing, the representations of IPE contained in its letter dated June 28, 1989, as supplemented, SIB's letter dated July 28, 1989 confirming that it monitors IPE for compliance with its obligations as an RIE, the issuance by the Commission of Rule 30.10 petitions to SIB, AFBD, TSA and IMRO on May 15, 1989, the existence of, among other things, information sharing arrangements as discussed above and pursuant to Commission Rule 30.3(a), the Division recommends that the Commission publish in the **Federal Register** this memorandum and approve and publish the attached Order authorizing the offer or sale in the United States of options traded on IPE subject to the following terms and conditions:

(1) Except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, that no offer or sale of any IPE option product in the United States will be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to the Order;

(2) That SIB and IPE represent that IPE is an RIE under the FSA and, as such, is subject to regulatory obligations under that Act, that transactions on IPE in the IPE option(s) referenced in the **Federal Register** notice will be subject to the rules of IPE and that SIB and/or IPE will provide the Commission with information as to all material changes thereto promptly;

(3) That options on futures on stock indices [34] and options on futures on foreign government debt securities [35] will not be permitted to be offered or sold absent certain additional procedures;

(4) That options traded pursuant to the Order may only be offset on IPE or another market with respect to which the Commission has issued an order under Commission Rule 30.3(a) authorizing its option products to be offered or sold in the United States;

(5) That options traded pursuant to the Order may only be offered or sold by persons registered in the appropriate capacity under the Commodity Exchange Act or by persons who have been granted an exemption from registration under Rule 30.10 based on comparability of regulation, provided such persons also provide customers resident in the United States with the options risk disclosure statement in Commission Rule 33.7 and, if the persons elect not to collect the full premium for the contract as margin from the customer at the time of purchase, the Addendum thereto attached to the Order as Exhibit B, but may not be offered or sold by persons doing business in the United States pursuant to interim relief granted and extended by the Commission (*see* 53 FR 3338 (Feb. 5, 1988) and subsequent orders and letters of the Commission); and

(6) If experience demonstrates that the continued effectiveness of the Order would be contrary to public policy or the public interest or that the operation or execution of the systems and arrangements in place for the trading of the option products subject thereto, or the exchange of information with respect to such products, do not warrant continuation of the authorization granted therein, the Commission may modify, suspend, terminate or otherwise restrict the authorization granted in the Order, as appropriate, on its own motion.

[34] *See* 52 FR 28980, 28982 n.6 and section 2a(1) of the Act.

[35] *See* section 2a(1) of the Act, section 3(a)(12) of the Securities Exchange Act of 1934 and Rule 3a12-8 promulgated thereunder.

IPE has specified that the following option contracts, a summary of the terms and conditions for which are attached hereto, will initially be offered or sold in the United States: options on gas oil and crude oil. As noted in condition (6) above, the Division recommends that the Commission retain the authority to terminate the Order granting authorization to offer or sell IPE options in the United States or to take such other steps as may be appropriate in light of the circumstances. In that connection, if the Order is approved by the Commission, the Division intends to monitor the offer or sale of IPE options to persons in the United States pursuant to the terms of the recommended Order and to make recommendations for further action to the Commission, as appropriate, in light of the operation of that program.

Attachments

List of Subjects in 17 CFR Part 30

Commodity futures.

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a (1982).

2. Appendix B to part 30 is amended by adding the following entry alphabetically:

Appendix B—Option Contracts Permitted To Be Offered and Sold in the U.S. Pursuant to § 30.3(a)

Exchange	Type of contract	FR date and citation
International Petroleum Exchange of London.	Options on Brent crude oil, and gas oil.	December_____, 1989; 54 FR xxx-

Exchange	Type of contract	FR date and citation

[FR Doc. 89-28456 Filed 12-5-89; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 80N-0419]

RIN 0905-AA06

Aphrodisiac Drug Products for Over-the-Counter Human Use; Final Rule; Clarification

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; clarification.

SUMMARY: The Food and Drug Administration (FDA) is issuing a clarification of its final rule establishing that any aphrodisiac drug product for over-the-counter (OTC) human use is not generally recognized as safe and effective and is misbranded (July 7 1989; 54 FR 28780). In discussing the impact of this final rule on the marketing of aphrodisiac drug products, the agency stated in the preamble to the final rule that "On or after January 8, 1990, no OTC drug products that are subject to this final rule may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). (See 54 FR 28780.) In order to avoid a possible misunderstanding of the intent of this language, FDA is adding another sentence, immediately after the above statement, for clarification. Thus, aphrodisiac drug products already in interstate commerce on the effective date of this final rule that are subsequently relabeled or repackaged will be regarded as a new product introduced into interstate commerce and, hence, in violation of the Federal Food, Drug, and Cosmetic Act.

DATES: Written comments on the clarification by January 5, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857,301-295-8000.

SUPPLEMENTARY INFORMATION: In FR Doc. 15954, appearing on page 28780, second column, in the Federal Register of Friday, July 7 1989, the following sentence is added to the second complete paragraph, after the second sentence under "SUPPLEMENTARY INFORMATION" to read as follows: "Further, any OTC drug product subject to this final rule that is repackaged or relabeled after the effective date of this final rule must be in compliance with the final rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce.

Dated: November 28, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-28391 Filed 12-5-89; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 310

[Docket No. 80N-0357]

RIN 0905-AA06

Hair Grower and Hair Loss Prevention Drug Products for Over-the-Counter Human Use; Final Rule; Clarification

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; clarification.

SUMMARY: the Food and Drug Administration (FDA) is issuing a clarification of its final rule establishing that any over-the-counter (OTC) hair grower or hair loss prevention drug product for external use is not generally recognized as safe and effective and is misbranded (July 7 1989; 54 FR 28772). In discussing the impact of this final rule on the marketing of hair grower and hair loss prevention drug products, the agency stated in the preamble to the final rule that "On or after January 8, 1990, no OTC drug products that are subject to this final rule may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA)." (See 54 FR 28772.) In order to avoid a possible misunderstanding of the intent of this language, FDA is adding another sentence, immediately after the above statement, for clarification. Thus, hair grower or hair loss prevention drug products already in interstate commerce on the effective date of this final rule that are subsequently relabeled or repackaged will be regarded as a new product introduced into interstate commerce and, hence, in violation of the Federal Food, Drug, and Cosmetic Act.

DATES: Written comments on the clarification by January 5, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-295-8000.

SUPPLEMENTARY INFORMATION: In FR Doc. 89-15955, appearing on page 28772, second column, in the Federal Register of Friday, July 7 1989, the following sentence is added to the second complete paragraph, after the last sentence under "SUPPLEMENTARY INFORMATION" to read a follows: "Further, any OTC drug product subject to this final rule that is repackaged or relabeled after the effective date of this final rule must be in compliance with the final rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce.

Dated: November 28, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-28392 Filed 12-5-89; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Detomidine Hydrochloride Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Farmos Group, Ltd., providing for the safe and effective use of Dormosedan™ (detomidine hydrochloride) injection as a sedative and analgesic to facilitate minor surgical and diagnostic procedures in mature horses and yearlings.

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine, Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-3420.

SUPPLEMENTARY INFORMATION: Farmos Group, Ltd., P.O. BOX 425, SF-20101 Turku 10, Finland, filed NADA 140-862 which provides for intravenous or intramuscular use of Dormosedan™ (detomidine hydrochloride) injection as a sedative and analgesic to facilitate minor surgical and diagnostic procedures in mature horses and yearlings. The application is approved and the regulations are amended in 21 CFR 510.600(c) and in 21 CFR part 522 by adding a new § 522.536. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects

21 CFR Part 510: Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522: Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The Authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for "Farmos Group, Ltd." and in the table in paragraph (c)(2) by numerically adding an entry for "052483" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsor of approved application.

(c) *

(1)

Firm name and address	Drug labeler code
Farmos Group, Ltd., P.O. Box 425, SF-20101 Turku 10, Finland	052483

(2) *

Drug labeler code	Firm name and address
052483	Farmos Group, Ltd., P.O. Box 425, SF-20101 Turku 10, Finland.

PART 522—INPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR part 522 continues to read as follows:

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

4. New § 522.536 is added to read as follows:

§ 522.536 Detomidine hydrocholoride injection.

(a) *Specification.* Each milliliter of sterile aqueous solution contains 10 milligrams of detomidine hydrocholoride.

(b) *Sponsor.* See 052483 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* For sedation, analgesia, or sedation and analgesia: 20 or 40 micrograms per kilogram (0.2 or 0.4 milliliter per 100 kilogram or 220 pounds) by body weight, depending on depth and duration required.

(2) *Indication for use.* As a sedative and analgesic to facilitate minor surgical and diagnostic procedures in mature horses and yearlings.

(3) *Limitations.* For sedation administer intraveneously (IV) or intramuscularly (IM); for analgesia by IV; for both sedation and analgesia by IV. Do not use in horses with pre-existing atrioventricular or sinoauricular block, with severe coronary insufficiency, cerebrovascular disease, respiratory disease, or chronic renal failure. Do not use in breeding animals. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: November 27, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-28390 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 89-20]

RIN 2125-AC35

Truck Size and Weight; National Network—Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA, by this notice, modifies the National Network for commercial motor vehicles by adding and deleting certain routes in Oregon. The National Network was established by the final rule on truck size and weight published at 49 FR 23302 on June 5, 1984. It is maintained under 23 CFR part 658, appendix A, as amended. The additions and deletions have been requested by the State of Oregon based on an evaluation concerning 53-foot long semitrailers.

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Richard A. Torbik, Office of Planning, (202) 366-0233, Mr. Philip W. Blow, Office of Motor Carrier Information Management and Analysis, (202) 366-4036, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, 400 Seventh Street SW Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The National Network of highways in 50 States, the District of Columbia, and Puerto Rico on which commercial vehicles with the dimensions authorized by the Surface Transportation Assistance Act (STAA) of 1982, Public Law 97-424, 96 Stat. 2097 may operate, was established by the final rule

published in the **Federal Register** at 49 FR 23302, June 5, 1984. Routes on the National Network are listed or described by category in appendix A of the rule. Additional routes not on the network but available for STAA vehicles were also listed in the 1984 final rule at State request.

The National Network consists of the Interstate System and other qualifying Federal-aid primary highways. The FHWA has the authority to revise, and when requested, to rule upon additions to and deletions from the National Network as stated in the June 5, 1984, final rule, and outlined in 23 CFR 658.11. One such revision was a final rule for the State of Oregon published on June 5, 1989, at 54 FR 23976.

On January 29, 1988, the FHWA published a final rule which added appendix B to part 658 (53 FR 2597) establishing a grandfathered semitrailer length of 53 feet in Oregon. Subsequently, the State of Oregon requested the addition of two route segments and the deletion of fifteen route segments on the National Network after evaluating the entire National Network in Oregon to determine if the routes could safely accommodate a 53-foot semitrailer. State and FHWA evaluations for the proposed revisions considered safety, availability of alternate routes, network connections and the effects on interstate commerce, local industry and the environment.

The factors considered with respect to safety were accident rates, traffic volumes, horizontal curvature, off-tracking on horizontal curves, grades, lane widths, shoulder widths, and sight distances.

The FHWA then developed a notice of proposed rulemaking (NPRM) which was published in the **Federal Register** on August 29, 1989. It explained in detail the circumstances leading to the State's request for additions and deletions and requested comments from interested parties regarding the proposal. In the NPRM, the FHWA proposed to further amend the June 5, 1984, final rule by adding or deleting certain routes in the State of Oregon.

The FHWA received no comments in response to the NPRM (published at 54 FR 35703 on August 29, 1989). The NPRM (Docket 89-20) comment period closed on September 28, 1989.

The following are the additions and deletions based on the NPRM proposals.

Added Route Segments

The two following route segments in the State of Oregon are added to the National Network to provide connections between two routes presently on the National Network:

OR 35 from Baseline Road to I-84 Hood River;
OR 140 from White City to US 97 Klamath Falls.

This final rule also clarifies the terminus of OR 11 which is at I-84 rather than at US 30 in Pendleton.

Deleted Route Segments

The ten following route segments are deleted from the National Network because of sharp horizontal curvature and narrow lane width:

US 20 between Newport and Philomath;
US 26 between Prineville and Mitchell;
US 197 between The Dalles and Maupin;
US 395 between Pendleton and Long Creek;
OR 47 between Forest Grove and McMinnville;
OR 51 between Monmouth and Salem;
OR 82 between LaGrande and Joseph;
OR 99 between Ashland and I-5 north of Central Point;
OR 206 between Wasco and Condon;
OR 206/207 between Heppner and Kinzua Road.

The five following segments are deleted from the National Network because they serve no significant interstate commerce or national purpose:

US 30 at Cascade Locks;
US 30 at Pendleton;
US 101 between Gold Beach and the California State line;
US 101 between Tillamook and Beaver;
OR 62 between White City and Trail.

All fifteen of the deleted segments are determined to be unsuitable for the semitrailers with 53-foot long grandfather dimensions. However, the State of Oregon has noted that the deleted segments will continue to be available, under State law, to all other STAA authorized vehicles.

Regulatory Impact

The FHWA has considered the impacts of this rulemaking and has determined that it is not a major rulemaking action within the meaning of E.O. 12291 nor a significant rulemaking under the regulatory policies and procedures of the Department of Transportation (DOT). These determinations by the agency are based on the nature of the rulemaking. The FHWA has determined that this rulemaking will technically amend the June 5, 1984, final rule by adding and deleting certain highway segments in accordance with statutory provisions. The impacts of the changes addressed in this rulemaking do not significantly alter the impacts fully considered in the original impact statement accompanying the June 5 rule. These segments represent a very small portion of the National Network, and the changes will have negligible impact on the prior system. Thus, no revised regulatory evaluation is needed. For the same reasons, and under the criteria of the Regulatory Flexibility Act, FHWA hereby certifies that this action does not have a significant economic impact on a substantial number of small entities.

Federalism

The FHWA has considered the "federalism" implications of this action in accordance with the principles and policymaking criteria of E.O. 12612, *Federalism*, of October 26, 1987 This final rule is in response to an application filed by the State. There are no adverse impacts on the State or significant intrusions into State authority as a result of this rulemaking. Therefore, it has been determined that this action does not have sufficient implications to warrant the preparation of a Federalism Assessment.

The 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.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor Carrier—size and weight.

Issued on November 29, 1989.

T.D. Larson,

Administrator.

In consideration of the foregoing, the FHWA hereby amends chapter I of title 23, Code of Federal Regulations, by amending appendix A to part 658 for the State of Oregon to read as set forth below.

PART 658—[AMENDED]

1. The authority citation for 23 CFR part 658 continues to read as follows:

Authority: Secs. 133, 411, 412, 413, and 416 of Pub. L. 97-424, 96 Stat. 2097 (23 U.S.C. 127· 49 U.S.C. app. 2311, 2312, 2313, and 2316), as amended by Public Law 98-17, 97 Stat. 59, and Public Law 98-554, 98 Stat. 2829; 23 U.S.C. 315; and 49 CFR 1.48.

Appendix A—[Amended]

2. Appendix A to part 658 is amended for the State of Oregon by removing the following Poster Route Number entries:

Route	From	To
OR 11	US 30 Pendleton.	WA State Line.
OR 35	Baseline Road MP 82.11.	I-84 Hood River.

and adding in their places the following:

Route	From	To
OR 11	I-84 Pendleton	WA State Line.
OR 35	US 26 Government Camp.	I-84 Hood River.

3. Appendix A to part 658 is amended for the State of Oregon by removing the Posted Route Number entries:

Route	From	To
US 20	US 101 Newport.	ECL Sweet Home.
US 26	US 101 Cannon Beach Junction.	Mitchell.
US 30	In Cascade Locks.	
US 30	I-84 W. of Pendleton.	I-84 E. of Pendleton.
IS 101	CA State Line	Gold Beach.
US 101	MP 75.54 N. of Beaver.	WA State Line.
US 197	OR 216 Maupin	WA State Line.
US 395	Long Creek	Pendleton.
OR 47	OR 99W near McMinnville.	US 26 N. of Banks.
OR 51	OR 99W Monmouth.	OR 22 near Eola.
OR 62	Medford	Trail.
OR 82	I-84 La Grande	Joseph.
OR 99	Ashland	Central Point.
OR 140	US 97 Klamath Falls.	OR 39 E. of Klamath Falls.
OR 206	US 97 Wasco	OR 19 Condon.
OR 207	US 730 Cold Springs Jct.	MP 23.56 Kinzua Rd.

and adding in place of US 20, US 26, US 101, US 197 OR 47 OR 62, OR 140 and OR 207 the following, respectively:

Route	From	To
US 20	OR 34 W. Int. Philomath.	ECL Sweet Home.
US 26	US 101 Cannon Beach Junction.	OR 126 Prineville.
US 101	OR 6 Tillamook	WA State Line.
US 197	I-84 The Dalles	WA State Line.
OR 47	OR 8 Forest Grove.	US 26 N. of Banks.
OR 62	Medford	OR 140 White City.
OR 140	OR 62 White City.	OR 39 E. of Klamath Falls.
OR 207	US 730 Cold Springs Jct.	OR 74 S. Int. Heppner.

[FR Doc. 89-28404 Filed 12-5-89; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[T.D. 8275]

RIN 1545-AJ05

Returns Relating to Persons Receiving Contracts From Federal Executive Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: Section 6050M of the Internal Revenue Code ("Code"), which was added to the Code by the Tax Reform Act of 1986, requires Federal executive agencies to make a return to the Internal Revenue Service reporting the name, address, and taxpayer identification number (TIN) of each person with which the agency enters into a contract, together with any other information required by Treasury regulations. This document contains final rules concerning compliance with the new reporting requirements imposed by section 6050M.

EFFECTIVE DATE: The final regulations are effective January 1, 1989, and apply to Federal executive agencies with respect to their contracts (including their contract actions treated as new contracts) entered into (or treated as entered into) on or after January 1, 1989, except that, with respect to a basic or initial contract entered into before January 1, 1989, the regulations do not apply to an increase contract action treated as a new contract if the increase occurs before April 1, 1990, or if the increase is not in excess of $50,000.

FOR FURTHER INFORMATION CONTACT: Keith E. Stanley of the Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:CORP:T:R) or telephone (202) 566-3367 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document provides final regulations to be added to the Income Tax Regulations (26 CFR part 1) and the Regulations on Procedure and Administration (26 CFR part 301) under section 6050M of the Internal Revenue Code of 1986. These final rules provide the needed guidance for complying with the provisions of section 6050M, which was enacted by section 1522 of the Tax Reform Act of 1986 (Pub. L. 99-514; 100 Stat 2085) and amended by section 1015 (f) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647; 102 Stat 3342).

These rules were published in proposed form in the **Federal Register** on July 29, 1988 (53 FR 28669). The preamble of that notice of proposed rulemaking contains an explanation of the proposed rules. There was no public hearing. After consideration of comments regarding the proposed rules, those rules are adopted, as revised by this Treasury decision.

Explanation of Provisions

Section 6050M requires the head of every Federal executive agency to file an information return with the Internal Revenue Service setting forth the name, address, and TIN of each person with which that agency enters into a contract, as well as any other information prescribed under Treasury regulations. The information returns filed under section 6050M will be used as a source of information to collect delinquent Federal tax liabilities of persons who enter into contracts with Federal executive agencies.

A. Providing Contract Information Required by Form or Other Administrative Guidance

The proposed regulations at § 1.6050M-1(a) set forth the information required to be reported with respect to each contract for which reporting is required. Proposed regulations § 1.6050M-1(a) (1)-(5) requiring the reporting of certain specific information with respect to each contract, and proposing regulations § 1.6050M-1(a)(6) required that there be reported for each contract "any other information required by Forms 8596 and 8596A and their instructions, or by any other administrative guidance issued by the Internal Revenue Service (such as a revenue procedure). Several commentors expressed concern about the possibility of the Internal Revenue Service's later requiring, through Forms 8596 and 8596A or other administrative guidance, that additional specific

information be provided with respect to contracts being entered into.

This would appear to be of particular concern to those Federal executive agencies planning to elect under § 1.6050M-1(d)(5) to have the Director of the Federal Procurement Data Center (FPDC) make returns on behalf of the agency. That election is available only with respect to the agency's contracts for which all the information required to be reported under § 1.6050M-1(a) is also required to be submitted to the FPDC by the Federal Procurement Data System (FPDS). The Office of Federal Procurement Policy (OFPP) under the Office of Management and Budget determines the FPDS requirements concerning what information is to be submitted to the FPDC. Implementing a change in the type of information required to be submitted to the FPDC generally is a lengthy process. If the Internal Revenue Service, without consulting with the OFPP were to require that additional information be reported with respect to contracts entered into, Federal executive agencies would not be able to have the Director of the FPDC make returns on their behalf unless and until the OFPP revised the FPDS to require that such additional information for contracts entered into be submitted to the FPDC.

The Internal Revenue Service expects that the majority of the information it receives under § 1.6050M-1 will come through the FPDC. Furthermore, the Internal Revenue Service knows that any significant additional contract information reporting requirement that is not carefully coordinated with the OFPP would, at least temporarily, seriously disrupt the flow of contract information to the Internal Revenue Service. The Internal Revenue Service has no plans to implement requirements for additional data that would disrupt the flow of contract information. Accordingly, § 6050M-1(a), including § 1.6050M-1(a)(6), as proposed, is adopted without change. It is anticipated that Forms 8596 and 8596A will require to be reported, in addition to the information required under § 1.6050M-1(a), the name and employer identification number of the Federal executive agency making the return. It is also anticipated that Form 8596A, which will be used to transmit the aggregate of the Forms 8596 filed for each quarter, will require a single statement of the name, address, and title of the person at the agency to whom a request for an offset against any unpaid tax liability of a contract can be sent.

B. Certification Requirement

Many commentors objected to the requirement in the proposed rules that the head of the Federal executive agency (or his or her delegate) sign the returns (or the submission to the FPDC if electing to have the Director of the FPDC make required returns on the agency's behalf) declaring under penalties of perjury that the provided information is, to the best of his or her knowledge and belief, true, correct, and complete. Concern was expressed that the head of the agency (or his or her delegate) might be prosecuted if that person so certified a return while knowing that the agency's records from which the return was made contained a statistically known percentage of inaccuracies or omissions in contract information.

Section 6065 of the Code provides that, "Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury." Virtually all returns, whether made by members of the general public or by government agencies, currently are required to be certified under the penalties of perjury. The Internal Revenue Service views this requirement as an important element in the administration of the internal revenue laws and regulations. In the interest of an evenhanded, effective administration of these laws and regulations, the Internal Revenue Service believes that it would be inappropriate in this case to waive the general requirement a return "contain or be verified by a written declaration that it is made under the penalties of perjury. Accordingly, the final rules retain a requirement that the returns be certified under the penalties of perjury.

The concerns of the commentors appear to be unfounded. Section 7206(1) of the Code provides that "any person who *willfully* makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution. (emphasis added). The Supreme Court has interpreted the word "willfully" as used in section 7206(1) of the Code as referring to a "voluntary, intentional disregard of a known legal duty. *United States* v. *Bishop*, 412 U.S. 346, 360 (1972).

Nonetheless, in order to further reassure Federal executive agencies making the required certification, the final regulations have added § 1.6050-1(d)(6) and modified § 1.6050M-1(d)(5)(i)(B). Basically, the head of a Federal executive agency (or his or her delegate) will under penalties of perjury certify that each return (or the information submitted by the agency to the FPDC to be used in making returns), to the best of such official's knowledge and belief, is compiled from agency records maintained in the normal course of business for the purpose of making a true, correct, and complete return as required by section 6050M.

C. Effective Dates

The regulations were proposed to apply to Federal executive agencies with respect to their contracts (and their contract actions treated as new contracts under § 1.6050M-1(e)) entered into (or treated as entered into) on or after October 1, 1988. The proposed regulations reserved on the issue of reporting by Federal executive agencies regarding their contracts (and their contract actions treated as new contracts) entered into (or treated as entered into) before October 1, 1988.

Several commentors suggested a later implementation of the reporting requirements, generally on the grounds that to require reporting with respect to contracts (and contract actions treated as new contracts) entered into (or treated as entered into) during the quarter beginning October 1, 1988, does not give agencies enough time to properly implement data collection and reporting systems.

Notice 87-1, which was published in Internal Revenue Bulletin 1987-1, dated January 5, 1987 gave notice, as of that date, of the Internal Revenue Service's intent to collect information of the type that is required to be reported by the final regulations. Furthermore, Notice 87-1 indicated that there would be an earlier implementation of contract reporting requirements than that which was provided in the proposed regulations published in the **Federal Register** on July 29, 1988. In light of such notice, it would be reasonable for the final regulations to adopt the proposed implementation date.

Nonetheless, because related amendments to the Federal Acquisition Regulation were promulgated with an effective date of November 25, 1988 (see Federal Acquisition Circular 84-40, Item I, published in the **Federal Register** on

October 26, 1988, at 53 FR 43386) and because these final regulations will not be published in the **Federal Register** until December 6, 1989, the final regulations set forth in this document do provide for a later implementation of the reporting requirements. The regulations generally apply to Federal executive agencies with respect to their contracts (including into (or treated as entered into) on or after January 1, 1989. The one exception is that, with respect to a basic or initial contract entered into before January 1, 1989, the regulations do not apply to an increase contract action treated as a new contract if the increase occurs before April 1, 1990, or if the increase is not in excess of $50,000. The regulations do not require Federal executive agencies to report information with respect to contracts (including contract actions treated as new contracts) entered into (or treated as entered into) before January 1, 1989, or with respect to an increase contract action referred to in the preceding sentence. Paragraph (f)(3) of the regulations illustrates application of the effective date in the case of an increase contract action that is treated as the entering into of a new contract.

The normal rule for the due date of returns, as proposed and adopted, is that the returns for contracts entered into during a calendar quarter must be filed on or before the last day of the month following that quarter. In light of the fact that these final regulations will not be published in the **Federal Register** until December 6, 1989, and in order to give Federal executive agencies adequate time to set-up reporting systems, the final regulations provide that, notwithstanding the normal rule, returns filed before May 7 1990, will be considered timely filed.

D. Contracts Entered Into Using Non-Appropriated Funds

There is nothing in statutory language relating to section 6050M or in the related legislative history to suggest that the reporting requirements should be different for an agency's contracts entered into using non-appropriated funds. Apparently, however, while many agencies already have in place systems for gathering and reporting data with respect to other contracts, they have no such systems concerning contracts entered into using non-appropriated funds. Furthermore, it apparently would require a substantial amount of time to set up such systems. Accordingly, § 1.6050M-1(b)(2)(vi) is added to the definition of contract to provide a reservation with respect to treatment of contracts entered into using non-appropriated funds. When an appropriate effective date for treating such contracts as contracts for purposes of section 6050M has been determined, the regulations will be amended prospectively to remove the reservation and to provide appropriate rules for such contracts.

E. Other Significant Issues

A few commentors raised questions as to whether certain specific types of arrangements are "contracts" within the meaning of § 1.6050M-1(b)(2) and, if so, whether it would be appropriate for the regulations to exclude certain of those arrangements from the reporting requirements of § 1.6050M-1(a). In response to these questions, § 1.6050M-1(c)(1) (viii) and (ix) are added to the final regulations. Section 1.6050M-1(c)(1)(viii) excludes from the reporting requirements any contract under which all money (or other property) that will be received by the contractor after the 120th day after the contract action will come directly from persons other than a Federal executive agency or an agent of such an agency. Section 1.6050M-1(c)(1)(ix) provides that a contract need not be reported if the Commissioner determines that the contract information described in § 1.6050M-1(a) will not facilitate tax collection because of the agency's manner, method, or timing of payment under that type of contract. The flexibility this provides will be especially useful in the case of contracts of an unforseen type that are not otherwise excluded from the reporting requirement despite the fact that the information to be reported would not facilitate tax collection.

Addition of the special rule at § 1.6050M-1(c)(2) for certain classified or confidential contracts merely reflects the enactment of the Technical and Miscellaneous Revenue Act of 1988 on November 10, 1988, which, at section 1015(f), added section 6050M(e) to the Code.

A few comments were made in favor generally of reducing the reporting burden by means such as (1) reducing the frequency of reporting or the type of information to be reported, (2) expanding the exceptions to contract reporting, or (3) providing for a later return due date. These comments were not adopted. The Internal Revenue Service believes that the nature of the information required to be reported and the timing of the reporting under the regulations is the least burdensome that is consistent with the effective implementation of section 6050M.

Special Analysis

It has been determined that these regulations are not major regulations as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these final regulations is Keith E. Stanley of the Office of the Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Parts 1.6001-1—1.6109-2

Income taxes, Administration and procedures, Filing requirements.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of Information, Filing requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1986

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; § 1.6050M-1 also issued under 26 U.S.C. 6050M.

Par. 2. A new § 1.6050M-1 is added to read as follows:

§ 1.6050M-1 Information returns relating to persons receiving contracts from certain Federal executive agencies.

(a) *General rule.* Except as otherwise provided in paragraph (c) of this section, the head of every Federal executive agency or his or her delegate shall make an information return to the Internal Revenue Service reporting the following information with respect to each contract entered into by that Federal executive agency—

(1) Name and address of the contractor;

(2) Contractor's TIN and, if the contractor is a member of an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, the name and TIN of the common parent of the affiliated group;

(3) The date of the contract action;

(4) The expected date of completion of the contract as determined under any reasonable method, such as the expected contract delivery date under the contract schedule;

(5) The total amount obligated under the contract action; and

(6) Any other information required by Forms 8596 and 8596A and their instructions, or by any other administrative guidance issued by the Internal Revenue Service (such as a revenue procedure).

See paragraph (e) of this section relating to the manner in which to report increases in amounts obligated under existing contracts. See paragraph (d)(5) of this section for special rules for agencies that submit contract information to the Federal Procurement Data Center. For provisions concerning the requesting and furnishing of identifying numbers, see section 6109 and the regulations thereunder.

(b) *Definitions.* The following definitions apply for purposes of this section—

(1) *Federal executive agency.* The term "Federal executive agency" means—

(i) Any executive agency (as defined in 5 U.S.C. 105) other than the General Accounting Office;

(ii) Any military department (as defined in 5 U.S.C. 102); and

(iii) The United States Postal Service and the Postal Rate Commission.

(2) *Contract*—(i) *General rule.* The term "contract" means an obligation of a Federal executive agency to make payment of money (or other property) to a person in return for the sale of property, the rendering of services, or other consideration. The term "contract" includes, for example, such an obligation arising from a written agreement executed by the agency and the contractor, an award or notice of award, a job order or task letter issued under a basic ordering agreement, a letter contract, an order that becomes effective only upon written acceptance or performance, or an action described in paragraph (e) of this section.

(ii) *Exceptions.* For purposes of this section, the term "contract" does not include—

(A) A license granted by a Federal executive agency;

(B) An obligation of a contractor (other than a Federal executive agency) to a subcontractor;

(C) A debt instrument of the United States Government or a Federal agency, such as a Treasury note, Treasury bond, Treasury bill, savings bond, or similar instrument; or

(D) An obligation of a Federal executive agency to lend money, lease property to a lessee, or sell property.

(iii) *Special rule for certain contracts of the Small Business Administration.* Any subcontract entered into by the Small Business Administration (SBA) under a prime contract between the SBA and a procuring Federal executive agency pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) shall not be treated as a contract of the SBA but shall be treated as a contract of the procuring agency for purposes of this section.

(iv) *Certain schedule contracts.* For purposes of this section, any of the following contracts entered into on behalf of one or more Federal executive agencies is not a "contract" to be reported by the General Services Administration or the Veterans Administration at the time of execution:

(A) A Federal Supply Schedule Contract entered into by the General Services Administration,

(B) An Automated Data Processing Schedule Contract entered into by the General Services Administration, or

(C) A schedule contract entered into by the Veterans Administration. Instead, an order placed by a Federal executive agency, including the General Services Administration or the Veterans Administration, under such a schedule contract is a "contract" for purposes of this section.

(v) *Blanket purchase agreements.* For purposes of this section, the term "contract" does not include a blanket purchase agreement between one or more Federal executive agencies and one or more contractors. Instead, an order placed by a Federal executive agency under the terms of a blanket purchase agreement is a "contract" for purposes of this section.

(vi) *Contracts entered into using non-appropriated funds.* [Reserved]

(3) *Contractor.* The term "contractor" means any person who enters into a contract with a Federal executive agency.

(4) *Person and TIN.* The terms "person" and "TIN" are defined in sections 7701(a) (1) and (41), respectively.

(c) *Exceptions to information reporting requirement*—(1) *General exceptions.* The following do not need to be reported pursuant to this section:

(i) Any contract or contract action for which the amount obligated is $25,000 or less;

(ii) Any contract with a contractor who, in making the agreement, is acting in his or her capacity as an employee of a Federal executive agency (*e.g.*, any contract of employment under which the employee is paid wages subject to the withholding provisions contained in chapter 24 of subtitle C);

(iii) Any contract between a Federal executive agency and another Federal governmental unit (or any agency or instrumentality thereof);

(iv) Any contract with a foreign government (or any agency or instrumentality thereof);

(v) Any contract with a state or local governmental unit (or any agency or instrumentality thereof);

(vi) Any contract with a person who is not required to have a TIN (see, for example, § 301.6109-1(g));

(vii) Any contract the terms of which provide that all amounts payable under the contract by any Federal executive agency will be paid on or before the 120th day following the date of the contract action, and for which it is reasonable to except that all amounts will be so paid.

(viii) Any contract under which all money (or other property) that will be received by the contractor after the 120th day after the date of the contract action will come from persons other than a Federal executive agency or an agent of such an agency (*e.g.*, a contract under which the contractor will collect amounts owed to a Federal executive agency by the agency's debtor and will remit to the agency the money collected less an amount that serves as the contractor's consideration under the contract).

(ix) Any contract for which the Commissioner determines that the information described in paragraph (a) of this section will not facilitate the collection of Federal tax liabilities because of the manner, method, or timing of payment by the agency under that contract.

(2) *Special rule for certain classified or confidential contracts.* Contracts described in section 6050M(e)(3), relating to certain classified or confidential contracts, are to be reported only in accordance with section 6050M(e)(2).

(d) *Filing requirements*—(1) *Frequency and time for filing.* The information returns required by this section with respect to contracts of a Federal executive agency entered into on or after January 1, 1989, must be filed on a quarterly basis for the calendar

quarters ending on the last day of March, June, September, and December. Except as provided in paragraph (d)(5) of this section, the returns for contracts entered into during a calendar quarter must be filed on or before the last day of the month following that quarter. Notwithstanding the preceding sentence, returns filed before May 7 1990, will be considered timely filed.

(2) *Form of reporting*—(i) *General rule concerning magnetic media.* The information returns required by this section with respect to contracts of a Federal executive agency for each calendar quarter shall be made in one submission (or in multiple submissions if permitted by paragraph (d)(4) of this section). Except as provided in paragraph (d)(2)(ii) of this section, the required returns shall be made on magnetic media (within the meaning of § 301.6011-2(a)(1)) in accordance with any applicable revenue procedure or other guidance promulgated by the Internal Revenue Service for the filing of such returns under section 6050M.

(ii) *Magnetic media exception for low-volume filers.* Any Federal executive agency that on any October 1 has a reasonable expectation of entering into, during the one year period beginning on that date, fewer than 250 contracts that are subject to the reporting requirements under this section may make the information returns required by this section for each quarter of that one year period on the prescribed paper Form 8596 in accordance with the instructions accompanying such form.

(3) *Place of filing*—(i) *Returns on magnetic media.* Information returns made under this section on magnetic media shall be filed with the Internal Revenue Service at the Martinsburg Computing Center, Martinsburg, West Virginia 25401-1359, in accordance with any applicable revenue procedure or other guidance promulgated by the Internal Revenue Service relating to the filing of returns under section 6050M.

(ii) *Form 8596.* Information returns made on Form 8596 shall be filed with the Internal Revenue Service at the location specified in the instructions for that form.

(4) *Special rule concerning multiple returns.* To the extent permitted in any revenue procedure or other guidance relating to the filing of information returns under this section, a Federal executive agency which files information returns under this section on magnetic media may make more than one magnetic media submission for any quarter, if each submission for that quarter contains all of the information required by paragraph (a) of this section with respect to contracts entered into by one or more departments, branches, bureaus, agencies, or other readily identifiable operating functions (such as a geographic region) of the Federal executive agency.

(5) *Special rules for agencies reporting to the Federal Procurement Data Center*—(i) *Election to have the Director of the Federal Procurement Data Center make returns on behalf of agency.* If, in complying with the requirements of the Federal Procurement Data System (FPDS) (as established under the authority of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. 401 *et seq.*), a Federal executive agency is required to submit to the Federal Procurement Data Center (FPDC) all the information with respect to one or more contracts required to be reported by paragraph (a) of this section, that Federal executive agency may, in lieu of making returns directly to the Internal Revenue Service with respect to those contracts, elect to have the Director of the FPDC (or his or her delegate) make the required returns with respect to all of those contracts on its behalf. In order to make this election for such contracts entered into during a calendar quarter, the head of a Federal executive agency (or his or her delegate) shall attach to its submission to the FPDC for that quarter a signed statement to the effect that:

(A) The Director of the FPDC (or his or her delegate) is authorized, in accordance with an election made under 26 CFR 1.6050M-1(d)(5), to make, on the agency's behalf, the required returns for such contracts for that quarter, and

(B) Under the penalties of perjury, such official has examined the information to be submitted by the agency to the FPDC for making those returns and certifies that information to be, to the best of such official's knowledge and belief, a compilation of agency records maintained in the normal course of business for the purpose of providing the information necessary for making true, correct, and complete returns as required by section 6050M.

If the election is made, the Director of the FPDC (or his or her delegate) shall, on the electing agency's behalf, make the returns required by paragraph (a) of this section with respect to the contracts to which the election applies.

(ii) *Time, manner, and place of filing.* The Director of the FPDC (or his or her delegate) must—

(A) Make the required returns for a quarter on or before the earlier of:

(*1*) 45 days following the date that the contract information is required to be submitted to the FPDC, or

(*2*) 90 days following the end of the calendar quarter for which the election is made, except that, if that calendar quarter ends September 30, 105 days following the end of that quarter, and

(B) Comply with paragraph (d)(2)(i) and (3)(i) of this section, relating to form and place of filing.

Notwithstanding the preceding sentence, returns made before May 7 1990, will be considered timely filed.

(iii) *Contracts reported directly to the Internal Revenue Service.* Even if the election is made, all information with respect to any particular contract required to be reported under paragraph (a) of this section must be reported directly to the Internal Revenue Service by the electing agency if the FPDS does not require that information to be submitted to the FPDC. An electing agency shall not, however, make direct returns to the Internal Revenue Service of contract information that is subject to the election.

(6) *Certification of return*—(i) *Returns made directly with the Internal Revenue Service.* Each return made under this section by a Federal executive agency directly with the Internal Revenue Service on magnetic media or on Forms 8596 and 8596-A shall be signed by the head of the Federal executive agency (or his or her delegate) under the penalties of perjury, certifying that such official has examined the return, that it is prepared pursuant to the requirements of section 6050M and that, to the best of such official's knowledge and belief, it is compiled from agency records maintained in the normal course of business for the purpose of making a true, correct, and complete return as required by section 6050M.

(ii) *Returns made by Director of FPDC on agency's behalf.* Each return made under this section by the Director of the FPDC on behalf of a Federal executive agency shall be signed by the Director of the FPDC (or his or her delegate) under the penalties of perjury, certifying that such official has examined the return, that it is prepared pursuant to the requirements of section 6050M and that, to the best of such official's knowledge and belief, it is compiled from information submitted by the Federal executive agency to the FPDC pursuant to § 1.6050M-1(d)(5)(i) for the purpose of making a true, correct, and complete return as required by section 6050M.

(e) *Special rules relating to increases in amount obligated.* If, through the exercise of an option contained in a basic or initial contract or under any other rule of contract law, express or implied, the amount of money or other property obligated under the contract is

increased by more than $25,000 in one contract action, then that action shall be treated as the entering into of a new contract with respect to which the information required by paragraph (a) of this section is to be reported to the Internal Revenue Service for the calendar quarter in which the increase occurs.

(f) *Effective date*—(1) *Contracts required to be reported.* Except as otherwise provided in this paragraph (f), this section applies to each Federal executive agency with respect to its contracts entered into on or after January 1, 1989 (including any increase in amount obligated on or after January 1, 1989, that is treated as a new contract under paragraph (e) of this section).

(2) *Contracts not required to be reported.* A Federal executive agency is not required to report—

(i) Any basic or initial contract entered into before January 1, 1989,

(ii) Any increase contract action occurring before January 1, 1989, that is treated as a new contract under paragraph (e) of this section, or

(iii) Any increase contract action that is treated as a new contract under paragraph (e) of this section if the basic or initial contract to which that contract action relates was entered into before January 1, 1989, and—

(A) The increase occurs before April 1, 1990, or

(B) The amount of the increase does not exceed $50,000.

(3) *Illustration*—(i) If Federal executive agency enters into an initial contract on December 1, 1988, and the amount of money obligated under the contract is increased by $55,000 on April 15, 1990, then (A) there is no reporting requirement with respect to the contract when entered into on December 1, 1988, and (B) the April 15, 1990, increase, which is treated as a new contract under paragraph (e) of this section, is subject to the reporting requirements of this section because it is considered to be a new contract entered into on April 15, 1990.

(ii) If the $55,000 increase had occurred before April 1, 1990, there would have been no reporting requirement with respect to that increase.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805;
§ 301.6050M-1 is also issued under 26 U.S.C. 6050M.

Par. 4. A new § 301.6050M-1 is added to read as follows:

§ 301.6050M-1 Information returns relating to persons receiving contracts from certain Federal executive agencies.

For provisions relating to the requirements of returns of information relating to persons receiving contracts from certain Federal executive agencies, see § 1.6050M-1 of this chapter (Income Tax Regulations).

Approved: November 6, 1989.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 89-28396 Filed 12-5-89; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AB26

Air Contaminants

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; partial stay of effective date for two substances.

SUMMARY: OSHA reduced exposure limits for 375 air contaminants on January 19, 1989, at 54 FR 2332. A stay of the new limits for nitroglycerin and ethylene glycol dinitrate is granted to the explosives industry until February 1, 1990.

DATE: These actions take effect on December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James F Foster, OSHA Office of Public Affairs, Room N-3647 Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: On January 19, 1989 at 54 FR 2332 OSHA issued a final standard setting new or more protective exposure limits for 375 substances. The new limits are to be achieved with any reasonable combination of controls including engineering controls and respirators by September 1, 1989, and with a preference for engineering controls by December 31, 1992.

The Institute of Makers of Explosives petitioned OSHA to administratively stay the new exposure limits for nitroglycerin and ethylene glycol dinitrate for the explosives industry. OSHA stayed the September 1, 1989 start-up date of the Final Rule Limits column (new) exposure limits for those substances pending settlement negotiations until December 1, 1989. See 54 FR 36765; September 5, 1989 and 54 FR 41244; October 6, 1989.

Settlement negotiations are continuing. Accordingly OSHA is extending the stay of the September 1, 1989 start-up date of the new exposure limits for nitroglycerin and ethylene glycol dinitrate for the explosives industry until February 1, 1990.

This document was prepared under the direction of G. F Scannell, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. It is issued pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), section 4 of the Administrative Procedure Act, 5 U.S.C. 553, 29 CFR part 1911 and Secretary of Labor Order 9-83 (48 FR 35736).

Signed at Washington, DC, this 28th day of November, 1989.

G. F. Scannell,

Assistant Secretary.

PART 1910—[AMENDED]

1. The authority citation for subpart Z of part 1910 continues to read in part as follows:

Authority: Secs. 6, 8 Occupational Safety and Health Act, 29 U.S.C. 655, 657· Secretary of Labor's Orders 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736) as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z-1-A, which have identical limits listed in the Transitional Limits columns of Table Z-1-A, Table Z-2 or Table Z-3. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2 and Table Z-3 also issued under 5 U.S.C. 553. Section 1910.1000, the Transitional limits columns of Table Z-1-A, Table Z-2 and Table Z-3 not issued under 29 CFR part 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

*

§ 1910.1000 [Amended]

2. Section 1910.1000, Table Z-1-A is amended by revising the Note at the end of the Table to read as follows:

Note: Pursuant to administrative stays effective September 1, 1989 and published in the **Federal Register** on September 5, 1989, and extended in part by notices published in the **Federal Register** on October 6, 1989 and on December 6, 1989, the September 1, 1989 start-up specified in 29 CFR 1910.1000(f)(2)(i) is stayed as follows: Until February 1, 1990 for nitroglycerin and ethylene glycol dinitrate

in the explosives industry; until October 1, 1989 for perchloroethylene in the drycleaning industry; until September 1, 1990 for the acetone TWA for certain "doffers" in the cellulose acetate fiber industry; and until the decision on the merits of the Eleventh Circuit Court of Appeals in the case of Courtaulds Fibers, Inc. v. U.S. Department of Labor, No. 89-7073 and consolidated cases, for the Ceiling for carbon monoxide for blast furnace operations, vessel blowing at basic oxygen furnaces and sinter plants in the steel industry (SIC 33). OSHA will publish in the Federal Register notice of the termination of the carbon monoxide stay.

[FR Doc. 89-28401 Filed 12-5-89; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for International Affairs

31 CFR Part 129

Foreign Portfolio Investment Survey; Reporting Requirements

AGENCY: Treasury.

ACTION: Notice of reporting requirements and availability of forms.

SUMMARY: By this notice the Department of the Treasury is informing the public that it is conducting a survey of foreign portfolio investment in the United States. All persons who meet the reporting requirements set forth in this Notice must report. Survey data is based on foreign holdings as of December 31, 1989, and reports are due at the Department of the Treasury by June 30, 1990. Any United States issuer of securities that meets the benchmark survey asset test for a routine large issuer and any United States holder of record that exceeds the exemption level for aggregate foreign holdings should contact the Department of the Treasury at the telephone number listed below to obtain a copy of the Forms and Instructions if its Chief Financial Officer has not yet received a copy.

FOR FURTHER INFORMATION CONTACT: William Griever, Foreign Portfolio Investment Project, Office of the Assistant Secretary, International Affairs, U.S. Department of the Treasury, Washington, DC 20220, Telephone: (202) 566-5297

SUPPLEMENTARY INFORMATION: The International Investment and Trade in Services Survey Act (22 U.S.C. 3101, et seq.) as amended, (the "Act"), and E.O. 11961 of January 19, 1977 (42 FR 4321), as amended, require the Department of the Treasury to conduct periodic comprehensive surveys of foreign portfolio investment in the United States. Regulations governing the current Survey were published in the Federal Register, April 9, 1984, at 49 FR 14054-14057 also found at 31 CFR Part 129 (1988), and amended by regulations published on September 15, 1989, at 54 FR 38227-38228. The Supplementary Information section of the 1984 regulations (49 FR 14054) stated that the exemption levels would subsequently be published in the Federal Register.

Who Must Report and Exemption Levels

United States Issuers of Securities

The reporting obligations of United States issuers are governed by the following classifications:

Routine Large Issuer Reporters—Asset Test

A report is required on Form FPI-1 (Report for United States Issuers of Securities) from every United States business enterprise issuer (irrespective of whether it has evidence of foreign investment in its securities) which, as of the latest available closing date of its accounting records, had:

(1) Total consolidated assets of more than *$1 billion*, if it is a nonbanking business enterprise;

(2) Total consolidated assets of more than *$2 billion*, if it is a banking business enterprise.

Selective Small Issuer Reporters—Response Required When Contacted

A report on Form FPI-1 is also required from every United States issuer with total consolidated assets of at least $10 million that is informed by the Department of the Treasury that it must report.

United States Holders of Record

The reporting obligations of United States holders of record are the following: A report is required on Form FPI-2 (Report for United States Holders of Record) from every United States person who acts on behalf of a foreign person as a holder of record and who holds for all its foreign customers combined investments in securities of United States issuers aggregating more than $20 million based on fair market value as of December 31, 1989.

Charles Schotta,

Deputy Assistant Secretary for Arabian Peninsula Affairs.

[FR Doc. 89-28509 Filed 12-5-89; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

RIN 0905-AD04

Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the existing regulations implementing Grants for Predoctoral, Graduate and Faculty Development Education Programs in Family Medicine to extend the period of Federal support for trainees in faculty development programs supported under this authority from 1 calendar year to 24 cumulative months. This amendment to extend the total period of stipend support will improve the effectiveness of these grant programs to attract and retain fellows.

EFFECTIVE DATE: This final rule is effective December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Marilyn H. Gaston, M.D., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: 301 443-6190.

SUPPLEMENTARY INFORMATION: On October 16, 1980, the Assistant Secretary for Health, with the approval of the Secretary, published in the Federal Register (45 FR 68890) a final rule (and amendments to the final rule on March 26, 1984 (49 FR 11612)), governing programs administered under section 786(a) of the Public Health Service Act (the Act). Grants are awarded to schools of medicine or osteopathic medicine, hospitals, and other public or private nonprofit entities for projects to: (a) Plan, develop, and operate, or participate in predoctoral, graduate, or faculty development educational programs in family medicine; and (b) provide financial assistance to trainees participating in predoctoral or graduate educational programs who are in need of financial assistance and who plan to practice family medicine or to trainees in faculty development programs who plan to teach in family medicine training programs.

This amendment is to both clarify and ease a restriction contained in

§ 57.1604(d) of the current regulations. This provision states that—

Each program must be no longer than 1 calendar year for any trainee.

The revised section reads as follows:

"Stipend support from grant funds may be no longer than 24 cumulative months for any trainee.

The Department is clarifying this provision to indicate that the limitation refers specifically to the length of time for which stipend support may be given to trainees, rather than to a limitation on the length of time of a particular training program. Indeed, program of greater than 1 year in duration have received support under this grant program.

The Department has found that a number of quality training programs are now 2 or more years in length. This period of training is used to more fully develop the teaching, research, and management skills needed by new family medicine faculty. To improve the effectiveness of these grant programs to attract and retain fellows, the Department is revising § 56.1604(d) to permit stipend support of trainees up to 24 cumulative months. "Cumulative" modifies the number of months to allow full support for trainees in programs that schedule breaks in the training period, thus extending the total period of support beyond 2 calendar years.

Justification for Omitting Notice of Proposed Rulemaking

The Department believes that this amendment will create greater flexibility for both the Department and the grantees in the administration of this grant program. The Secretary has therefore determined, according to 5 U.S.C. 553 and Department policy, that it would be both unnecessary and contrary to the public interest to obtain public comment on these regulations or to delay their effective date.

Regulatory Flexibility Act and Executive Order 12291

These regulations govern financial assistance programs in which participation is voluntary. The rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291. For these reasons, the Secretary has determined that this rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required. Further, because the rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

This amendment does not affect the recordkeeping or reporting requirements for the Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine.

List of Subjects in 42 CFR Part 57

Dental health,
Education of the disadvantaged,
Educational facilities,
Educational study program,
Emergency medical services,
Grant programs-education,
Grant programs-health,
Health facilities,
Health professions,
Loan programs-health,
Medical and dental schools,
Scholarships and fellowships,
Student aid.

Accordingly, 42 CFR part 57 Subpart Q is amended as set forth below:

Dated: August 30, 1989.

James O. Mason,

Assistant Secretary for Health.

Approved: November 16, 1989.

Louis W. Sullivan,

Secretary.

(*Catalog of Federal Domestic Assistance*, No. 13.895, Grants for Faculty Development in Family Medicine)

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine.

1. The authority citation for Subpart Q of Part 57 continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, 63 Stat. 35 (42 U.S.C. 216); sec. 786(a), Public Health Service Act, 90 Stat. 2316 (42 U.S.C. 295g-6(a)).

2. Section 57.1604 is amended by revising paragraph (d)(4) to read as follows:

§ 57.1604 What requirements must a project meet?

(d)

(4) Stipend support from grant funds may be no longer than 24 cumulative months for any trainee.

[FR Doc. 89-28454 Filed 12-5-89; 8:45 am]
BILLING CODE 4160-15-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 2, 3, 10, 12, 15, 24, 30, 42, 50, 69, 70, 90, 107, 110, 146, 147 147A, 148, 150, 151, 153, 154, 159, 167 168, 169, 170, 175, 188, and 197

[CGD 88-033]

RIN 2115-AD00

Appeal Procedures and Coast Guard Organization

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a uniform appeals section to replace all existing appeals sections in 46 CFR chapter I, except for subpart J of part 5 which deals with suspension and revocation hearings. All existing appeals sections in 46 CFR chapter I are amended to reference the uniform appeals section in part 1. A similar reference is added to some parts in chapter I which do not currently address appeal procedures. This rule also updates the Coast Guard organization contained in part 1. The current procedure for appealing a Coast Guard requirement is confusing because existing appeals sections vary in wording and do not contain complete guidance necessary for making an appeal. Certain aspects of the Coast Guard organization contained in part 1 are not correct. This rule will clarify the appeal process, eliminate repetitive sections, and update the Coast Guard organization.

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael E. Raber, Office of Marine Safety, Security, and Environmental Protection (G-MTH-4/13), U.S. Coast Guard, Washington, DC 20593-0001, (202) 267-2997

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this final rule, and good cause exists for making it effective in less than 30 days following publication in the Federal Register. Coast Guard regulations in 46 CFR chapter I contain numerous sections intended to advise the public on administrative appeal procedures. These sections vary in wording and content. Many do not contain all the information necessary for making an appeal. In addition, other parts contain no guidance on appealing requirements covered by that part. To reduce repetitive sections and improve overall clarity, this final rule adds a

uniform appeals section to 46 CFR part 1. All existing appeals sections in chapter I, except subpart J of part 5 which deal with suspension and revocation hearings, are amended to contain only a reference to part 1. A similar reference to part 1 is added to some parts not currently containing an appeals section. The official to whom an appeal is made is an important aspect in the procedures for appealing a Coast Guard requirement. Accordingly, the organization section in part 1 is updated to reflect the current Coast Guard organization. Because this rulemaking clarifies agency organization, practice, and procedure, notice and comment are unnecessary. Further, because of the need of the public to know the information necessary to make an appeal, the Coast Guard finds good cause to make this rulemaking effective in less than 30 days after publication in the **Federal Register**.

Regulatory Evaluation

This rulemaking is considered to be non-major under Executive Order 12291, and non-significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be minimal and further economic evaluation is unnecessary. This rulemaking merely adds a uniform appeals section in part 1 of title 46, amends all existing appeals sections to cross reference the uniform appeals section in part 1, adds a similar reference to some parts not currently containing an appeals section, and updates the Coast Guard organization. Accordingly, the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal persons involved in drafting this final rule are Lieutenant Michael E. Raber, Project Manager, and Lieutenant Commander Don M. Wrye, Project Counsel, Office of Chief Counsel.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements.

Environmental Assessment

The Coast Guard has considered the environmental impact of this rulemaking and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, this rulemaking is categorically excluded from further environmental documentation.

Federalism

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

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 3

Oceanographic research vessels, Reporting and recordkeeping requirements, Research.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Reporting and recordkeeping requirements, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 24

Marine safety.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 42

Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 69

Measurement standards, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 107

Incorporation by reference, Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 110

Incorporation by reference, Reporting and recordkeeping requirements.

46 CFR Part 146

Arms and munitions, Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 147

Arms and munitions, Hazardous materials transportation, Incorporation by reference, Marine safety, Packaging and containers.

46 CFR Part 147A

Fire prevention, Hazardous substances, Occupational safety and health, Pesticides and pests, Seamen, Vessels.

46 CFR Part 148

Cargo vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 150

Hazardous materials, transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 154

Cargo vessels, Gases, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 159

Business and industry, Laboratories, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 168

Occupational safety and health, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 170

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 197

Diving, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

For the reasons set forth in the preamble, title 46, chapter I of the Code of Federal Regulations, is amended as follows.

1. Part 1 is revised to read as follows:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

Subpart 1.0—Organization and General Flow of Functions

Sec.
1.01-5 Definitions of terms used in this part.
1.01-10 Organization.
1.01-15 Organization; districts.
1.01-20 Suspension and revocation proceedings.
1.01-25 General flow of functions.
1.01-30 Judicial review.
1.01-35 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Subpart 1.03—Rights of Appeal

1.03-10 Definition of terms used in this subpart.
1.03-15 General.
1.03-20 Appeals from decisions or actions of an OCMI.
1.03-25 Appeals from decisions or actions of a District Commander.
1.03-30 Appeals from decisions or actions of the Marine Safety Center.
1.03-35 Appeals from decisions or actions of a recognized classification society acting on behalf of the Coast Guard.
1.03-40 Appeals from decisions or actions of a tonnage measurement authority.

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01-35 also issued under the authority of 44 U.S.C. 3507

Subpart 1.01—Organization and General Flow of Functions

§ 1.01-05 Definitions of terms used in this part.

(a) The term "*Commandant*" means the Commandant of the Coast Guard.

(b) The term "*District Commander*" means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within a district.

§ 1.01-10 Organization.

(a) The Commandant is the head of the agency and exercises overall direction over the policy and administration of the Coast Guard.

(b) To carry out the regulatory and enforcement aspects of marine safety, the staff officers designated in this paragraph are assigned to the Commandant. The chain of military command is from the Commandant directly to the District Commanders. The staff officers at Headquarters act only on the basis of the Commandant's authority and direction.

(1) The Chief, Office of Marine Safety, Security, and Environmental Protection, under the general direction of the Commandant, directs, supervises and coordinates the activities of the Chief, Marine Technical and Hazardous Materials Division, the Chief, Merchant Vessel Inspection and Documentation Division, the Chief, Merchant Vessel Personnel Division, the Chief, Marine Investigation Division, the Chief, Port Safety and Security Division, The Chief, Marine Environmental Response Division. The programs administered by the Chief, Port Safety and Security Division and the Chief, Marine Environmental Response Division are guided by regulations contained in 33 CFR chapter I. The Chief, Office of Marine Safety, Security, and Environmental Protection exercises technical control over the Commanding Officer, Marine Safety Center and through the District Commander, supervises the administration of the Marine Safety Divisions of District Offices and Officers in Charge, Marine Inspection.

(i) The Chief, Marine Technical and Hazardous Materials Division (G-MTH), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security, and Environmental Protection, evaluates plans and specifications for the construction or alteration of commercial vessels and marine structures; develops policies and regulations on load line matters and supervises classification societies authorized to assign load lines on behalf of the Coast Guard; provides technical assistance with respect to enforcing and improving merchant marine material standards; administers the program for the development of safe containment systems for certain bulk dangerous cargoes; administers the certification program for foreign vessels carrying cargoes of unusual hazard, and evaluates the hazards involved in the shipment of dangerous cargoes.

(ii) The Chief, Merchant Vessel Inspection and Documentation Division (G-MVI), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security, and Environmental Protection, administers the inspection program for merchant vessels, including those engaged in outer continental shelf activities, and the program of enforcing and improving merchant marine material and operational safety standards; reviews marine casualties other than recreational boating safety accidents and initiates regulatory projects to enhance marine safety based on that review; examines and approves lifesaving and firefighting equipment; administers the vessel measurement and tonnage program, and administers the vessel documentation program.

(iii) The Chief, Merchant Vessel Personnel Division (G-MVP), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security, and Environmental Protection, administers the program for the enforcement and development of prescribed merchant marine personnel standards, including but not limited to the licensing, certificating, shipment, and discharge of seamen, and the manning of vessels.

(iv) The Chief, Marine Investigating Division (G-MMI), at Headquarters, under the direction of the Chief, Office of Marine Safety, Security, and Environmental Protection, reviews investigations of marine casualties; reviews the records of proceedings to suspend and revoke licenses, certificates and documents held by maritime personnel; and compiles, maintains, reviews and evaluates statistics obtained from marine casualty investigations.

(v) The Commanding Officer, Marine Safety Center (G-MSC), under the technical control of the Chief, Office of Marine Safety, Security, and Environmental Protection, conducts the review and approval of plans, calculations, and other materials concerning the design, construction, alteration, and repair of commercial vessels to determine conformance with the marine inspection laws, regulations and implementing directives.

(2) The Chief Counsel of the Coast Guard at Headquarters, under the general direction and supervision of the General Counsel, Department of Transportation and the Commandant, considers cases involving alleged violations of navigation and vessel inspection laws or regulations prescribed thereunder and published in this chapter or in 33 CFR chapter I, and reviews appeals to the Commandant from statutory monetary penalties assessed therefor. Upon completion of such a review, the Chief Counsel prepares a proposed action for the Commandant's consideration or, in appropriate cases, takes final action on behalf of, and as directed by, the Commandant.

§ 1.01-15 Organization; districts.

(a) To assist the District Commander in carrying out the regulatory and enforcement aspects of marine safety in the Coast Guard Districts, there is assigned to each District Commander a staff officer designated as Chief, Marine Safety Division. The chain of military command is from the District Commander to each Officer in Charge, Marine Inspection, within the district. The Chief, Marine Safety Division, is a staff officer assigned to the District Commander and acts only on the basis of the authority and by direction of the District Commander.

(1) The Chiefs, Marine Safety Division, in the District Offices, under the supervision of their respective District Commanders, direct the activities in their district relative to vessel, factory and shipyard inspections; reports and investigations of marine casualties and accidents; processing of violations of navigation and vessel inspection laws; the licensing, certificating, shipment and discharge of seaman; the investigation and institution of proceedings looking to suspension and revocation under 46 U.S.C. chapter 77 of licenses, certificates, and documents held by persons; and all other marine safety regulatory activities except those functions related to recreational boating when under the supervision of the Chiefs, Boating Safety Division, in the District Offices.

(2) Unless otherwise provided for, the Chiefs, Boating Safety Division, in the District Offices, under the supervision of their respective District Commanders, direct the activities in their districts relative to administration of the law enforcement program applicable to uninspected vessels used for recreational purposes and the imposition and collection of penalties in connection therewith; maintain liaison with Federal and State agencies having related interests; develop and coordinate agreements and arrangements with Federal and State agencies for cooperation in the enforcement of State and Federal laws related to recreational boating; and review investigative reports of recreational boating accidents.

(b) The Officers in Charge, Marine Inspection, in the Coast Guard districts, under the supervision of their respective District Commanders, are in charge of marine inspection offices and marine safety offices located in various ports and have command responsibility with assigned marine safety zones for the performance of duties with respect to the inspection, enforcement, and administration of navigation and vessel inspection laws, and rules, and regulations governing marine safety. The Officer in Charge, Marine Inspection, has been designated and delegated to give immediate direction to Coast Guard activities relating to marine safety functions consisting of inspection of vessels in order to determine that they comply with the applicable laws, rules, and regulations relating to construction, equipment, manning and operation, and to be satisfied that such vessels are in seaworthy condition for the services in which such vessels are to be operated; shipyard inspections; factory inspections of materials and equipment for vessels; the licensing, certificating, shipment and discharge of seaman; investigations of marine casualties and accidents; investigations of violations of law; negligence, misconduct, unskillfullness, incompetence or misbehavior of persons holding licenses, certificates, or documents issued by the Coast Guard; initiations of actions seeking suspension or revocation under 46 U.S.C. chapter 77 of licenses, certificates and documents held by persons, and presentation of cases at hearings before Administrative Law Judges; and the enforcement of navigation, vessel inspection and seaman laws in general.

Note: Licensing and Certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA
New York, NY
Baltimore, MD
Charleston, SC
Miami, FL
New Orleans, LA
Houston, TX
Memphis, TN
St. Louis, MO
Toledo, OH
Long Beach, CA
San Francisco, CA
Portland, OR
Seattle, WA
Anchorage, AK
Juneau, AK
Honolulu, HI

Where the term "Officer in Charge, Marine Inspection" "Marine Inspection Office, or "Marine Safety Office" is used within the context of parts 10, 12 or 187 of this chapter, it is understood to mean that particular "Officer" or "Office" at one of the above listed locations.

(c) For descriptions of Coast Guard districts and marine safety zones, see 33 CFR part 3.

§ 1.01-20 Suspension and revocation proceedings.

(a) The Commandant takes final agency action on each proceeding concerned with revocation.

(b) The Commandant has delegated authority to the Vice Commandant in 33 CFR 1.01-40 to take final agency action under subparts I, J, and K of part 5 of this chapter on each proceeding except on a petition or appeal in a case on which an order of revocation has been issued.

(c) The Commandant assigns to his staff a Chief Administrative Law Judge who is an Administrative Law Judge appointed under 5 U.S.C. 3105 and whose assignment is to:

(1) Act as adviser and special assistant to the Commandant on matters concerning the administration of hearings conducted under 46 U.S.C. chapter 77·

(2) Conduct hearings under 46 U.S.C. chapter 77·

(3) Train new Administrative Law Judges assigned to conduct hearings under 46 U.S.C. chapter 77·

(4) Review the written decisions and orders of each Administrative Law Judge assigned to conduct a hearing under 46 U.S.C. chapter 77· and

(5) Act as adviser to the Chief Counsel in preparation of the final action of proceedings conducted under subparts I, J, and K of part 5 of this chapter.

(d) The Chief Counsel of the Coast Guard, under the general direction and supervision of the Commandant, U.S. Coast Guard:

(1) Acts as an adviser and as a special assistant to the Commandant in matters of law; and

(2) Prepares for the consideration of the Commandant or the Vice Commandant, as appropriate, proposed decisions on cases on appeal or review in suspension and revocation proceedings.

§ 1.01-25 General flow of functions.

(a) The Officer in Charge, Marine Inspection, has final authority with respect to the functions described in

§ 1.01-15(b) of this subpart, subject to the rights of appeal set forth in subpart 1.03 of this part.

(b) The general course and method by which the functions (other than those dealing with suspension and revocation of licenses, certificates, or documents described in paragraph (c) of this section) concerning marine safety activities are channeled begins with the Officer in Charge, Marine Inspection, at the local Marine Safety Office. From this officer the course is to the Chief, Marine Safety Division, on the staff of the District Commander and then to the District Commander. From the District Commander the course is to the Chief of one of the divisions within the Office of Marine Safety, Security, and Environmental Protection at Headquarters. In most administrative cases the channel ends at this point; however, on matters of policy and other appropriate cases, the course continues to the Chief, Office of Marine Safety, Security, and Environmental Protection, and then to the Commandant, whose decisions are final.

(c) In proceedings involving the suspension or revocation of a Coast Guard license, certificate or document issued to an individual, the course and method by which such proceedings are channeled are as follows:

(1) In the United States, the Commonwealth of Puerto Rico, Territory of Guam, the Virgin Islands, and other possessions, the proceedings are initiated by the preferment of charges and specifications against the holder of the Coast Guard license, certificate or document. A Coast Guard Investigating Officer under the supervision of an Officer in Charge, Marine Inspection, or an Officer in Charge, Marine Inspection causes the charges and specifications to be served on the person described therein (person charged) who is a holder of a Coast Guard license, certificate or document. At a hearing the Coast Guard submits evidence to support the charges and specifications, while the person charged may submit evidence in rebuttal or mitigation. The Administrative Law Judge renders a decision on the basis of the evidence adduced at the hearing and the law. The Administrative Law Judge's decision is given to the person charged.

(i) In a case where an appeal is made by the person charged, the notice of appeal is filed with the Administrative Law Judge who heard the case or with any Officer in Charge, Marine Inspection, for forwarding to such Administrative Law Judge.

(d) In the performance of their duties, all Coast Guard Administrative Law Judges are bound by law and the regulations in this chapter or in 33 CFR chapter I. Statements of policy, clarification of points of procedure, and general administrative instructions are published in Administrative Law Judges' Circulars" and Administrative Law Judges' Internal Practices and Procedures Series." The Chief Administrative Law Judge, located in the Office of the Commandant, U.S. Coast Guard, maintains a complete file of these publications for reading purposes during normal working hours.

§ 1.01-30 Judicial review.

(a) Nothing in this chapter shall be construed to prohibit any party from seeking judicial review of any Commandant's decision or action taken pursuant to the regulations in this part or part 5 of this chapter with respect to suspension and revocation proceedings arising under 46 U.S.C. chapter 77

(b) If the person found guilty of any offense fails to make a timely appeal, the decision of the administrative law judge is final and binding on the person charged as of the date that the decision is delivered to the person charged or his authorized representative.

§ 1.01-35 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and record keeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 2.01	2115-0007
§ 2.95-10	2115-0141
§ 3.10	2115-0053
Part 4	2115-0003
Part 6	2115-0005

Subpart 1.03—Rights of Appeal

§ 1.03-10 Definition of terms used in this subpart.

(a) The term "*recognized classification society*" means the American Bureau of Shipping or other classification society recognized by the Commandant.

(b) The term "*new vessel*" means:

(1) For vessels which require a Certificate of Inspection, a new vessel is a vessel which has not received an initial Certificate of Inspection.

(2) For vessels which do not require a Certificate of Inspection, a new vessel is a vessel which has not received a Load Line assignment.

(c) The term "*existing vessel*" means a vessel which is not a new vessel.

§ 1.03-15 General.

(a) Any person directly affected by a decision or action taken under this chapter, by or on behalf of the Coast Guard, except for matters covered by subpart J of part 5 of this chapter dealing with suspension and revocation hearings, shall follow the procedures contained in this section when requesting that the decision or action be reviewed, set aside or revised.

(b) When requesting that a decision or action be reconsidered or reviewed, as may be required by this subpart, such request must be made within 30 days after the decision is rendered or the action is taken.

(c) When making a formal appeal of a decision or action, as permitted by this subpart, such appeal must be submitted in writing and received by the authority to whom the appeal is required to be made within 30 days after the decision or action being appealed, or within 30 days after the last administrative action required by this subpart. Upon written request and for good cause, the 30 day time limit may be extended by the authority to whom the appeal is required to be made.

(d) A formal appeal must contain a description of the decision or action being appealed and the appellant's reason(s) why the decision or action should be set aside or revised.

(e) When considering an appeal, the Commandant or a District Commander may stay the effect of a decision or action being appealed pending determination of the appeal.

(f) While a request for reconsideration or review or a formal appeal is pending, the original decision or action remains in effect, unless otherwise stayed under paragraph (e) of this section.

(g) The Commandant may delegate authority to act on administrative appeals under this subpart to the Chief, Office of Marine Safety, Security, and Environmental Protection and appropriate division chiefs within the Office of Marine Safety, Security, and Environmental Protection.

(h) Formal appeals made to the Commandant shall be addressed to:

(1) Commandant (G-MVI) for appeals involving vessel inspection issues or tonnage measurement issues; or

(2) Commandant (G-MVP) for appeals involving vessel manning or other personnel issues; or

(3) Commandant (G-MTH) for appeals involving load line issues or plan review issues.

(i) Failure to submit a formal appeal in accordance with the procedures and time limits contained in this subpart results in the decision or action becoming final agency action.

(j) Any decision made by the Commandant or by the Chief, Office of Marine Safety, Security, and Environmental Protection or division chief pursuant to authority delegated by the Commandant is final agency action on the appeal.

§ 1.03-20 Appeals from decisions or actions of an OCMI.

Any person directly affected by a decision or action of an OCMI may, after requesting reconsideration of the decision or action by the cognizant OCMI, make a formal appeal of that decision or action, via the office of the cognizant OCMI, to the District Commander of the district in which the office of the cognizant OCMI is located, in accordance with the procedures contained in § 1.03-15 of this subpart.

§ 1.03-25 Appeals from decisions or actions of a District Commander.

Any person directly affected by a decision or action of a District Commander made pursuant to § 1.03-20 of this subpart, may make a formal appeal of that decision or action, via the office of the cognizant District Commander, to the Commandant, in accordance with the procedures contained in § 1.03-15 of this subpart.

§ 1.03-30 Appeals from decisions or actions of the Marine Safety Center.

(a) Any person directly affected by a decision or action of the Marine Safety Center which affects a new vessel or plans for a vessel to be built may, after requesting reconsideration of the decision or action by the Commanding Officer, Marine Safety Center, make a formal appeal of that decision or action, via the Commanding Officer, Marine Safety Center, to the Commandant, in accordance with the procedures contained in § 1.03-15 of this subpart.

(b) Any person directly affected by a decision or action of the Marine Safety Center which affects an existing vessel, prior to initiating a formal appeal, must request review of that decision or action by the cognizant OCMI. Following review by the cognizant OCMI, the decision or action under review may be appealed to the District Commander, in accordance with the procedures contained in § 1.03-20 of this subpart.

§ 1.03-35 Appeals from decisions or actions of a recognized classification society acting on behalf of the Coast Guard.

(a) Any person directly affected by a decision or action of a recognized classification society performing plan review on behalf of the Coast Guard may, after requesting reconsideration of the decision or action by the classification society, make a formal appeal, via the classification society headquarters, to the Commandant, in accordance with the procedures contained in § 1.03-15 of this subpart.

(b) Any person directly affected by a decision or action of a recognized classification society acting as a marine inspector, as defined in § 30.10-43 of this chapter, on behalf of the Coast Guard, prior to initiating a formal appeal, must request review of that decision or action by the cognizant OCMI. Following review by the cognizant OCMI, the decision or action under review may be appealed to the District Commander, in accordance with the procedures contained in § 1.03-20 of this subpart.

(c) Any person directly affected by a decision or action of a recognized classification society acting as a load line assigning authority, as defined in § 42.05-10 of this chapter, may, after requesting reconsideration of the decision or action by the classification society, make a formal appeal, via the classification society headquarters, to the Commandant, in accordance with the procedures contained in § 1.03-15 of this subpart.

§ 1.03-40 Appeals from decisions or actions of a tonnage measurement authority.

(a) Any person directly affected by a decision or action of an officer or employee of the Coast Guard, when acting as a tonnage measurement authority under § 69.15 of this chapter, may make a formal appeal of that decision or action to the Commandant, in accordance with the procedures contained in § 1.03-15 of this subpart.

(b) Any person directly affected by a decision or action of an organization authorized to measure vessels on behalf of the Coast Guard, as identified in § 69.15(a) of this chapter or pursuant to a delegation of authority under § 69.27 of this chapter, may make a formal appeal of that decision or action, via the measurement organization, to the Commandant, in accordance with the procedures contained in § 1.03-15 of this subpart.

PART 2—VESSEL INSPECTIONS

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

Authority: 22 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27 1950, ch. 1155, §§ 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

3. Section 2.01-70 is revised to read as follows:

§ 2.01-70 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 3—DESIGNATION OF OCEANOGRAPHIC RESEARCH VESSELS

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

Authority: 46 U.S.C. 2113, 3306; 49 CFR 1.46.

5. Section 3.10-10 is added to read as follows:

§ 3.10-10 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

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

Authority: 46 U.S.C. 2103, 7101, 7701, 8105; 49 CFR 1.45, 1.46; § 10.107 also issued under the authority of 44 U.S.C. 3507

7 Section 10.204 is revised to read as follows:

§ 10.204 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 12—CERTIFICATION OF SEAMEN

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

Authority: 46 U.S.C. 7301, 7701, 8105, 10104; 49 CFR 1.46.

9. Section 12.02-25 is revised to read as follows:

§ 12.02-25 Right of appeal.

Any person directly affected by a decision or action taken under this part,

by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 15—MANNING REQUIREMENTS

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

Authority: 46 U.S.C. 2103, 3703, 8105; 49 CFR 1.45, 1.46.

11. Section 15.510 is revised to read as follows:

§ 15.510 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 24—GENERAL PROVISIONS

12. The authority citation for part 24 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

13. Section 24.01-7 is added to read as follows:

§ 24.01-7 Right of appeal.

Any person directly affected by a decision or action taken under this Subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 30—GENERAL PROVISIONS

14. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 30.01-2 also issued under the authority of 44 U.S.C. 3507

15. Section 30.20-50 is revised to read as follows:

§ 30.20-50 Right of appeal.

Any person directly affected by a decision or action taken under this Subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

16. The authority citation for part 42 continues to read as follows:

Authority: 46 U.S.C. 5115; 49 CFR 1.45, 1.46; § 42.01-5 also issued under the authority of 44 U.S.C. 3507

17 Section 42.07-75 is revised to read as follows:

§ 42.07-75 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 50—GENERAL PROVISIONS

18. The authority citation for part 50 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 50.01-20 also issued under the authority of 44 U.S.C. 3507

19. Section 50.20-40 is revised to read as follows:

§ 50.20-41 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 69—MEASUREMENT OF VESSELS

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

Authority: 46 U.S.C. 14102, 14103; 49 CFR 1.46; § 69.27 is issued under 44 U.S.C. 3507; 49 CFR 1.45.

21. Section 69.21 is revised to read as follows:

§ 69.21 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 70—GENERAL PROVISIONS

22. The authority citation for part 70 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804, E.O. 12234, 45 FR 58801, 3 CFR. 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 70.01-15 also issued under the authority of 44 U.S.C. 3507

23. Section 70.01-7 is added to read as follows:

§ 70.01-7 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 90—GENERAL PROVISIONS

24. The authority citation for part 90 continues to read as follows:

Authority: 43 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

25. Section 90.01-7 is added to read as follows:

§ 90.01-7 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 107—INSPECTION AND CERTIFICATION

26. The authority citation for part 107 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 5115; 49 CFR 1.45, 1.46; § 107.05 also issued under the authority of 44 U.S.C. 3507

27 Section 107.01-3 is added to read as follows:

§ 107.01-3 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 110—GENERAL PROVISIONS

28. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 4104; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 110.01-2 also issued under the authority of 44 U.S.C. 3507

29. Section 110.01-4 is added to read as follows:

§ 110.01-4 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 146—TRANSPORTATION OR STORAGE OF MILITARY EXPLOSIVES ON BOARD VESSELS

30. The authority citation for part 146 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1904; 49 CFR 1.45, 1.46; § 146.01-5 also issued under the authority of 44 U.S.C. 3507

31. Section 146.01-4 is added to read as follows:

§ 146.01-4 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 147—REGULATIONS GOVERNING USE OF DANGEROUS ARTICLES AS SHIPS' STORES AND SUPPLIES ON BOARD VESSELS

32. The authority citation for part 147 continues to read as follows:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277· 49 CFR 1.46.

33. Section 147.35 is added to read as follows:

§ 147.35 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 147A—INTERIM REGULATIONS FOR SHIPBOARD FUMIGATION

34. The authority citation for part 147A continues to read as follows:

Authority: 46 U.S.C. App. 1804; 49 CFR 1.46.

35. Section 147A.6 is added to read as follows:

§ 147A.6 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 148—CARRIAGE OF SOLID HAZARDOUS MATERIALS IN BULK

36. The authority citation for part 148 continues to read as follows:

Authority: 49 U.S.C. App. 1804; 49 CFR 1.46.

37 Section 148.01–15 is added to read as follows:

§ 148.01-15 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 150—COMPATIBILITY OF CARGOES

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

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46; § 150.105 also issued under the authority of 44 U.S.C. 3507.

39. Section 150.170 is added to read as follows:

§ 150.170 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

40. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; 49 CFR 1.46.

41. Section 151.01–35 is added to read as follows:

§ 151.01-35 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

42. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 U.S.C. App. 1804; 33 U.S.C. 1903; 49 CFR 1.46.

43. Section 153.3 is revised to read as follows:

§ 153.3 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 154—SAFETY STANDARDS FOR SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES

44. The authority citation for part 154 continues to read as follows:

Authority: 46 U.S.C. 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277· 49 CFR 1.46.

45. Section 154.40 is added to read as follows:

§ 154.40 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

46. The authority citation for part 159 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46; § 159.001–9 also issued under the authority of 44 U.S.C. 3507

47 Section 159.001–2 is added to read as follows:

§ 159.001-2 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

48. The authority citation for part 167 continues to read as follows:

Authority: 46 U.S.C. 3306, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277· 49 CFR 1.46.

49. Section 167.10–50 is revised to read as follows:

§ 167.10-50 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 168—CIVILIAN NAUTICAL SCHOOL VESSELS

50. The authority citation for part 168 continues to read as follows:

Authority: 46 U.S.C. 3306; 46 U.S.C. App. 1295g; 49 CFR 1.46.

51. Section 168.05–15 is added to read as follows:

§ 168.05-15 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 169—SAILING SCHOOL VESSELS

52. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 3306, 5115, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507

53. Section 169.113 is revised to read as follows:

§ 169.113 Right of appeal.

Any person directly affected by a decision or action taken under this part, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

54. The authority citation for part 170 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277· 49 CFR 1.46.

55. Section 170.003 is added to read as follows:

§ 170.003 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

PART 175—GENERAL PROVISIONS

56. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 175.01-3 also issued under the authority of 44 U.S.C. 3507

57 Section 157.30-1 is revised to read as follows:

§ 175.30-1 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subchapter 1.03 of this chapter.

PART 188—GENERAL PROVISIONS

58. The authority citation for part 188 continues to read as follows:

Authority: 46 U.S.C. 2113, 3306, 5115; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277· 49 CFR 1.46.

59. Section 188.01-7 is added to read as follows:

§ 188.01-7 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subchapter 1.03 of this chapter.

PART 197—GENERAL PROVISIONS

60. The authority citation for part 197 continues to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 6101; 49 CFR 1.46.

61. Section 197.203 is added to read as follows:

§ 197.203 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast Guard, may appeal therefrom in accordance with subpart 1.03 of this chapter.

Dated: November 22, 1989.

J. D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 89-28461 Filed 12-5-89; 8:45 am]

BILLING CODE 491-014-M

Research and Special Programs Administration

49 CFR Parts 107,171, 172, 173, 176, 177 178, and 180

[Docket Nos. HM-183, 183A; Amdt. Nos. 107-20, 171-100, 172-115, 173-212, 176-27, 177-71, 178-89, 180-2]

RIN 2137-AA42

Requirements for Cargo Tanks

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

ACTION: Final rule; further extension of effective date.

SUMMARY: RSPA is further extending the effective date of a final rule published on June 20, 1989, under Docket Nos. HM-183, 183A from February 12, 1990 to June 12, 1990. This action is necessary to allow RSPA and the Federal Highway Administration (FHWA) more time to review petitions for reconsideration received in response to the final rule.

EFFECTIVE DATE: June 12, 1990.

FOR FURTHER INFORMATION CONTACT:

Charles Hochman, (202) 366-4545, or Hattie Mitchell, (202) 366-4488, Office of Hazardous Materials Transportation, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW Washington, DC 20590; or

Richard Singer, (202) 366-2994, Office of Motor Carrier Safety, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On June 12, 1989, RSPA published a final rule (Docket Nos. HM-183, 183A; 54 FR 24982) establishing new standards pertaining to the use, requalification, and manufacture of cargo tank motor vehicles. The final rule granted a period of 90 days for receiving petitions for reconsideration. In response to requests from two petitioners, on September 15, 1989 (54 FR 38233), RSPA extended the closing date for receiving petitions for reconsideration from September 12, 1989 to November 14, 1989, and similarly extended the effective date of the final rule from December 12, 1989 to February 12, 1990. RSPA received over 90 petitions for reconsideration over the period of 150 days granted for filing petitions to the final rule. This action, which further extends the effective date of the final rule, is necessary because RSPA finds it impracticable to take action and respond to certain issues discussed in the petitions within 90 days as prescribed by 49 CFR 106.37(b).

This extension of the effective date of the final rule to June 12, 1990, allows additional time for RSPA and FHWA to study issues raised in the petitions for reconsideration and to prepare an appropriate response. Based on a preliminary review of the petitions for reconsideration received, RSPA anticipates that adjustments will be made in other compliance dates appearing in the final rule.

Issued in Washington, DC, on November 30, 1989, under authority delegated in 49 CFR part 1.

Travis P Dungan,

Administrator.

[FR Doc. 89-28400 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-60-M

Federal Highway Administration

49 CFR Part 325

RIN 2125-AA27

[OMCS Docket No. MC-62-1; Notice No. 80-3]

Compliance With Interstate Motor Carrier Noise Emission Standards

AGENCY: Federal Highway Administration, (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Federal Motor Carrier Safety Regulations (FMCSRs) to: (1) Incorporate the Environmental Protection Agency's (EPA) amended noise emission standards for commercial motor vehicles operating in interstate commerce; and (2) allow a minimum distance of 31 feet for measuring the level of exterior noise of commercial motor vehicles. This action will allow greater flexibility in the enforcement of the noise emission standards.

This action also gives notice that the FHWA will retain the 2 decibel (2dB(A)) correction factor for measurements made at acoustically hard sites. The EPA noise emission standards are based on the use of soft test sites during the highway, or pass-by, operations test and the use of hard test sites during the stationary, or run-up, operations test. Available research indicates that the

hard site correction factor is both workable and equitable in the enforcement of the motor carrier noise emission standards. This notice also terminates a settlement agreement stemming from a legal action filed by Salt Lake County, Utah, against the U.S. Department of Transportation concerning measurement distances and correction factors.

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Rogert Hagan, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Charles Medalen, Office of Chief Counsel, (202) 366-1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 18 of the Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234, 1249) authorizes the EPA to issue noise emission standards for interstate motor carriers. The legislation also directs the Secretary of Transportation to promulgate regulations to ensure compliance with the Federal standards prescribed by EPA. The regulations are enforced through the use of powers and duties of inspection authorized in 49 U.S.C. 504 and 507

On October 29, 1974, the EPA promulgated regulations prescribing noise emission standards for vehicles having a gross vehicle weight rating (GVWR) or a gross combination weight rating (GCWR) of 10,000 pounds (4,536 Kg.) or more, operated by motor carriers engaged in interstate commerce (39 FR 38208). On September 12, 1975, the FHWA issued a final rule specifying the measurement methodologies for determining whether commercial motor vehicles conform to these noise emission standards (40 FR 42432).

Revised Noise Standards

On January 8, 1986 the EPA amended its rules by establishing revised standards for external noise emissions for motor carriers engaged in interstate commerce (51 FR 850). The noise limits under 40 CFR part 202, subpart B, have been reduced by 3 decibels (3dB)(A) for 1986 and later model year vehicles having a gross vehicle weight rating (GVWR) greater than 10,000 pounds. These vehicles can be no louder than 83 dB(A) at speeds of 35 miles per hour (MPH) or less; 87 dB(A) at speeds above 35 MPH; and 85 dB(A) when the vehicle is accelerated to maximum engine speed with the vehicle stationary. Accordingly, 49 CFR part 325 is being amended so that the prescribed noise levels correspond with those of the EPA.

Salt Lake County, Utah, Petition

On December 11, 1975, Salt Lake County, Utah, petitioned the United States Court of Appeals for the District of Columbia Circuit, for a review of a number of technical points contained in the noise standards promulgated by the FHWA. As part of the settlement of the case, the FHWA published a Notice of Proposed Rulemaking (NPRM) on April 3, 1980, concerning Salt Lake County's request to: (1) reduce the minimum measurement distance specified in 49 CFR 325.7 from 35 feet to 31 feet, and (2) reconsider the application of a 2dB(A) correction factor at acoustically hard sites as specified in 49 CFR 325.7(a) (45 FR 22120). Section 325.5 of the FMCSRs defines "hard test site" as any test site having the ground surface covered with concrete, asphalt, packed dirt, gravel or similar reflective material for more than ½ the distance between the microphone target point and the microphone location point.

Measurement distance of 31 feet. This issue deals with the minimum allowable distance from the centerline of the lane of travel to the microphone location point which is permissible for measuring noise. The present requirements specify a minumum 35-foot distance with the standard distance being 50 feet. Salt Lake County, Utah, petitioned to have the minimum distance reduced to 31 feet. Its request was based on the premise that the number of enforcement sites, and therefore overall enforcement levels, would increase significantly with the availability of sites having shorter vehicle-to-microphone distances.

Discussion of Comments

Eight comments were received in response to the NPRM, seven of which responded to the proposal to reduce measurement distance. Comments were received from the American Trucking Associations, Inc. (ATA), the Ford Motor Company, General Motors Corporation, Mack Trucks, Inc., and four State governmental agencies. Two of the three truck manufacturers did not agree with Salt Lake County's contention that the minimum measurement distance could be reduced to 31 feet without a loss of accuracy. A third manufacturer did not oppose the proposal assuming an appropriate correction factor would be added to the readings at that distance. An additional 1dB(A) allowance was suggested. This viewpoint was essentially identical to that of the ATA.

The State agencies commenting on this subject either expressed no viewpoint or supported the motion that allowance for closer measuring distances would be desirable. One of these agencies submitted data supporting its view. The New York Department of Environmental Conservation (NYDEC) made simultaneous measurements at 33 feet and 50 feet at a soft site on an unspecified number of vehicles. Section 325.5 of the FMCSRs defines "Soft test site" as any test site having the ground surface covered with grass, other ground cover, or similar absorptive material for ½ or more of the distance between the microphone target point and the microphone location point. The NYDEC found the average difference between the readings to be 3.4d(A), thus supporting the idea that for distances down to 31 feet a 4dB(A) correction factor (1dB(A) more than is required at distances down to 35 feet) is appropriate.

Noise Research. The EPA noise emission standards are based on measurements made at 50 feet from the centerline of the lane of vehicle travel. Allowances for measurements made at other distances were included to facilitate enforcement activities. These allowances were made with the understanding that, with the addition of appropriate correction factors, measurements made at these alternate sites could be made to yield equivalent results to those which would have been recorded had the measurement been made at the standard 50-foot location.

Based on data available at the time (notably "Research on Highway Noise Measurement Sites"),[1] the technical judgment was made by the FHWA in 1975 that the possibility of error exists at measurement distances less than 35 feet and measurements equivalent to the standard could not be ensured. Therefore, it was decided to limit the measurement distance to a minimum of 35 feet.

"Research on Highway Noise Measurement Sites" recommends that a 6dB(A) correction factor be added to any measurements made at a distance of 31 feet.[2] This overall 6dB(A) correction factor appears to take into account both distance and ground surface effects (i.e., 4dB(A) for distance, 2dB(A) for ground surface). The study also recommends that for all measuring distances below 35 feet, the measurement should be taken from the nearest side of the vehicle, and not from the centerline of the lane of vehicle travel.[3]

Footnotes appear at the end of article.

A study by E.J. Rickley and R.W. Quinn provides data on vehicle-to-microphone distances down to the 31-foot range in question.[4] It supports the observation that if a 4dB(A) correction factor is added at a standard soft site, results essentially equivalent to a 50-foot measurement can be obtained. It should be noted that as a practical matter, measurements made at this distance will almost always be at acoustically hard sites.

The FHWA agrees that reducing the minimum allowable distance to 31 feet will increase enforcement flexibility. Accordingly, the FHWA is modifying 49 CFR 325.7 Allowable Noise Levels, and 325.73, Microphone Distance Correction Factors, to allow measurements to be made at vehicle-to-microphone distances of 31 feet. The FHWA is including appropriate correction factors for this distance, based on docket comments and research findings discussed above.

Hard Site Correction Factor

The NPRM of April 3, 1980 (45 FR 22120) proposed to eliminate the 2dB(A) correction factor for measurements made at acoustically hard sites.

Comments received on the need or lack of need for the 2dB(A) correction factor were varied. In general, the State noise enforcement agencies suggested the correction factor was not necessary, while the truck manufacturers and the ATA contended it was necessary. The Illinois EPA submitted research showing a 1.17 dB(A) difference between measurements made at hard and soft sites.[5] However, a closer review of the data indicates that if the data is weighted on a per vehicle basis as opposed to a per site basis, the average difference becomes 1.45dB(A).

"Research on Highway Noise Measurement Sites" and similar studies[6, 7] affirm the validity of the 2dB(A) correction factor for field enforcement purposes. Variations were found, however, primarily as a function of degree of site "hardness" and the type of vehicle operation being measured. These differences do not appear to weaken the argument that the 2dB(A) correction factor is workable and equitable.

These variations demonstrate the importance of the enforcement official's selection of the measurement site. In performing highway operations testing, attempts should be made to use the standard 50-foot soft site. If this is not possible and a hard test site is chosen, research indicates that the correction factor is best applied at sites that are predominantly hard, i.e., at least 66.6 percent of the site is made up of reflective material.

The EPA published a final rule prescribing noise emission standards for motor vehicles operating in interstate commerce on October 29, 1974 (39 FR 38208). The EPA addressed the issue of correction factors in the preamble to that rule:

> The standards are defined with sufficient particularity that their stringency is established for all practical purposes. EPA anticipates that the compliance regulations of the Department of Transportation will include a measurement methodology which contains correction factors for variation in site conditions. Such correction factors would make practical enforcement feasible at more sites and would thereby enhance the effect of the noise standards [39 FR 38211].

It is therefore clear that elimination of the 2dB(A) correction factor would amount to a change in the noise emission standard itself. The correction factor is essential to the accurate implementation of the standard.

Accordingly, the FHWA has determined that the ground surface correction factor prescribed in 49 CFR Section 325.75 will be retained.

Form MCS-63, Driver Equipment Compliance Check, is the inspection form specified in § 325.13(c) for recording noise emission findings. In August 1976, the FHWA adopted a new reporting form—Noise Level Compliance Check, Form MCS-141. This change facilitates the use of sites for noise emissions testing which may not be compatible with the site requirements for vehicle safety inspections. Accordingly, § 325.13 (c) and (d) are being amended to show the new form which is used for recording noise emissions only.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. All amendments contained in this final rule have been the subject of an NPRM issued either by FHWA or EPA.

The economic impact, if any, anticipated as a result of this rulemaking action will be minimal. Accordingly, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, it is hereby certified that this action does not have a significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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.

Footnotes

[1] Ben H. Sharp, "Research on Highway Noise Measurement Sites" Wyle Laboratories, El Segundo, California (for California Highway Patrol), WCR 72-1, March, 1972, p. 49.

[2] *Ibid.*, p. 16.

[3] *Ibid.*, p. 48.

[4] E.J. Rickley and R.W. Quinn, "An Investigation of Site Effects on Roadside Measurement of Truck Noise. Transportation Systems Center, Cambridge, Massachusetts (for the U.S. Department of Transportation), DOT-TSC-OST-76-6, January, 1977.

[5] Robert D. Hellweg, Jr., "The Effect of Ground Cover on Truck Passby A-Weighted Sound Level Measurements" Division of Land/Noise Pollution Control, Illinois Environmental Protection Agency, Springfield, Illinois, DNLPC TR N80-1, July, 1980, p. 12.

[6] Donald B. Pies, "Assessment of Ground Surface Corrections for Motor Vehicle Noise Measurements. Wyle Research, El Segundo, California (for U.S. Environmental Protection Agency), WCR 77-9, February, 1977, p. 1-2.

[7] Rickley, op. cit., p. 19.

List of Subjects in 49 CFR Part 325

Highways and roads, Motor carriers, Motor vehicle safety, Noise control.

(Catalog of Federal Domestic Assistance Program Number, 20.217, Motor Carrier Safety)

Issued on: November 29, 1989.

T.D. Larson,

Administrator.

In consideration of the foregoing, title 49, Code of Federal Regulations, chapter III, part 325, is amended as follows:

PART 325—COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

1. The authority citation for part 325 continues to read as follows:

Authority: Sec. 18, 86 Stat. 1234, 1249-1250 (42 U.S.C. 4917).

§ 325.7 [Amended]

2. Table 1, in § 325.7, is revised to read as follows:

§ 325.7 Allowable noise levels.

TABLE 1.—MAXIMUM PERMISSIBLE SOUND LEVEL READINGS (Decibel (A)) [1, 2]

	Highway operation test				Stationary tests	
	Soft site		Hard Site		Soft site	Hard site
	35 mi/h or less	Above 35 mi/h	35 mi/h or less	Above 35 mi/h		
If the distance between the microphone location point and the microphone target point is—						
31 ft (9.5m) or more but less than 35 ft (10.7m)	87	91	89	93	89	91
35 ft (10.7m) or more but less than 39 ft (11.9m)	86	90	88	92	88	90
39 ft (11.9m) or more but less than 43 ft (13.1m)	85	89	87	91	87	89
43 ft (13.1m) or more but less than 48 ft (14.6m)	84	88	86	90	86	88
48 ft (14.6m) or more but less than 58 ft (17.1m)	83	87	85	89	85	87
58 ft (17.1m) or more but less than 70 ft (21.3m)	82	86	84	88	84	86
70 ft (21.3m) or more but less than 83 ft (25.3m)	81	85	83	87	83	85

The speeds shown refer to measurements taken at sites having speed limits as indicated. These speed limits do not necessarily have to be posted.
[2] This table is based on motor carrier noise emission requirements specified in 40 CFR 202.20 and 40 CFR 202.21.

§ 325.13 [Amended]

3. Section 325.13 is amended by replacing the words "MCS-63" with "MCS-141" throughout the section, and replacing the words "Driver-Equipment Compliance Check" with "Noise Level Compliance Check" throughout the section.

§ 325.33 [Amended]

4. Section 325.33, paragraph (a), is amended by replacing the words "35 feet (10.7n)" with "31 feet (9.5m)."

5. Section 325.53, paragraph (a)(1), is amended by replacing the words "35 feet (10.7m)" with "31 feet (9.5m)."

§ 325.73 [Amended]

6. Section 325.73 is amended by adding to Table 2 the following entry to appear as a new first entry:

§ 325.73 Microphone distance correction factors.[1]

Table 2.—Distance correction factors

If the distance between the microphone location point and the microphone target point is—	The value dB(A) to be applied to the observed sound level reading is—
31 feet (9.5m) or more but less than 35 feet (10.7m).	−4.

[FR Doc. 89-28405 Filed 12-5-89; 8:45 am]

BILLING CODE 9910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

[Ex Parte No. 55 (Sub-No. 79)]

Delegation of Authority Where Subsidies Established Under 49 U.S.C. 10905 are Discontinued

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a final rule, at 49 CFR 1011.8(c)(8), that delegates authority to the Director of the Office of Proceedings to issue decisions, after 60 days' notice by any person discontinuing subsidies established under 49 U.S.C. 10905 and at the railroad's request: (1) In application proceedings, immediately issuing certificates of abandonment or discontinuance; and (2) in exemption proceedings, immediately vacating the decision that postponed the effective date of either a notice of exemption or a decision granting an exemption. The amended rule is set forth below.

EFFECTIVE DATE: December 6 1989.

FOR FURTHER INFORMATION CONTACT: Richard L. Gagnon (202) 275-7615 (TDD for hearing impaired: (202) 275-1721.)

SUPPLEMENTARY INFORMATION: Any person may offer to pay a subsidy to the rail carrier proposing to abandon or discontinue all or part of a railroad line. 49 U.S.C. 10905(c). Any subsidy so provided may be discontinued on 60 days' notice. Unless, within such period, another financially responsible person enters into a subsidy agreement at least as beneficial to the carrier as that which is to be discontinued, the Commission is required, at the carrier's request: (1) In application proceedings, immediately to issue a certificate authorizing the abandonment or discontinuance of service on the line (49 U.S.C. 10905(f)(5)); or (2) in exemption proceedings, to issue a decision vacating the decision that postponed the effective date of either the notice of exemption or the decision granting the exemption (49 CFR 1152.27(j)(2)).

The Commission has decided, for administrative efficiency, to delegate authority to the Director of the Office of Proceedings to issue such decisions, which will become the final action of the Commission. If a decision is appealed, however, the matter will be reconsidered by the entire Commission.

This action involves a minor revision to 49 CFR Part 1011, specifically the addition of a new subsection to the delegations of authority to the Office of Proceedings appearing at 49 CFR 1011.8(c). This rule change, however, does not require public notice and opportunity for comment before implementation. Under 5 U.S.C. 553(b)(A), rules of agency procedure or practice are expressly exempted from the notice and comment requirements of the Administrative Procedure Act. The delegation of authority noticed here involves only Commission processing methods and does not adversely affect any party's rights.

Environmental and Energy Considerations

We conclude that the delegation of authority noticed here will not

significantly affect either the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

We certify that the delegation of authority noticed here will not have a significant effect on a substantial number of small entities. Because the delegation is made for administrative efficiency, our action should indirectly benefit small entities.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations.

Authority: 5 U.S.C. 553 and 49 U.S.C. 10305 and 10321.

Decided: November 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett. Commissioner Lamboley concurred in the result. Vice Chairman Simmons dissented with a separate expression.

Noreta R. McGee,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1011 of the Code of Federal Regulations is amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for 49 CFR part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, and 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Section 1011.8 is amended by adding a new paragraph (c)(8) to read as follows:

§ 1011.8 Delegations of authority by the Interstate Commerce Commission to specific bureaus and offices of the Commission.

(c) *

(8) To issue decisions, after 60 days' notice by any person discontinuing a subsidy established under 49 U.S.C. 10905 and at the railroad's request: (i) in application proceedings, immediately issuing certificates of abandonment or discontinuance; and (ii) in exemption proceedings, immediately vacating the decision that postponed the effective date of either the notice of exemption or the decision granting the exemption.

*

[FR Doc. 89-28501 Filed 12-5-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 620, 672, and 675

[Docket No. 90899-9253]

RIN 0648-AC72

Foreign Fishing; General Provisions for Domestic Fisheries; Groundfish of the Gulf of Alaska, Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 13 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 18 to the FMP for Groundfish of the Gulf of Alaska (GOA). Regulations implement the following measures specific to both Amendments 13 and 18: (1) Specific seasons are deleted from the FMPs and all future seasons changes will be established by regulatory amendment; (2) a comprehensive data collection program is approved, which consists of augmented recordkeeping and reporting requirements and a mandatory observer program; and (3) the Secretary's authority to separate or combine species within the target species category is clarified. Regulations specific to Amendment 13: (1) areas in the vicinity of the Walrus Islands are closed to fishing for groundfish, and (2) fixed percentages of the allowable harvest amount of sablefish are allocated to trawl gear and fixed gear. Regulations specific to Amendment 18: (1) Shelikof Strait is established as a management district for purposes of managing pollock; (2) areas around Kodiak Island are closed to bottom trawl gear; and (3) Pacific halibut prohibited species catch limits for fixed gear and trawl gear are established for one year. This action is necessary to promote management and conservation of groundfish and other fish resources. It is intended to further the goals and objectives contained in both FMPs that govern these fisheries.

EFFECTIVE DATE: January 1, 1990; except § 672.24(c)(1)–(c)(5) which are effective from January 1, 1990, through December 31, 1992; § 672.20(f)(2) is suspended from January 1, 1990, through December 31, 1990; and § 672.20(f)(3)(i) and (f)(3)(ii) which are effective January 1, 1990, through December 31, 1990.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809). Copies of a publication describing derivations of standard product recovery rates may be obtained from Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg or Susan J. Salveson (Fishery Management Biologists, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the GOA and BSAI are managed by the Secretary according to FMPs prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the foreign fisheries at 50 CFR parts 611.92 and 611.93 and for the U.S. fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to the U.S. fisheries are implemented at 50 CFR part 620.

The Council approved for review by the Secretary of Commerce (Secretary) under Section 304(b) of the Magnuson Act the parts of Amendments 13 and 18 that are listed in the above summary. The official receipt date for Secretarial review of these amendments was July 29, 1989. The Magnuson Act requires the Secretary, or his designee, to approve, disapprove, or partially disapprove FMPs or FMP amendments before the close of the 95th day following the receipt date. Following receipt of Amendments 13 and 18, the Secretary immediately commenced a review of the amendments to determine whether they were consistent with the provisions of the Magnuson Act and any other applicable law. A Notice of Availability of the amendments was published in the Federal Register (54 FR 31861, August 2, 1989). It invited review of, and comment on, the amendments until September 27 1989. A proposed rule was filed with the Office of the Federal Register on August 28, 1989, and published on September 1, 1989 (54 FR 36333). It invited comments until October 12, 1989. The final rule implementing Amendments 13 and 18 takes comments received into account. Comments received are summarized and responded to below (see Public Comments Received).

The preamble to the proposed rule described and presented the reasons for each measure contained in the amendments. The Secretary has reviewed each measure and the reasons for it. During his review, the Secretary has considered comments received from the public, fishing associations, and interested agencies. He has determined that each measure is consistent with the Magnuson Act and other applicable law. He has approved Amendments 13 and 18 as authorized under Section 304 of the Magnuson Act.

The following is a summary from the proposed rule of what each measure requires or accomplishes:

(1) Fishing seasons are deleted from the FMPs but are retained in regulations implementing the FMPs. Future season changes will be proposed as a regulatory amendment and implemented by the Secretary in consultation with the Council. Since the Secretary must consider whether a regulatory amendment is consistent with the Magnuson Act and other applicable law, appropriate analyses will accompany future regulatory amendments.

(2) New recordkeeping and reporting requirements are established to allow the collection of adequate and reliable fishery data. Under the recordkeeping requirements, each catcher/processor, mothership processor, and shoreside processor utilizing groundfish harvested off Alaska must maintain a daily cumulative production log (DCPL); each vessel 5 net tons and larger that harvests groundfish off Alaska must maintain a daily fishing log (DFL); and each shoreside processor is required to maintain a product transfer log similar to that currently required of at-sea processors.

Under the reporting requirements, each processor that is required to maintain a product transfer log must submit to NMFS on a weekly basis copies of the transfer log entries for each week in which transfers occurred. Each catcher/processor vessel, mothership processor vessel, and shoreside processing facility must submit a weekly production report in product weight. Each processor and catcher vessel required to maintain a DCPL and/or DFL must submit on a quarterly basis to NMFS a copy of the DCPL and/or DFL records. Each processor (i.e., at-sea and shoreside) or its parent company is required to submit annually a monthly product value report that summarizes sales in quantity and value by species and product form.

(3) A mandatory observer program is authorized. This program requires vessels and shoreside processing facilities to accommodate an observer under provisions set forth under an Observer Plan. At the time the regulations were proposed, the Observer Plan, which provided details of the observer program was still being developed. NMFS has now prepared the Observer Plan. It describes the responsibilities that will be imposed on NMFS, vessel operators, managers of shoreside processing facilities, and NMFS contractors who will provide observers. Minimal qualifications of observers are also stated in the Observer Plan. Specific provisions of the Observer Plan will be published in the Federal Register as a separate rulemaking.

(4) Current authority in the BSAI and GOA FMPs and implementing regulations is clarified to indicate that the Secretary is able to split or combine species within the target species category for purposes of managing larger or smaller stock components.

(5) Portions of the Bering Sea subarea between three and twelve miles from islands named "The Twins" and "Round Island, and from Cape Pierce, are closed to fishing for groundfish from April 1 through September 30 of 1990 and 1991 for purposes of protecting walrus haulout areas.

(6) Respective sablefish total allowable catches (TACs) in the Bering Sea and Aleutian Island subareas are allocated to users of trawl gear and fixed gear in the following proportions:

Bering Sea subarea: trawl gear—50 percent and fixed gear—50 percent; and

Aleutian Islands subarea: trawl gear—25 percent and fixed gear—75 percent.

TACs for each gear type will be monitored independently of the other. Fisheries conducted by the two gear types will then be closed separately, which will prevent one gear type from harvesting amounts of sablefish that the other gear type might have depended upon.

(7) An area known as Shelikof Strait in the Gulf of Alaska and presently part of the Central Regulatory Area is established as a regulatory district for purposes of managing harvests of pollock. Coordinates defining the new Shelikof Strait district are listed at § 672.2 of this rulemaking.

(8) For purposes of protecting king crab, closures affecting Type I and Type II areas of the EEZ around Kodiak Island are in effect from January 1, 1990 through December 31, 1992. Type I areas are closed to bottom trawling year-round. Type II areas are closed to bottom trawling from February 15 through June 15. Either of these two types of areas could be expanded by a third type of closed area, referred to as a "Type III" area, to accommodate positive changes in king crab stocks. Implementation of a Type III area would be accomplished by proposed and final rulemaking.

(9) Regulations are promulgated to provide the Secretary authority to establish separate halibut prohibited species catch (PSC) limits in the Gulf of Alaska for fixed gear and trawl gear. For the 1990 fishing year only. PSC limits for fixed and trawl gear are 750 metric tons and 2,000 metric tons, respectively.

The preamble of the proposed rule indicated that the availability of the product recovery rates would be announced by a notice in the Federal Register. Those rates are now available and such a notice is not necessary. The product recovery rates are available from the address indicated above.

Changes From the Proposed Rule in the Final Rule

1. *Recordkeeping and Reporting Requirements.* The final rule reflects numerous editorial changes that resolve minor ambiguities within the proposed rule. More substantive changes are discussed below.

(a) The final rule reflects the following additions and revisions to the definitions set forth in §§ 672.2 and 675.2. These changes help resolve unclear language within the proposed rule and facilitate compliance with recordkeeping and reporting requirements under §§ 672.5 and 675.5:

(i) The definition of "reporting area" is revised in the final rule. A reporting area differs from a statistical area in two respects. First, it includes state waters and second, unlike some statistical areas, each reporting area is distinct without any overlapping reporting areas. The final rule adds language to make sure each reporting area is distinct. The only other change notes that the statistical area number or numbers may be used to describe a reporting area.

(ii) A definition for "fish product weight" is included in the final rule, and replaces related language in the proposed rule. "Fish product weight" is the weight of a fish product based on the number of production units, such as cartons, and the weight of those units. "Fish product weight" does not include packaging but may include water and other additives reported to NMFS; NMFS may use these weights to calculate net weight, allowing up to 5 percent for water, and to calculate round weight equivalents. The standard product recovery rates that will be used by NMFS to calculate round weight

equivalents may be obtained from the Regional Director at the address above.

(iii) Definitions are added for "day," "quarter," and "weekly reporting period" and for "vessel" and "processor vessel."

(b) In §§ 672.5(a) and 675.5(a) of the final rule, the general requirements, applicability, and related provisions are reorganized and revised to clarify that requirements for timeliness, accuracy, use of the English language, and availability for inspection apply to all records and reports and not only to logbooks. A requirement that these records, reports, and logbooks be maintained in a legible manner is added.

(c) Sections 672.5(b)(2)(iii) and 675.5(b)(2)(iii) of the proposed rule required that most daily catch information be recorded by noon of the day following the catch although some information must be recorded within two hours. Sections 672.5(b)(2)(iv) and 675.5(b)(2)(iv) of the final rule are revised to specify that these entries must be recorded prior to a delivery even if the delivery or off-loading occurs prior to the expiration of these time limits.

(d) Sections 672.5(b)(3)(ii)(A)(*7*) and 675.5 (b)(3)(ii)(A)(*7*) of the proposed rule required information on crew size or employee number to be reported on the daily cumulative production logbook. The forms and the preamble of the proposed rule suggested that additional information about the number of the crew involved in processing, fishing, and other activities could be required. The material submitted under the Paperwork Reduction Act (PRA) for the proposed rule assumed this additional information was required. Sections 672.5(b)(3)(ii)(A)(*8*) and 675.5 (b)(3)(ii)(A)(*8*) of the final rule adds these requirements.

(e) Sections 672.5(b)(2)(ii)(B)(*11*), 672.5(b)(3)(ii)(B)(*1*)(*vii*), 675.5(b)(2)(ii)(B)(*11*), and 675.5 (b)(3)(ii)(B)(*1*)(*vii*) of the proposed rule attempted to consolidate recordkeeping requirements under a proposed marine mammal logbook program and the Alaska groundfish logbook program to relieve the recordkeeping burden on operators of fishing and processing vessels. The final rule eliminates reference to the marine mammal logbook program and associated recordkeeping requirements, because the final rule for the marine mammal logbook program would necessitate redundant recordkeeping in the groundfish logbook program, and the recordkeeping burden on vessel operators would not be reduced. The NMFS intends to pursue the consolidation of recordkeeping requirements under the Marine Mammal Protection Act and the Magnuson Act in the future with the aim of reducing recordkeeping and reporting burdens on the Alaska groundfish industry.

(f) Sections 672.5(c)(3)(iii) and 675.5(c)(3)(iii) of the final rule revise the annual submission date of the Alaska Groundfish Processor Monthly Product Value Report from March 1 to February 1. This change was made to obtain more timely submission of product value information recorded during the previous year.

(g) Sections 672.5(c)(1)(ii) and 675.5(c)(1)(ii) of the proposed rule made some minor changes to processor vessel requirements to submit check-in reports. Sections 672.5(c)(1) and 675.5(c)(1) of the final rule provide more detail on the check-in/check-out notices although changes are not substantive.

(h) Sections 672.5(c)(1)(i) and 675.5(c)(1)(i) of the proposed rule addressed requirements for the submission of Alaska State fish tickets. The final rule eliminates this requirement, although vessels and groundfish processors registered under the laws of the State of Alaska will need to comply with State fish ticket requirements under Alaska State statutes. Federal groundfish managers have full access to information collected on Alaska State fish tickets without accompanying Federal regulations requiring that fish tickets be submitted. Therefore, Federal regulations for submission of Alaska State fish tickets are viewed as redundant to similar Alaska State regulations and are removed from Sections 672.5 and 675.5 of the final rule. The NOAA does not intend by this action to preempt application of Alaska State fish ticket regulations and statutes to groundfish fisheries in the EEZ off Alaska.

2. *Pacific Halibut Prohibited Species Catch Limits.* Paragraph (f) in § 672.20 is changed by revising paragraph (f)(1) to indicate the apportionment of halibut PSC between trawl and longline gear. The proposed rule had used paragraph (f)(3) to accomplish this, which resulted in language that was redundant to paragraph (f)(1).

The Regional Director has determined that continuing the apportionment of halibut PSC between trawl and longline gear is superior to letting it lapse on December 31, 1990, and is consistent with the Magnuson Act and other applicable law. The Regional Director made this determination because (1) the GOA FMP authorizes halibut PSC limits to be apportioned among gear types, (2) the Council has requested that a regulatory amendment be implemented to accomplish this apportionment, and (3) this measure is analyzed in the draft EA/RIR prepared for the draft Amendment 18.

3. *Trawl closures in the Gulf of Alaska.* In section 672.24 of the proposed rule, paragraph (c)(3) is deleted. This paragraph described trawl closures (Type III areas) in the Kodiak Island area that may be implemented by regulatory amendment, pending a "significant recruitment event" within the local red king crab population. A description of the Type III areas is found in the GOA FMP as are the criteria that will be used to define a recruitment event. Under provisions set forth in the FMP the Type III trawl closures will be specified in section 672.24 by regulatory amendment when the occurrence of a recruitment event necessitates the implementation of Type III area trawl closures to further protect red king crab.

4. *Sablefish allocation.* Paragraph (c) in § 675.24 is added to authorize the Regional Director to close directed sablefish fishing by an authorized gear type prior to its harvesting its full share of the sablefish TAC. This change is necessary to provide retainable bycatch amounts of sablefish to support other target fisheries by the affected gear types.

Public Comments Received

Twenty-eight letters of comments were received from fishing associations, individual fishermen, and State and Federal agencies by the end of the comment period. One letter commented generally about the adequacy of procedures followed during the rulemaking process with respect to the Magnuson Act. With respect to the measure allocating sablefish between trawl gear and fixed gear in the Bering Sea and Aleutian Islands management area, twenty letters, including those from five associations that represent fixed gear interests, commented favorably on the measure. One letter from an association representing trawl interests commented that the proposed allocation of sablefish between fixed gear and trawl gear violates national standards 1, 4, 5, and 6, and that the status quo should be maintained. With respect to the measure that would establish an area closure to protect walrus, one letter commented favorably on the measure, and one letter from an association representing trawl interests commented that the status quo should be maintained. With respect to the measure for recordkeeping and reporting requirements, four letters commented favorably on the measure. With respect to the measure that would establish fixed prohibited species catch limits for

Pacific halibut in the Gulf of Alaska, one letter commented that the status quo should be maintained.

Although further comments will be invited in separate rulemaking on provisions pertaining to the Observer Plan, proposed rulemaking for Amendments 13 and 18 had requested comments on the observer program. With respect to the observer program, seven letters commented favorably on the measure, albeit one letter stated that the level of observer coverage should be less than that adopted by the Council, and also questioned whether any domestic program is authorized under the Magnuson Act.

Issues and concerns raised by these comments are summarized and responded to below.

Comment 1: The procedure used for rulemaking is inappropriate and not in compliance with the Magnuson Act, because the Council did not provide to the public any draft fishery management plan language or regulations for public review.

Response: Although provision for public review of draft FMP language and regulations for each alternative considered by the Council would be desirable, such provision usually is not practicable, given the many alternatives that are often proposed to solve a fishery management problem. Once the Council determines tentatively a preferred alternative for a particular measure, it directs Council staff to prepare FMP language and regulations, which then are before the Council when it makes its final recommendation.

Comment 2: The measure to allocate sablefish between trawl and fixed gear in the Bering Sea and Aleutian Islands management area is necessary to promote stability in the sablefish fishery.

Response: The Regional Director concurs and has approved this measure.

Comment 3: Allocating sablefish between trawl and fixed gear for both the Bering Sea and Aleutian Islands management subareas violates national standard 1, because allocating available amounts of sablefish between gear types might result in insufficient amounts of bycatch to support trawl fisheries, which might cause premature closure of target fisheries or treatment of sablefish as prohibited species. These respective options would cause underharvesting of other species or overfishing of sablefish.

Response: The Regional Director finds that this measure would not necessarily result in premature closure of the sablefish target fishery nor treatment of sablefish as a prohibited species by fixed or trawl gear. As a result of this final rulemaking, the Regional Director may prohibit directed fishing for sablefish by either fixed or trawl gear before the sablefish allocation to that gear share is reached in order to provide retainable bycatch amounts to support other target fisheries. This action would minimize treatment of sablefish as a prohibited species, and reduce the possibility of overharvesting sablefish.

On the other hand, if either or both gear shares were reached, further catches of sablefish by either or both gear types would be treated as a prohibited species and discarded at sea. Additional fishing mortality resulting from such treatment would not be expected to cause overfishing, because in most other groundfish target fisheries sablefish bycatches are very small. For example, in the Bering Sea subarea, sablefish bycatches are only one percent or less of the catch of the pollock, flatfish, and Pacific cod, in the aggregate. In 1989 to date, trawl gear caught about 480 metric tons of sablefish in the Bering Subarea while catching about 853,000 metric tons of other groundfish species, which represents a very small bycatch rate. In the Aleutian Islands subarea, sablefish bycatches are also small. Again in 1989 to date, trawl gear caught about 670 metric tons of sablefish while catching about 19,000 metric tons of other groundfish species, which represents only a 4 percent bycatch rate.

Sablefish bycatches are small, because sablefish occur mostly in deep water and are not caught except in small amounts during operations that harvest shallow water groundfish species such as flounder, Pacific cod, and pollock. Only in the deep water fisheries for rockfish species and Greenland turbot are larger bycatches of sablefish likely. Sablefish bycatches may approach 10 percent of the aggregate catch of rockfish and turbot, although actual bycatch rates are often smaller. If sablefish were a prohibited species when taken incidentally in rockfish and Greenland turbot fisheries, discard mortality could be further minimized. For example, fishermen are able to shift fishing areas to reduce sablefish bycatches while fishing for rockfish and Greenland turbot. Also, regulatory authority exists to implement time and area closures to reduce the sablefish bycatches, while still allowing for harvests of rockfish and Greenland turbot.

In some years sablefish stocks could decline to a level that would halt a directed fishery by a gear type early in the fishing year. The Regional Director would respond to such a decline, as necessary, to protect sablefish stocks. Because regulatory mechanisms exist to minimize sablefish bycatches while allowing for full harvests of other groundfish species, this measure should not result in overfishing sablefish stocks or cause underharvesting of other groundfish species. This measure, therefore, is consistent with National Standard 1.

Comment 4: Allocating sablefish between trawl and fixed gear in the Bering Sea and Aleutian Islands management area violates National Standard 4, because the measure to allocate sablefish between gear types (e.g., 75 percent and 25 percent to fixed and trawl gear, respectively, in the Aleutian Islands subarea) (1) is not fair or equitable, and (2) does not suggest any furthering of conservation objectives. It may, in fact, increase the likelihood of overfishing, particularly if sablefish allocations for bycatch are not adequate to prevent wastage of the sablefish resource, and if the mortality of sablefish from killer whale predation in the directed hook-and-line fishery continues not to be counted against the sablefish quota.

Response: The Regional Director finds that this measure is fair and equitable. As stated in the EA/RIR, by public testimony to the Council and, as indicated by NMFS catch data, this measure maintains the trend in sablefish catches that has developed in recent years. Fixed gear harvested most (about 90 percent) of the sablefish in the Aleutian Islands subarea and about half of the sablefish in the Bering Sea subarea during the years 1985 through 1988. Based on public testimony at its June 20–23, 1989 meeting, the Council accommodated additional trawl sablefish bycatch needs by increasing the trawl share of the sablefish quota from 10 percent to 25 percent. This difference was subtracted from the fixed gear share.

Nothing in this measure is designed to allocate excessive shares to any one entity. Although the share allocated to fixed gear in the Aleutian Islands subarea is larger than the trawl share, it is not excessive. On the contrary, the share allocated to fixed gear is less than amounts harvested by that gear in each of the last four years. In the Bering Sea subarea, the fifty percent split is roughly equivalent to amounts harvested by fixed gear during the last four years. Nor does the gear share allocation itself prohibit any future participant from fishing for sablefish with either gear type.

The Regional Director also finds that this measure is reasonably calculated to promote conservation. The Guidelines for Fishery Management Plans at 50 CFR

602.14 state that numerous methods for allocating fishing privileges are based on conservation measures, as well as management measures. An allocation measure may promote conservation by encouraging a more easily managed use of the fishery resource. Fixed gear includes hook-and-line gear and pot gear. Both types utilize determinable numbers of hooks or pots per set, which makes calculation of catches per units of effort more exact than when trawl gear is used. Better estimates of harvest rates promote more accurate projections of when quotas may be achieved. Better estimates of sablefish bycatch rates needed to support target fisheries by fixed and trawl gear for other groundfish species will also promote "single species management"· under this management system the Regional Director is able to curtail directed fishing by either gear type to retain enough of the respective gear share to support other target fisheries. For these reasons, this allocation measure promotes a more easily managed sablefish fishery, which is especially important when quotas are small. When multiple gear types target on a single, small quota, projecting when the quota might be reached is more difficult, increasing the risk of overharvesting a stock, which in turn could lead to overfishing. Thus, this measure will promote conservation by allowing management of total fishing mortality by year's end to equal directed and bycatch mortality by both gear types. Such enhanced management will reduce the risk of overfishing sablefish stocks.

Other factors to be considered are the social consequences of allocation, and the dependency on the fishery by present participants. Fixed gear fishermen have shown a high degree of dependence on the sablefish resource in the Aleutian Islands subarea, where sablefish constitutes most of the fixed gear catch. For example, through September 1989, fixed gear fishermen harvested a total of 3,100 metric tons of groundfish, of which 2,037 metric tons, or 66 percent, was sablefish. In contrast, trawl gear fishermen harvested a total of 19,182 metric tons of groundfish, of which 675 metric tons, or 4 percent, was sablefish.

Fixed gear fishermen are not able to fish in many areas in the Bering Sea/Aleutian Islands management area unless they compete with trawl gear. Fixed gear fishermen can deploy their gear in the Aleutian Islands subarea with less fear of ground preemptions by trawl gear. Although trawling is conducted in this area, it is not especially suitable for trawl gear, because the slopes are steeper and rockier compared to the smoother and flatter areas of the Bering Sea subarea. By securing fishing rights to sablefish in the Aleutian Islands subarea, fixed gear fishermen also achieve a more stable opportunity on which they can depend over the long term. This achievement promotes stability in the fixed gear fishery. As a result, those segments of the industry that depend on the fixed gear fishery, including vessel operators and crew, and the community/processor infrastructure that has developed to support the vessels, will continue to receive benefits that have resulted from the fixed gear fishery. Retaining the status quo would have imposed adverse social consequences on fixed gear fishermen if trawl gear were to dominate the sablefish fishery.

With respect to the comment referring to killer whale mortality in the hook-and-line fishery, the extent of that mortality is not known. The Secretary anticipates that domestic observer information will be collected on the wastage associated with this mortality and that this information will be considered during the annual establishment of sablefish TACs.

The Regional Director finds that this measure is fair and equitable, reasonably calculated to promote conservation, and carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of the allocation privileges. He concludes that this measure is consistent with national standard 4.

Comment 5: Allocating sablefish between trawl and fixed gear in the Bering Sea and Aleutian Islands management area violates national standard 5, because the sablefish allocation measure fails to promote efficiency in the utilization of the sablefish resource, and because it has economic allocation as its sole purpose.

Response: As discussed in the response to comment #4, the sablefish allocation measure will promote conservation. Another purpose, however, is maintenance of the socioeconomic stability of the sablefish fixed gear users who have depended on sablefish during the past four years. Sablefish constituted 66 percent of the total groundfish catch in 1989 by fishermen using fixed gear, compared to trawl fishermen whose sablefish catch amounted to just 4 percent of their total groundfish catch in the Aleutian Islands subarea. Written and oral testimony to the Council from fixed gear fishermen and their representatives focused on the likelihood of trawl vessels preempting sablefish harvests that would have been caught by fixed gear. The catching capacity of trawl vessels is so large that the sablefish quota in both the Bering Sea and Aleutian Islands subareas could be fully harvested. As quotas for other groundfish species that are largely harvested only by trawl gear become exhausted earlier in the fishing year, operators of trawl vessels may be tempted to fish for sablefish in areas currently utilized by fixed gear vessels.

Fixed gear fishermen would have only limited options for fishing in the Bering Sea and Aleutian Islands subareas if they do not have sablefish as a target species. Those options include fishing for Pacific cod. But, because fisherman operating trawl vessels that have huge harvesting capacity also target on Pacific cod, fixed gear fishermen would not be expected to be able to depend on that resource over the long term. A similar action was taken by the Council in Amendment 14 to the GOA FMP which allocated 80 percent of the sablefish quota to hook-and-line gear. The Council's action allocates a high enough proportion to fixed gear fishermen in the Bering Sea and Aleutian Islands subarea to give them a viable, dependable fishery while also allowing trawl fishing for sablefish to continue at roughly historical levels. This action promotes stability in the fixed gear fishery and prevents the adverse social consequences on fixed gear fishermen that would occur if trawl gear were to dominate the sablefish fishery.

Another purpose satisfied by this measure is greater efficiency in managing the sablefish fishery by NMFS. The Guidelines for Fishery Management Plans at 50 CFR 602.14 state that management regimes that allow a fishery to operate at the lowest possible cost (e.g., in terms of fishing effort and administration) for a particular catch level are considered efficient. With respect to this measure, the potential to better manage the sablefish fishery is realized as relationships between amounts of fixed gear and the amount of sablefish allocation become known. Better estimates of sablefish bycatch rates needed to support target fisheries by fixed and trawl gear for other groundfish species will also promote "single species management" because amounts of sablefish that ought to be retained as bycatch will be easier to determine.

When more than one gear type is targeting on a single quota, the fishery is more difficult to manage, because the amounts of quota that either gear type might harvest is usually not known in

advance of the fishery. Different gear types might harvest an unexpected amount of an available quota in any one year in proportions that are different from a preceding year.

More efficient management of the fishery is promoted when a quota is allocated to separate gear types. The status quo alternative would have retained a mixed gear fishery of uncertain proportions, thereby maintaining higher administrative costs than would this measure. The Secretary finds that this measure is entirely consistent with national standard 5.

Comment 6: Allocating sablefish between trawl and fixed gear in the Bering Sea and Aleutian Islands management area violates national standard 6, because the sablefish percentages would be arbitrarily fixed without consideration of, or allowances for, variations in (1) sablefish abundance or the abundance of other groundfish species, or (2) the gear mix necessary to harvest the groundfish resources.

Response: The Regional Director finds that the sablefish percentages take into consideration variations in sablefish abundance and the abundance of other groundfish species, as well as the gear mix necessary to harvest the groundfish resources. The Regional Director recognizes that in some years the sablefish stock may be too low to provide adequate bycatch for other directed fisheries. In the event of low sablefish stock status, other regulatory mechanisms, such as time/area closures, can be used to reduce bycatches of sablefish. As discussed above, the bycatch rate of sablefish in many of the other groundfish target fisheries is so low that relatively small amounts of sablefish are required for bycatch. Because the allocation percentages implemented by this measure approximate catch percentages during the past four years, and because other fisheries have been successfully prosecuted with these percentages, the Regional Director finds no significant conflicts. For these reasons, the Regional Director concludes that this measure is consistent with national standard 6.

Comment 7: Allocating sablefish between trawl and fixed gear in the Bering Sea and Aleutian Islands management area is inconsistent with (1) a purpose of the Magnuson Act, which is to foster development of the under-utilized groundfish resources off Alaska, and (2) the goals and objectives of the BSAI FMP which include promotion of the "rational and optimal use" of the groundfish resources as a whole, and the orderly development of the domestic groundfish fisheries.

Response: The Regional Director finds that this measure will not conflict with the stated purpose of the Magnuson Act. Practically all the groundfish resources are being fully utilized. Because the sablefish bycatch requirements in most of the other groundfish target fisheries are so small, full achievement of other groundfish quotas ought to be realized. The Regional Director also finds that this measure is consistent with the goals and objectives of the BSAI FMP because this measure preserves the status quo in the groundfish fisheries, which developed during the past four years. Allocating sablefish gear shares promotes orderly fishing; fixed gear users will have a certain amount of sablefish they can depend upon, without fear of preemption by trawl gear.

Comment 8: The Regional Director's approval of the observer program adopted by the Council requiring 100 percent observer coverage on domestic vessels equal to or greater than 125 feet is discriminatory, imposes costs that exceed the benefits in terms of accuracy achieved, and is not within the scope of the Magnuson Act.

Response: The availability of accurate and timely fishery data is critical to wise conservation and management of fishery resources. The quantity and quality of scientific information influence the establishment of maximum sustainable yield, optimum yield, quotas for target species, catch limits for prohibited species, and management unit composition. Accurate fishery data provide the primary foundation for allocative determinations, judgments of efficiency, adjustments for variations and contingencies and evaluation of costs and benefits.

Section 201(i) of the Magnuson Act requires that a U.S. observer be onboard each foreign fishing vessel while that vessel is engaged in fishing activities within the EEZ. Section 201(i)(3) of the Magnuson Act further states that the purpose of observers onboard foreign vessels is to carry out scientific, compliance monitoring, and other functions deemed necessary or appropriate to carry out the purposes of the Magnuson Act. With the elimination of foreign fishing in the Gulf of Alaska and the ongoing reduction of joint venture activity in the Bering Sea, the limited amount of fishery information collected by observers on foreign vessels is not adequate to conserve and manage the Alaskan groundfish fisheries.

The rapid development of the domestic groundfish fishery off Alaska and the contentious issues that have developed between various interest groups within the fishing industry creates an immediate need for the collection of adequate domestic observer information on which to base informed fishery management decisions. Secretarial approval of a mandatory observer program is based upon his finding that reliable observer information is necessary and appropriate for the conservation and management of the Alaskan groundfish fisheries. Secretarial authority for this action is found under Sections 303(a)(1) and 303(b)(8) of the Magnuson Act, which state:

> 303(a).—Any fishery management plan which is prepared by any Council, or by the Regional Director, with respect to any fishery, shall—(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—(A) necessary and appropriate for the conservation and management of the fishery; [and]
>
> 303(b).—Any fishery management plan which is prepared by any Council, or by the Regional Director, with respect to any fishery may—. .(8) prescribe measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

The Council's rationale for requiring 100 percent observer coverage on vessels 125 feet in length and longer was based on the fact that vessels of this size category harvest most of the groundfish. A full discussion on the necessity for this level of coverage will be presented in the proposed rulemaking that sets forth specific provisions of the Observer Plan that would implement the comprehensive observer program. Assuring that every vessel 125 feet in length and larger will have an observer onboard at all times, particularly during the start up period of the observer program, may be difficult. Deployment of well trained observers who will do an adequate job onboard vessels is a priority. The high standards required for domestic observers and NMFS' desire for a rational deployment scheme may restrict the number of observers that are available at the beginning of the 1990 fishing year. NMFS anticipates working with the industry to develop and refine the domestic Observer Plan to meet the needs of both fishery management agencies and the fishing industry.

Comment 9: The **Federal Register** notice of proposed rulemaking was inadequate to advise the public of the scope and impact of the proposed observer program. The Observer Plan should be published in the **Federal Register** for public comment and review

before any decision on its approvability is made by the Regional Director.

Response: With respect to regulations implementing the observer program, the Council intended that regulations would reference an Observer Plan, which would have had the effect of regulations. The Regional Director determined that opportunity for public comment on aspects of the observer program would be more adequately provided if published as a separate rulemaking in the Federal Register. Therefore, a proposed rule will be published in the Federal Register that will request additional comments on this program and the provisions of the Observer Plan.

Comment 10: Observers ought to be placed on some catcher vessels delivering codends to mothership to record possible marine mammal interactions that may not result in actual entrapment in fishing nets.

Response: The number of qualified, trained natural resource observers available for deployment on domestic fishing vessels at the beginning of the 1990 fishing year will be limited. With regard to at-sea deployment, the most efficient use of observers is to place them at the point where first sorting of catch occurs. This scheme does not provide for observer coverage of vessels delivering unsorted codends to mothership processors. This policy is supported by the Marine Mammal Protection Act (MMPA) as amended by Pub. L. 100-711, which states that:

> The Regional Director shall not be required to place an observer on a vessel in a fishery if the Regional Director finds that in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered.

Records of marine mammal interactions must be maintained by operators of catcher vessels and submitted annually to NMFS under rules implementing the MMPA at 50 CFR 229.6(c)(2). The NMFS will take appropriate enforcement action if information becomes available that these records are not being accurately maintained and submitted.

Comment 11: Information obtained by observers on board domestic fishing vessels is mandatory if conservation and management of the groundfish fisheries are to be achieved in accordance with the Magnuson Act.

Response: The Regional Director concurs and has accordingly authorized the comprehensive domestic observer program.

Comment 12: The Walrus Islands fishing closures affect only trawl activity, and are thus discriminatory and impose unnecessary inefficiencies to the Nation's fisheries by removing excellent yellowfin sole fishing grounds. Although this action is proposed as a means to protect walrus, any benefit to walrus cannot be realistically assessed because (A) this measure fails to prohibit all vessel activity within the closed areas; and (B) the State of Alaska has not acted in a complementary fashion to control hunting impacts on walrus populations or to adequately limit human intrusions onto Round Island.

Response: Under the Magnuson Act, the Council and the Secretary must avoid irreversible or long-term adverse effects on all elements of the marine environment, including marine mammals and all other marine species. The 1990-91 groundfish fishery closures between 3 and 12 miles from the Twin Islands, Round Island, and Cape Peirce is implemented to monitor the effect of groundfish operations on walrus in northern Bristol Bay. This measure is being taken as a result of circumstantial evidence that suggests the reduction in the number of walrus observed in this area during 1987 and 1988 may be related to the initiation of the yellowfin sole fishery in northern Bristol Bay. This premise is supported by additional evidence acquired by the U.S. Fish and Wildlife Service that associates the March 1989 closure of the yellowfin sole fishery in northern Bristol Bay with the first observed increase in the number of walrus on Round Island since the onset of that fishery in 1987

The final rule prohibits all groundfish fishing by all gear types in the 3-12 mile "sanctuary" surrounding major walrus haulout sites in the Walrus Islands area. Although this measure preempts the yellowfin sole fishery from operating in the closed area, vessels should be able to adjust their operations to harvest the total allowable catch of yellowfin sole with little or no additional cost. As discussed in the EA/RIR/FRFA, groundfish vessels are still able to fish within northern Bristol Bay outside of the 12 mile closure where, based on 1986-88 joint venture observer data, estimates of CPUE for yellowfin sole are greater than or equal to the CPUE within the closed area. In addition, fishing for groundfish in this area may occur either before or after the closed period.

Although the State of Alaska has not instituted a prohibition of all vessel traffic within State waters surrounding major walrus haulout sites in the Walrus Islands area, it has initiated numerous restrictions in recent years to limit human disturbance to walrus in the Round Island area. In 1984, the State closed the area within 2 miles of Round Island to all vessels without a special use permit. This area was increased in 1989 to a 3-mile radius because of concern about acoustic disturbance from fishing vessels to walrus. As a matter of policy, the State does not issue special use permits to vessels used for fishing activity in this area. In addition to placing progressively more stringent limitations on access to Round Island by fishing and tourist vessels, the State has placed an overall limit of 30 visitors on the island at any one time, with no more than 15 visitors allowed to stay over night. Most access in recent years has been by boat, as opposed to sea planes, in an attempt to reduce noise around the Island. Furthermore, at the request of the State, the Federal Aeronautical Administration (FAA) recently issued a notice of airspace restriction within one-half mile of Round Island that prohibits overflights of less than 2,000 feet. The purpose of the FAA notice is to reduce disturbance due to planes associated with the herring fishery.

The yellowfin sole joint venture fishery has been the only groundfish fishery to operate in northern Bristol Bay. No shoreside processing of groundfish has occurred in this area and the Regional Director does not anticipate domestic groundfish fishing within State waters. The Regional Director will cooperate with the State to ensure that necessary action is taken if additional measures need to be implemented to protect walrus or to minimize human disturbance to the walrus environment in northern Bristol Bay.

Comment 13: Walrus populations are at very high levels in the Bering Sea. These population levels are impacting the walrus' food supply and producing natural relocations of the walrus population away from the Round Island area.

Response: Localized depletion of clams and other mollusks due to excessive predation by walrus could be a contributing factor to relocation movements of walrus from one foraging area to another. However, observations and preliminary studies by State of Alaska and U.S. Fish and Wildlife Service personnel suggest that environmental disturbances due to trawling activity in the northern Bristol Bay area may be more directly responsible for the fluctuating numbers of walrus observed in this area over the past three years. The U.S. Fish and Wildlife Service intends to monitor walrus in the Walrus Islands area over the next two years and may produce

more conclusive evidence on the effect of various natural and man-made disturbances on walrus activity and local abundance levels.

Comment 14: With respect to the Walrus Islands closures, the NMFS should consider and seek clarification about (1) criteria to be used in determining if the closure has had its desired effect, (2) the range of research and monitoring studies needed to assess the effectiveness of the proposed closures, and (3) the potential benefits to the yellowfin sole fishery of preventing harvests of spawning yellowfin sole in Togiak Bay.

Response: The Regional Director concurs that a program should be in place to monitor and assess the effect of the Walrus Islands groundfish fishery closures on the walrus population in northern Bristol Bay. Because the intent of these closures is to reduce and assess the impact of groundfish operations on walrus habitat, NMFS does not intend to conduct a specific assessment on the impact of the closures on the yellowfin sole stock.

In 1989, the U.S. Fish and Wildlife Service conducted a preliminary study on the methodology and logistics that could be used in a program developed to assess the impact of trawl groundfish operations on the northern Bristol Bay walrus population. That agency will continue to be responsible for the monitoring of walrus in this area and gathering evidence on the impact of fishing operations on walrus that are using the Round Island, Twin Islands, and Cape Peirce haulout sites.

Comment 15: With respect to the measure for new recordkeeping and reporting requirements, the NMFS should review the proposed and alternative data reporting and observer programs pertinent to the 1988 amendments to the MMPA to ascertain consistency between the two reporting programs.

Response: As mentioned above in the discussion on changes from the proposed rule in the final rule, the groundfish logbook program, as approved by the Regional Director, does not attempt to consolidate recordkeeping and reporting requirements under the MMPA and the rules implementing the Alaska groundfish FMPs. NMFS intends to pursue the consolidation of recordkeeping requirements under the MMPA and the Magnuson Act in the future to reduce the recordkeeping burden on the Alaska groundfish industry. Any future consolidation of recordkeeping requirements programs will maintain consistency between the Alaskan groundfish and marine mammal logbook programs.

Comment 16: With respect to the measure for new recordkeeping and reporting requirements, maintenance of daily fishing and processing logs should be required of all catcher/processor vessels, not just those over 5 net tons. This change would eliminate the need to prove the size of a vessel and facilitate enforcement on the smaller vessels.

Response: All domestic vessels 5 net tons and larger are required to obtain a U.S. Coast Guard Documentation Number. This number and the vessel's net tonnage are required on Federal groundfish vessel permit applications. Operators of vessels less than 5 net tons are required to report their ADF&G vessel number and net tonnage on their Federal groundfish permit applications. Thus, federal enforcement officials could verify a vessel's reported tonnage through either the Coast Guard Documentation Number or through information on the vessel's Federal groundfish permit application.

Most of the Alaskan groundfish harvest takes place within the EEZ and few vessels smaller than 5 net tons fish for groundfish outside of State waters. These vessels harvest a minimal amount of groundfish relative to larger vessels, and the burden to small vessel operators to maintain groundfish logbooks is not warranted. This determination is also consistent with the purposes of the Regulatory Flexibility Act.

Comment 17: With respect to the measure for new recordkeeping and reporting requirements, haul time and haul position should be included as log entries within two hours of the haul for use in comparing against charts, navigation logs, and other documents to facilitate enforcement.

Response: Comment noted. The recordkeeping requirements contained in the final rule do require haul times and positions to be recorded in logbooks within two hours of the haul.

Comment 18: The State of Alaska should have access to the information collected by the Alaska groundfish logbook program. The State has a vested interest in the Alaskan groundfish fisheries, and the cooperative sharing of data among Federal and State management agencies should bring more analytical resources to bear upon groundfish issues, and greatly improve the information available for decisionmaking.

Response: The Regional Director will continue to pursue the means by which the State of Alaska may gain access to the confidential information collected by the Alaska groundfish logbook program. In order for the State to have access to statutorily confidential information collected under Federal regulations, the State would need to have the independent legal authority to collect the groundfish logbooks. If the State gains such authority and the State can maintain the degree of confidentiality mandated by Federal statutes, a cooperative agreement may be drawn up that would allow the State to collect Alaska groundfish logbooks from the groundfish industry, thereby gaining access to specific logbook information.

Comment 19: It is important that the Alaska State fish ticket system be maintained for groundfish. The current fish ticket system contains important data on individual fishing operations which are not collected by the proposed logbook program.

Response: The Regional Director concurs that the Alaska State fish ticket system provides specific information on groundfish landings made by individual vessels. This information is also collected for catcher/processor vessels under the NMFS' weekly production report and the associated logbook records. The logbook program does not record specific landings information for vessels delivering to mothership processor vessels or shoreside processing facilities and NMFS will continue to rely on State fish tickets for specific landings information for these catcher vessels. NMFS is pursuing a cooperative agreement with the State of Alaska that would eliminate the need for catcher/processor vessels to submit both State fish tickets and weekly production reports. Although these vessels will be required to submit both documents under State and Federal regulations during 1990, it is anticipated that by 1991, only the weekly production report will be required under the cooperative agreement, which would give the Alaska Department of Fish and Game access to information collected on the weekly production reports.

Comment 20: The measure to establish fixed prohibited species catch limits for Pacific halibut, and thus suspend the framework for establishing these limits, should retain the criteria in existing regulations for judging the appropriateness of the prohibited species catch limits and flexibility to allow incentives for avoiding halibut.

Response: The Council reconsidered and rejected this option at its September 26–29, 1989, meeting. Because this measure expresses the prohibited species catch limits in the FMP criteria that would allow Pacific halibut bycatches to exceed the limits in the FMP would be inconsistent with the FMP Any such criteria could only be

implemented by amending the FMP or by taking emergency action. The Council considered this point when it adopted this measure at its June 1989 meeting and heard advice from the Regional Director that prohibited species catch limits would be inflexible during the effective period for this measure. The Council reconsidered this point at its September 1989 meeting and rejected the option of withdrawing this measure during the open comment period. The Secretary has approved this measure.

Classification

The Regional Director determined that the FMP amendments are necessary for the conservation and management of the groundfish fisheries in the Gulf of Alaska and in the Bering Sea/Aleutian Islands and that they are consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment (EA) for these amendments. The Assistant Administrator for Fisheries, NOAA, found that no significant impact on the quality of the environment will occur as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Under Secretary for Oceans and Atmosphere, NOAA (Under Secretary) determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the EA/RIR/FRFA prepared by the Council. A copy of the EA/RIR/FRFA may be obtained from the Council at the address above.

The Under Secretary concludes that this rule will have significant effects on a substantial number of small entities. Thus, a final Regulatory Flexibility Analysis (FRFA) has been prepared. You may obtain a copy of this analysis from the Council at the address listed above.

The Under Secretary determined that this final rule contains a collection of information requirement subject to the Paperwork Reduction Act. This collection of information requirement has been approved by the Office of Management and Budget (OMB) under Control Number 0648-0213. Most of the information collected under the recordkeeping and reporting requirements is effort, production and value information normally maintained by the groundfish vessel operators and processing plant owners for their own internal business purposes. The public recordkeeping and reporting burden for this collection of information is limited to the amount of time necessary for vessel operators and processor plant owners to transfer this information to the required logbook or report and to submit this information to the NMFS. A summary of the additional burden follows:

Additional burden is estimated to average 30 to 36 hours per year (about 10 to 13 minutes per day) for floating processors, 24 hours per year (less than 20 minutes per day) for shoreside processing plants, and 5.5 hours per year (about 10 minutes per day) for vessels harvesting groundfish. These estimates include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The final rule (§ 672.5(c)(1) and § 675.5 (c)(1)) makes a minor change to an existing regulation that requires catcher/processors and mothership processors to submit checkin/checkout reports to NMFS, Alaska Region. The burden associated with this regulation averages less than 10 minutes per response and is approved under OMB No. 0648-0213.

Send comments regarding these burden estimates or any other aspect of this collection of information, including suggestions for reducing this burden, to the NMFS at the address above, and to the Office of Information and Regulatory Affairs, Office of Management of Budget, Washington DC 20503 (Attn. NOAA Desk Officer).

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination was submitted for review by the responsible State a gencies under section 307 of the Coastal Zone Management Act. The State agencies failed to comment within the statutory time period.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Parts 611, 620, 672, and 675

Fisheries, Fishing vessels, Reporting and recordkeeping.

Dated: November 30, 1989.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 C F R Parts 611, 620, 672, and 675 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In § 611.92, paragraph (c)(2)(i) introductory text is revised to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

(c)

(2) *

(i) The catch and retention of the amount of any groundfish in the Gulf of Alaska for which a nation has an allocation is permitted during fishing seasons specified at 50 CFR 672.23, except in the following circumstances:

3. In § 611.93, revise paragraph (b)(3)(i) introductory text, redesignate paragraphs (c)(2) through (c)(4) as (c)(3) through (c)(5) and add a new paragraph (c)(2) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

*

(b)

(3) * *

(i) The catch and retention of the amount of any groundfish in the Bering Sea and Aleutian Islands management area for which a nation has an allocation is permitted during fishing seasons specified at 50 CFR 675.23, except in the following circumstances:

(c)

(2) *Fishing.* No fishing is allowed during April 1 through September 30 of each of the 1990 and 1991 fishing years in that part of the Bering Sea subarea shoreward of a line on which each point is 12 miles from the baseline used to measure the Territorial Sea around islands named Round Island and The Twins as shown on National Oceanic Survey Chart INT 500, and around Cape Peirce (160°40′ W. longitude, 58°40′ N. latitude).

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

4. The authority citation for Part 620 continues to read as follows:

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

5. Section 620.3 is amended by revising paragraph (d) as follows:

§ 620.3 Relation to other laws.

(d) *Marine mammals.* Regulations governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals are set forth at parts 216 and 229 of this title.

*

PART 672—GROUNDFISH OF THE GULF OF ALASKA

6. The authority citation for part 672 reads as follows:

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

7 In § 672.2, the definition for *Off-bottom trawl* is removed the definitions of *Statistical area* and *Pelagic trawl* are revised, new definitions for *Daily reporting period or day, Fish product weight, Processor vessel, Quarterly reporting period or quarter, Reporting area, Vessel,* and *Weekly reported period* are added in alphabetical order and the definition *Regulatory district* is amended by revising the introductory text and adding a new paragraph (4) to read as follows:

§ 672.2 Definitions.

Daily reporting period or day is the period from midnight until the following midnight using Alaska local time (ALT).

Fish product weight means the weight of the fish product to the nearest tenth of a metric ton (0.1 mt) based upon the number of production units and the weight of those units. Production units include pans, cartons, blocks, trays, cans, bags, and individually frozen fish. The weight of a production unit is based on the average weight of the product as determined by analyzing representative samples. The weight of the production unit does not include packaging. The weight of the production unit does include water added to the product and other additives reported to NMFS. NMFS may use the weight of the production units, with an allowance for water added not to exceed 5 percent of the weight of the production unit, to determine net weight and to calculate round weight equivalents.

Pelagic trawl means a trawl on which neither the net nor the trawl doors (or other trawl-spreading device) operates in contact with the seabed, and which does not have attached to it protective devices, such as rollers or bobbins, that would make it suitable for fishing in contact with the seabed.

Processor vessel, unless otherwise restricted, includes any vessel which is used for, equipped to be used for, or of a type which is normally used for processing, including specifically catcher/processor vessels and mothership processor vessels.

Quarterly reporting period or quarter means a three-month period; the first quarter is from January 1 through March 31, the second quarter is from April 1 through June 30, the third quarter is from July 1 through September 30, and the fourth quarter is from October 1 through December 31.

* *

Regulatory district means any of the three districts of the Eastern Regulatory area or the Shelikof Strait district described as follows:

(4) *Shelikof Strait district*—all waters of the EEZ enclosed by a line connecting the following points in the order listed

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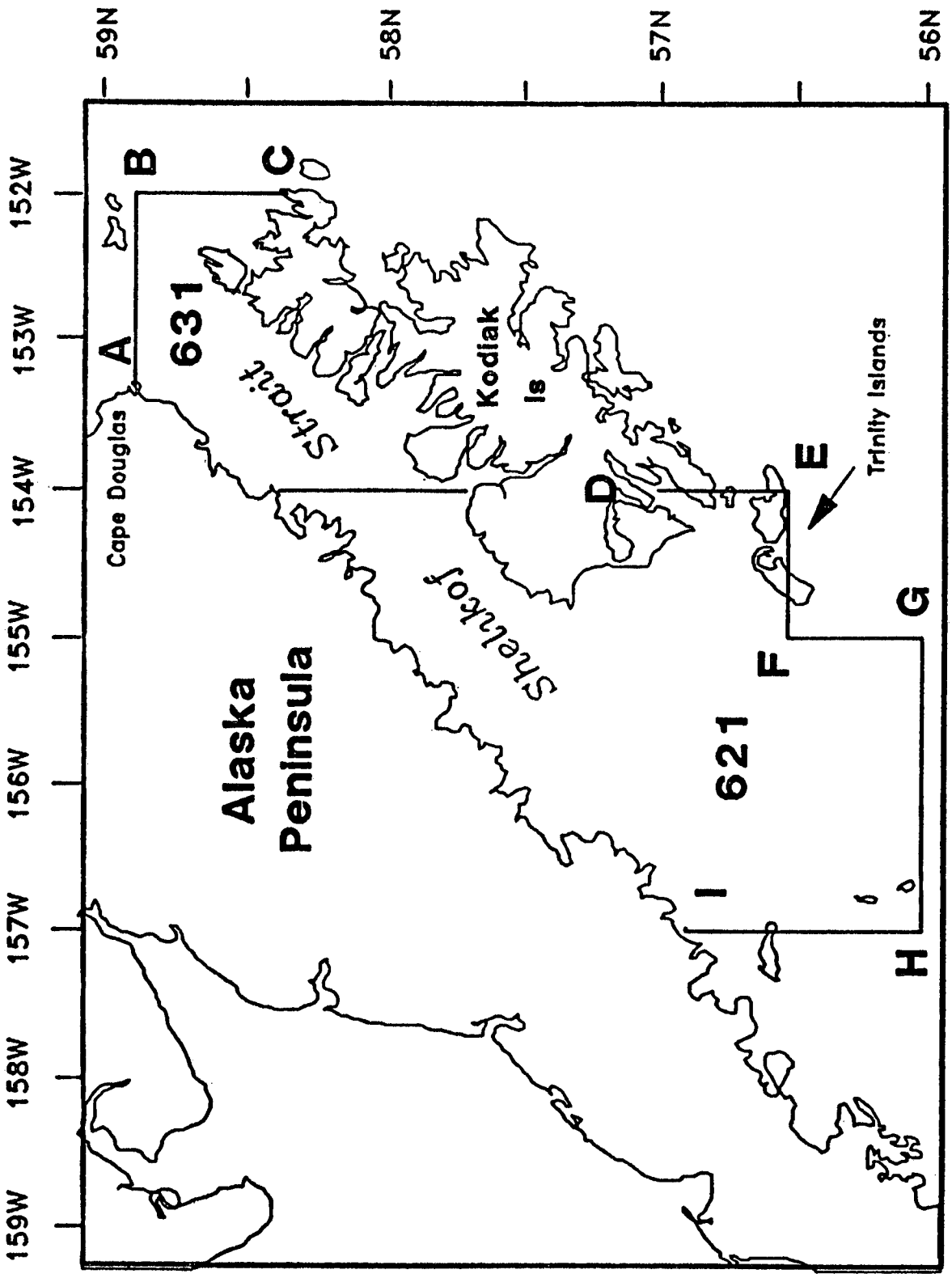

Figure 1 Boundaries of the Shelikof Strait District in the Gulf of Alaska

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Reference point	N. lat.	W. long.	Description
A	58°51' N.	153°15' W.	Cape Douglas, then east to
B	58°51' N.	152°00' W.	then south to
C			the intersection of 152°00'W. with Afognak Island, then counter clockwise around the western shorelines of Afognak, Kodiak, and Raspberry Islands to
D	57°00' N.	154°00' W.	Alitak Bay then south to
E	56°30' N.	154°00' W.	then west through Trinity Islands to
F	56°30' N.	155°00' W.	then south to
G	56°00' N.	155°00' W.	then west to
H	56°00'N.	157°00' W.	then north to
I			intersection of 157°00'W. with the Alaska Peninsula.

Reporting area means the relevant Gulf of Alaska statistical area and, in addition to the State waters described in the relevant statistical area, all State waters between the shore and any inshore boundary of that statistical area. Except for pollock, with respect to any groundfish species, any groundfish species group or any prohibited species, the relevant Gulf of Alaska statistical areas include each of the following statistical areas described below: 61, 62, 63, 64, 65, and 68. With respect to pollock, the relevant Gulf of Alaska statistical areas include each of the following statistical areas or portions of statistical areas: 61, 621, 631, 64, 65, 68, that portion of 62 outside of 621, and that portion of 63 outside of 631. A reporting area may be described by the same number or numbers used to identify the associated statistical area(s).

Statistical area means any one of the nine statistical areas of the EEZ in the Gulf of Alaska defined as follows:

(1) Statistical Area 61—between 170°00' and 159°00' W. longitudes;

(2) Statistical Area 62—between 159°00' and 154°00' W. longitudes;

(3) Statistical Area 620—Shelikof Strait district as defined by this section under the heading, "*Regulatory district.*"

(4) Statistical Area 621—that part of the Shelikof Strait District between 157°00' and 154°00' W. longitudes.

(5) Statistical Area 631—that part of the Shelikof Strait District between 154°00' and 152°00' W. longitudes.

(6) Statistical Area 63—between 154°00' and 147°00' W. longitude;

(7) Statistical Area 64—between 147°00' and 140°00' W. longitudes;

(8) Statistical Area 65—east of 137°00' W. longitude and north of 54°30' N. latitude;

(9) Statistical Area 68—between 140°00' and 137°00' W. longitudes.

*

Vessel, unless otherwise restricted, include catcher vessels and processor vessels.

Weekly reporting period means from midnight Sunday morning until midnight of the following Saturday night, Alaska local time (ALT).

8. Section 672.3 is amended by revising paragraph (b) as follows:

§ 672.3 Relation to other laws.

(b) For regulations governing foreign fishing for groundfish in the Gulf of Alaska, see 50 CFR 611.92; for those governing foreign fishing for groundfish in the Bering Sea and Aleutian Islands, see 50 CFR 611.93. For regulations governing fishing for groundfish in the Bering Sea and Aleutian Islands by vessels of the United States, see 50 CFR Part 675; for those governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals, see 50 CFR 216.24 and 50 CFR 229. For regulations governing fishing for Pacific halibut by vessels of the United States, see 50 CFR 301.

9. In § 672.5 paragraph (a) is revised, paragraph (b) is redesignated as paragraph (d) and the heading revised, and paragraph (c) is redesignated as paragraph (e); and new paragraphs (b) and (c) are added to read as follows:

§ 672.5 Recordkeeping and reporting.

(a) *Applicability and general requirements.* (1) *Applicability.* The operator of a vessel and the manager of a shoreside processing facility are each responsible for compliance with the applicable recordkeeping and reporting requirements of this section. In addition, the owner of a vessel or shoreside processing facility must ensure that the operator or manager complies with these requirements and is jointly and severally responsible for compliance. Except as otherwise provided, this section applies to all vessels required to have a Federal groundfish fishing permit under § 672.4 of this part. Except as otherwise provided, this section applies to all processor vessels and shoreside processing facilities that receive groundfish from vessels regulated under this Part. This section applies to any fishing or processing that involves any groundfish species, species group or prohibited species regulated under this Part.

(2) *General requirements.* The operators and managers of vessels and shoreside processing facilities must comply with the recordkeeping, reporting, logbook and notice requirements of this section; must maintain timely and accurate records, reports and logbooks required by this section; must maintain all required records, reports and logbooks in a legible manner and in English; and must maintain all required records, reports and logbooks based on Alaska Local Time (ALT). All reporting periods are calculated using ALT.

(3) *Requirement of availability for inspection.* The operator of a vessel and the manager of a shoreside processing facility must make available the original copy of any record, report or logbook required under this section immediately upon the request of an authorized officer or observer at any time during which the record, report or logbook is required to be maintained by the operator or manager.

(4) *Requirements related to submissions.* (i) Records and reports which are required to be submitted to the Alaska Fisheries Science Center must be addressed or delivered to the National Marine Fisheries Service, 7600 Sand Point Way NE Building 4, Seattle, Washington 98115.

(ii) Records, reports, and notices which are required to be submitted or provided to the Regional Director must be submitted or provided in the manner specified by the Regional Director.

(b) *Logbooks.* The operator of any catcher vessel 5 net tons or larger, the operator of any processor vessel, and the manager of any shoreside processing facility must meet the following recordkeeping requirements if that vessel or facility harvests or processes groundfish from any reporting area in the Gulf of Alaska:

(1) *General.*—(i) *Retention of logbook records during the fishing year.* The operator of a vessel must retain the original copy of all logbooks required under this section on board the vessel until the end of the fishing year and for as long after the end of the fishing year as fish or fish products recorded in the logbook are retained on board that vessel. The manager of each shoreside processing facility must retain the

original copy of all logbooks required under this section within the processing facility until the end of the fishing year and for as long after the end of the fishing year as fish and fish products recorded in the logbook are retained at the processing facility.

(ii) *Prescribed logbooks.* The Regional Director will prescribe and provide logbooks required under this section. The operator of a vessel and the manager of a shoreside processing facility must use these prescribed logbooks.

(iii) *Entries and alterations in logbooks.* The operator or manager must maintain and record information as required by instructions in the logbooks and in accordance with this section. No person may remove any original page of any logbook. Any entry or recording of information which is required to be made in a logbook must be made in indelible ink. No person may alter or change any entry or record in a logbook except that an inaccurate or incorrect entry or record may be corrected by lining out the original and inserting the correction, provided that the original entry or record remains legible.

(2) *Daily fishing logbook.* (i) The operator of a catcher/processor or catcher vessel harvesting groundfish from any reporting area in the Gulf of Alaska must maintain onboard a daily fishing logbook of the effort and catch information of the vessel as described in paragraph (b)(2)(ii) of this section. Daily effort entries are required for each day the vessel conducts fishing operations. Daily entries are not required for those days when the fishing vessel stays in port. The operator of a catcher/processor vessel will be provided with a daily fishing logbook that also functions as a daily cumulative production logbook required under paragraph (b)(3) of this section.

(ii) *Daily fishing logbook; contents.* (A) The daily fishing logbook must record the following effort information on a daily basis:

(*1*) The page number. This number must be consecutive beginning with page one for the first day the vessel conducted any fishing operation after the start of the fishing year and continuing throughout the logbook for the remainder of the fishing year. A separate page in the daily fishing logbook must be used for each day's fishing activity. If fishing activity is conducted with more than one gear type or in more than one reporting area during any day, a separate page in the daily fishing logbook also must be used for each gear type or reporting area.

(*2*) The date.

(*3*) The vessel's name and ADF&G vessel number.

(*4*) The reporting area where the vessel is conducting fishing activity.

(*5*) The gear type used by the vessel pelagic trawl, bottom trawl, hook and line, or pot gear).

(*6*) The signature of the operator of the vessel.

(*7*) The size if the crew.

(*8*) Daily discard amounts of each groundfish species or species group to at least the nearest tenth of a metric ton (0.1 mt) round weight, and daily discard amounts of each prohibited species listed under § 672.20(e) of this part by number, except for discard amounts of herring, which must be reported by round weight (0.1 mt).

(B) The following information must be recorded for each haul or set, as appropriate to the gear type employed:

(*1*) The trawl or set number. This number must be consecutive beginning with number one for the first haul or set of the day.

(*2*) The time at the beginning of the trawl or set.

(*3*) The position of the vessel at the beginning of the trawl or set in geographic coordinates.

(*4*) The sea depth at the beginning of the trawl or set in fathoms.

(*5*) Information concerning the gear used by the vessel. If the vessel is using longline gear, this information must include the average number of hooks or pots per skate and the number of skates used. If the vessel is using trawl gear, this information must include average trawl depth in fathoms.

(*6*) The duration of the set or trawl in minutes.

(*7*) The position of the vessel at the completion of the trawl or set in geographic coordinates.

(*8*) The estimated total weight of the catch for the trawl or set in round weight to the nearest metric ton (mt).

(iii) *Maintenance of the daily fishing logbook.* Entries in the daily fishing logbook as to trawl or set number, time, position, and estimated catch weight must be recorded within two hours after completion of the applicable trawl or set. All other information required in the daily fishing log under paragraph (b)(2)(ii) of this section must be recorded by noon of the following day.

(iv) *In all cases, upon delivery or landing; provision of discard information to processors.* Notwithstanding other time limits, all information required under paragraph (b)(2)(ii) must be recorded in the daily fishing logbook prior to the time when the vessel's catch is off-loaded. The daily discard information for each day since the previous offload must be provided to the processor receiving the catch. The processor must record this discard information in the daily cumulative production logbook and in the weekly production report.

(v) *Quarterly submission of daily fishing logbooks.* The operator of a catcher vessel or catcher/processor vessel must submit a copy of the daily fishing logbook on a quarterly basis to the Alaska Fisheries Science Center. The copy of the daily fishing logbook for fishing activities conducted during the first quarter must be submitted by May 1 of that year, for the second quarter, by August 1 of that year, for the third quarter, by November 1 of that year, and for the fourth quarter, by February 1 of the following year.

(3) *Daily cumulative production logbook. (i)* The operator of a processor vessel and the manager of a shoreside processing facility that receives or processes groundfish from any reporting area in the Gulf of Alaska must maintain on the processor vessel or within the processing facility a daily cumulative production logbook of estimated catch receipt (if applicable), species discard amounts, and retained groundfish product information as described in paragraph (b)(3)(ii) of this section. Daily entries are required for each day a processor vessel or facility receives or processes groundfish.

(ii) *Daily cumulative production logbook; contents.* (A) The daily cumulative production logbook must record the following information on a daily basis:

(*1*) The page number. This number must be consecutive beginning with page one for the first day the processor vessel or processing facility conducted any fishing or processing activity after the start of the fishing year and continuing throughout the logbook for the remainder of the fishing year. A separate page in the daily cumulative production logbook must be used for each day's entries. If fish received by the processor vessel or facility during any day are harvested with more than one gear type or are harvested from more than one reporting area, a separate page in the daily cumulative production logbook also must be used for each gear type or reporting area.

(*2*) The date.

(*3*) The name of the processing vessel or facility.

(*4*) The ADF&G vessel number or the Alaska State processor code, whichever is applicable.

(*5*) The reporting area where the groundfish was harvested.

(*6*) The gear type used to harvest the groundfish received by the processing

vessel or facility (pelagic trawl, bottom trawl, hook and line, or pot gear).

(*7*) The signature of the operator of the processing vessel or the manager of the facility.

(*8*) The number of crew or employees engaged by a processor for fishing, processing, or other activities.

(*9*) The amounts of each groundfish species, groundfish species group, and prohibited species listed under §672.20(e) of this part, that are discarded in related fishing or processing activity. These amounts should include discards reported to a processor by operators of catcher vessels under § 672.5(b)(2)(iv) of this part. Discard amounts of groundfish should be recorded to the nearest tenth of a metric ton (0.1 mt) round weight. Discard amounts for each prohibited species listed under § 672.20(e) of this part must be recorded by number, except for discard amounts of herring, which must be recorded by round weight (0.1 mt).

(*10*) Species product information for each day of processing activity. Fish product weight must be specified to the nearest tenth of a metric ton (0.1 mt). Product information must include the following information for any product resulting from the processing of any groundfish species or species group for which a total allowable catch (TAC) is specified under § 672.20 of this part:

(*i*) The product by species and product type codes.

(*ii*) The daily total amount of the product produced by species and product type codes in fish product weight.

(*iii*) The weekly total amount of the product produced by species and product type codes in fish product weight to be carried forward from the previous day. At the beginning of each weekly reporting period, the weekly total amount for each product is zero and nothing shall be carried forward from the previous weekly reporting period.

(*iv*) The updated weekly total amount of the product produced by species and product type codes in fish product weight calculated by adding the relevant daily total and the weekly total to be carried forward.

(B) The daily cumulative production logbook must record the following information for each catch receipt:

(*1*) For each groundfish set or codend received by mothership processor vessel:

(*i*) The State of Alaska fish ticket number.

(*ii*) The time when the set or codend is received.

(*iii*) The position of the mothership processor vessel in geographic coordinates when the set or codend is received.

(*iv*) The name of the catcher vessel delivering the set or codend.

(*v*) The ADF&G vessel number of the catcher vessel delivering the set or codend.

(*vi*) The estimated total weight of the set or codend in round weight to the nearest metric ton (mt).

(*2*) For each groundfish landing received by shoreside processors from catcher vessels:

(*i*) The State of Alaska fish ticket number.

(*ii*) The time when the catch is received.

(*iii*) The name of the vessel delivering the catch.

(*iv*) The ADF&G vessel number of the vessel delivering the catch.

(*v*) The estimated total weight of the catch in round weight to the nearest metric ton (mt).

(iii) *Maintenance of the Daily cumulative production logbook.* Information concerning the catch receipt number or State of Alaska fish ticket numbr, time of receipt, the name of the delivering vessel and, for mothership processor vessel, the position of that vessel and the estimated catch receipt weight, must be recorded in the daily cumulative production logbook within 2 hours after the set, codend or catch is received. All other information required in the daily cumulative production logbook under paragraph (b)(3)(ii) of this section must be recorded by noon of the day following the day the catch receipt or production occurred. Information concerning product amounts must be recorded in the daily cumulative production logbook by noon of the day following the processing of the product regardless of when the set, codend or catch is received.

(iv) *Quarterly submission of the daily cumulative production logbook.* The operator of a processor vessel or manager of a shoreside processing facility must submit a copy of the daily cumulative production logbook on a quarterly basis to the Alaska Fisheries Science Center. The copy of the daily cumulative production logbook for activities conducted during the first quarter must be submitted by May 1 of that year, for the second quarter, by August 1 of that year, for the third quarter, by November 1 of that year, and the fourth quarter, by February 1 of the following year.

(4) *Product transfer logbooks.* The operator of a processor vessel and the manager of a shoreside processing facility must record, in a separate transfer logbook, each transfer. A transfer includes any loading, offloading, shipment or receipt of any processed groundfish product, including quantities transferred outside the EEZ, within any state's territorial waters, or within the internal waters of any state or at any shoreside facility. Product transfer information must be recorded in the product transfer logbook within 12 hours of the completion of the transfer.

(i) *Product transfer logbooks; contents.* The transfer logbook must record the following information:

(A) *The page number.* This number must be consecutive beginning with page one for the first transfer occurring after the start of the fishing year and continuing throughout the logbook for the remainder of the fishing year.

(B) *The time, date and location.* This information must include the time and date when the transfer began and the time and date when it is completed. If the product transfer logbook is maintained for a processor vessel, this information must include the location of the transfer. If the processor vessel is at sea, the location of the transfer must be specified in geographic coordinates. If the processor vessel is in port, the location of the transfer must be specified by identifying that port.

(C) *Identification information.* If the product transfer logbook is maintained for a processor vessel, the identification information must include the vessel's name, the Federal permit number, the ADF&G vessel number and radio call sign. If the product transfer logbook is maintained for a shoreside processing facility, the identification information must include the name of the facility, the location of the facility, and the Alaska State Processor Code number.

(D) *Company representative information.* Company representative information must include the name of a person representing the processor vessel or facility, the telephone number for that person and either a telex or facsimile number for that person.

(E) *Transfer information.* The transfer information must include the type of transfer involved and must specify whether the transfer is a shipment of offloading or whether it is a receipt or loading.

(F) *Second party information.* Second party information must include information concerning the other parties involved in the transfer, including the name, Federal permit number and radio call sign of any vessel involved, the name of any shipping agent involved, and the name and location of any processing facility involved. If the transfer involves a shipment, the second

party information must include the destination of the carrier or vessel receiving the fish product.

(G) *The total amount of the products transferred by species code and product type in fish product weight to the nearest tenth of a metric ton (0.1 mt).* Information concerning the amount of the product must include the total number of production units transferred and the estimated weight of each production unit type.

(ii) *Submission of product transfer logbooks.* An operator of a processor vessel and a manager of a shoreside processing facility must submit a copy of the product transfer logbook to the Regional Director for each week when any product transfer activity occurred. Copies of the product transfer logbooks must be received by the Regional Director within one week after the week when the transfer occurred.

(c) *Other reporting requirements.* The operator or manager of any vessel or shoreside processor of the United States that harvests or processes groundfish caught from any reporting area in the Gulf of Alaska must, in addition to the requirements of paragraphs (a) and (b) of this section, comply with the following requirements:

(1) *Alaska groundfish check-in/check-out notices:* (i) *Requirement.* Prior to the commencement of any fishing activity in, or the receipt of any groundfish from, any Gulf of Alaska reporting area during any fishing year by any processor vessel, the operator of the vessel must provide a check-in notice to the Regional Director. Upon the completion of fishing activity in or the receipt of any groundfish from any Gulf of Alaska reporting area during any fishing year by any processor vessel, the operator of the vessel must provide a check-out notice to the Regional Director.

(ii) *Check-in/check-out notices; contents:* The notice of check-in or check-out must include the following information:

(A) The processor vessel's name, radio call sign, and, if applicable, Federal groundfish permit number;

(B) Time and date information. If the notice concerns the commencement of fishing activity or the receipt of groundfish, this information must include the time and date of when these activities will commence. If the notice concerns the completion of fishing activities or the receipt of groundfish, this information must include the time and date of when these activities ceased.

(C) Location. The reporting area and position in geographic coordinates where the fishing activity or receipt of groundfish is expected to occur or has occurred.

(iii) *Check-in/check-out notices; submission or method of providing notice.* The operator of a processor vessel required to provide a check-in or check-out notice must provide that notice through the means and in the manner prescribed by the Regional Director.

(2) *Weekly production reports.*—(i) *Requirements for processor vessels.* The operator of a processor vessel which conducts fishing activity in, or receives groundfish from, any Gulf of Alaska reporting area at any time during fishing year must submit weekly production reports. Weekly production reports are required for a processor vessel for any week during the period beginning with the date specified in the check-in notice and ending after all groundfish harvested from and fish products prepared with any groundfish harvested from any Gulf of Alaska reporting area are off-loaded. Weekly production reports are required during this period even if no groundfish is harvested or received or processed during a particular week and these weekly production reports should specify "zero" with respect to the amounts harvested, received or produced.

(iii) *Weekly production reports; contents.* The weekly production report must have a separate page for each gear type used. Each page must include the following information:

(A) The name of the person submitting the report, a telephone number for that person, and either a facsimile or telex number for that person.

(B) Identification information. If the weekly production report is submitted or a processor vessel, this information must include the name and radio call sign of that vessel. If the weekly report is submitted for a shoreside processing facility, this information must include the name of the plant.

(C) Federal permit number or Alaska State processor code, whichever is applicable.

(D) The end date of the weekly reporting period.

(E) The gear type used to harvest the groundfish catch or catch receipt (pelagic trawl, bottom trawl, hook and line, or pot gear).

(F) The reporting area or areas from which groundfish was harvested and retained during the weekly reporting period with the reporting area or areas specified for each groundfish species or species group.

(G) The number of days when fishing activities were conducted and when fish were received.

(H) The total estimated catch weight or catch receipt for each reporting area to the nearest metric ton (mt).

(I) The amount of each product by species code and product type with the amount produced during the weekly reporting period specified in fish product weight for each groundfish species or species group for which a total allowable catch is specified under § 672.20 of this part.

(J) The amount of each groundfish species, groundfish species group, or prohibited species listed under § 672.20(e) of this part, which is discarded in related fishing operations during the weekly reporting period.

(iv) *Weekly production reports; submission.* Weekly production reports must be submitted to the Regional Director. Weekly production reports must be received by the Regional Director within one week after the end of the applicable weekly reporting period.

(3) *Monthly product value report.* (i) *Requirement.* The operator of a processor vessel and the manager of a shoreside processing facility or the parent company of that vessel or facility must prepare a monthly product value report for each month the vessel or facility sells any groundfish harvested from or any fish product produced from groundfish harvested from any Gulf of Alaska reporting area.

(ii) *Monthly product value reports; contents.* The monthly product value report must contain the following information:

(A) Company representative information. This information must include the name of the person representing the processing vessel, facility or company, the telephone number for that person and either a telex or facsimile number for that person.

(B) The name of the vessel or facility.

(C) Federal permit number or Alaska State processor code, whichever is applicable.

(D) The month and year.

(E) The products sold during the monthly reporting period by species code and product type with the amount specified in fish product weight for each product type and for each groundfish species or species group for which a total allowable catch is specified under § 672.20. The size or sizes of the products sold, the grade or grades of the products sold, if applicable, and the value of the products sold must also be specified.

(iii) *Monthly product value reports; submission.* The operator of a processor vessel and the manager of a shoreside

processing facility or the parent company of that vessel or facility must submit monthly product value reports on an annual basis to the Alaska Fisheries Science Center. Monthly product value reports for a calendar year must be received by February 1 of the following year.

(d) *Groundfish utilization surveys.*

10. § 672.7 is amended by adding paragraph (d) as follows:

§ 672.7 Prohibitions.

(d) Fish for groundfish except in compliance with the terms of an observer plan as provided by § 672.27 of this part.

11. In § 672.20, paragraphs (a)(2) and (f)(1) are revised, paragraph (f)(2) is suspended from January 1, 1990, through December 31, 1990, and a new paragraph (f)(3) is added from January 1, 1990, through December 31, 1990, to read as follows:

§ 672.20 General limitations.

(a)

(2) *Total Allowable Catch (TAC).* The Secretary, after consultation with the North Pacific Fishery Management Council (Council), will specify the annual TAC for each calendar year for each target species and the "other species" category, and will apportion the TACs among DAP JVP TALFF and reserves. TACs in the target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (c)(1) of this section.

(f)

(1) *Gear closures.* (i) Trawl gear. If during the year, the Regional Director determines that the catch of halibut by vessels using trawl gear and delivering their catch to foreign vessels (JVP vessels) or vessels using trawl gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of halibut provided for under paragraph (f)(2) or (f)(3) of this section, the Regional Director will publish a notice in the **Federal Register** prohibiting fishing with trawl gear other than pelagic trawl gear for the rest of the year by DAP or JVP vessels in the area to which the PSC limit applies.

(ii) Hook-and-line and pot gear. If during the year, the Regional Director determines that the catch of halibut by vessels using hook-and-line or pot gear and delivering their catch to foreign vessels (JVP vessels) or vessels using hook-and-line or pot gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of halibut provided for under paragraph (f)(2) or (f)(3) of this section, the Regional Director will publish a notice in the **Federal Register** prohibiting fishing with hook-and-line or pot gear for the rest of the year by DAP or JVP vessels in the area to which the PSC limit applies.

(3) Pacific halibut PSC limits. (i) A PSC limit of 2,000 mt of Pacific halibut for trawl gear is established.

(ii) A PSC limit of 750 mt of Pacific halibut for hook-and-line and pot gear, combined, is established.

(iii) The Pacific halibut PSC limits established for trawl gear and for hook and line and pot gear are allocated to DAP and to JVP in proportion to the specified DAP and JVP amounts of groundfish apportionment.

12. Section 672.23 is revised to read as follows:

§ 672.23 Seasons.

(a) Fishing for groundfish during the January 1–December 31 fishing year in the statistical areas defined at § 672.2 is authorized from January 1 through December 31, subject to the other provisions of this part, except as provided in paragraph (b) of this section.

(b) Fishing for sablefish is authorized with hook-and-line gear from 12:00 noon Alaska local time on April 1 through December 31, subject to other provisions of this part.

13. In § 672.24, paragraph (c) is revised effective from January 1, 1990, through December 31, 1992 to read as follows:

§ 672.24 Gear limitations.

(c) *Trawls other than pelagic trawls.* (1) No person may trawl in waters of the EEZ within the following areas in the vicinity of Kodiak Island (see Figure 2, Area Type I) from a vessel having any trawl other than a pelagic trawl either attached or on board:

(i) *Alitak Flats and Towers Areas:* All water of Alitak Flats and the Towers Areas enclosed by a line connecting the following seven points in the order listed:

Reference point	N. lat.	W. long.	Land description
a	56°59'4"	154°31'1"	Low Cape.
b	57°00'0"	155°00'0"	
c	56°17'0"	155°00'0"	
d	56°17'0"	153°52'0"	
e	56°33'5"	153°52'0"	Cape Sitkinak.
f	56°54'5"	153°32'5"	East point of Twoheaded Island.
g	56°56'0"	153°35'5"	Kodiak Island, thence, along the coastline of Kodiak Island until intersection of
a	56°59'4"	154°31'1"	Low Cape.

(ii) *Marmot Flats Area:* All water enclosed by a line connecting the following five points in the clockwise order listed:

Reference point	N. lat.	W. long.	Land description
a	58°00'0"	152°30'0"	
b	58°00'0"	151°47'0"	
c	57°37'0"	151°47'0"	
d	57°37'0"	152°10'1"	Cape Chiniak, thence, along the coastline of Kodiak Island to
e	57°54'5"	152°30'0"	North Cape.
a	58°00'0"	152°30'0"	

(2) From February 15 to June 15, no person may trawl in waters of the EEZ within the following areas in the vicinity of Kodiak Island (see Figure 2, Area Type II) from a vessel having any trawl other than a pelagic trawl either attached or on board:

(i) *Chirikof Island Area:* All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter clockwise order listed:

Reference point	N. lat.	W. long.
a	56°07'0"	155°13'0"
b	56°07'0"	156°00'0"
c	55°41'0"	156°00'0"
d	55°41'0"	155°13'0"
a	56°07'0"	155°13'0"

(ii) *Barnabas Area:* All waters enclosed by a line connecting the following six points in the counter clockwise order listed:

Reference point	N. lat.	W. long.	Land description
a	57°00'0"	153°18'0"	Black Point.
b	56°56'0"	153°09'0"	
c	57°22'0"	152°18'5"	South Tip of Ugak Island.
d	57°23'5"	152°17'5"	North Tip of Ugak Island.
e	57°25'3"	152°20'0"	Narrow Cape, thence, along the coastline of Kodiak Island to
f	57°04'2"	153°30'0"	Cape Kasick to
a	57°00'0"	153°18'0"	Black Point, incl. inshore waters.

(3) Each person using a trawl to fish in any area limited to pelagic trawling under paragraph (c)(1) and (c)(2) of this section must maintain in working order on that trawl a properly functioning, recording net-sonde device, and must

retain all net-sonde recordings aboard the fishing vessel during the fishing year.

(4) No person using a trawl to fish in any area limited to pelagic trawling under paragraphs (c)(1) and (c)(2) of this section may allow the footrope of that trawl to be in contact with the seabed for more than 10 percent of the period of any tow, as indicated by the net-sonde device.

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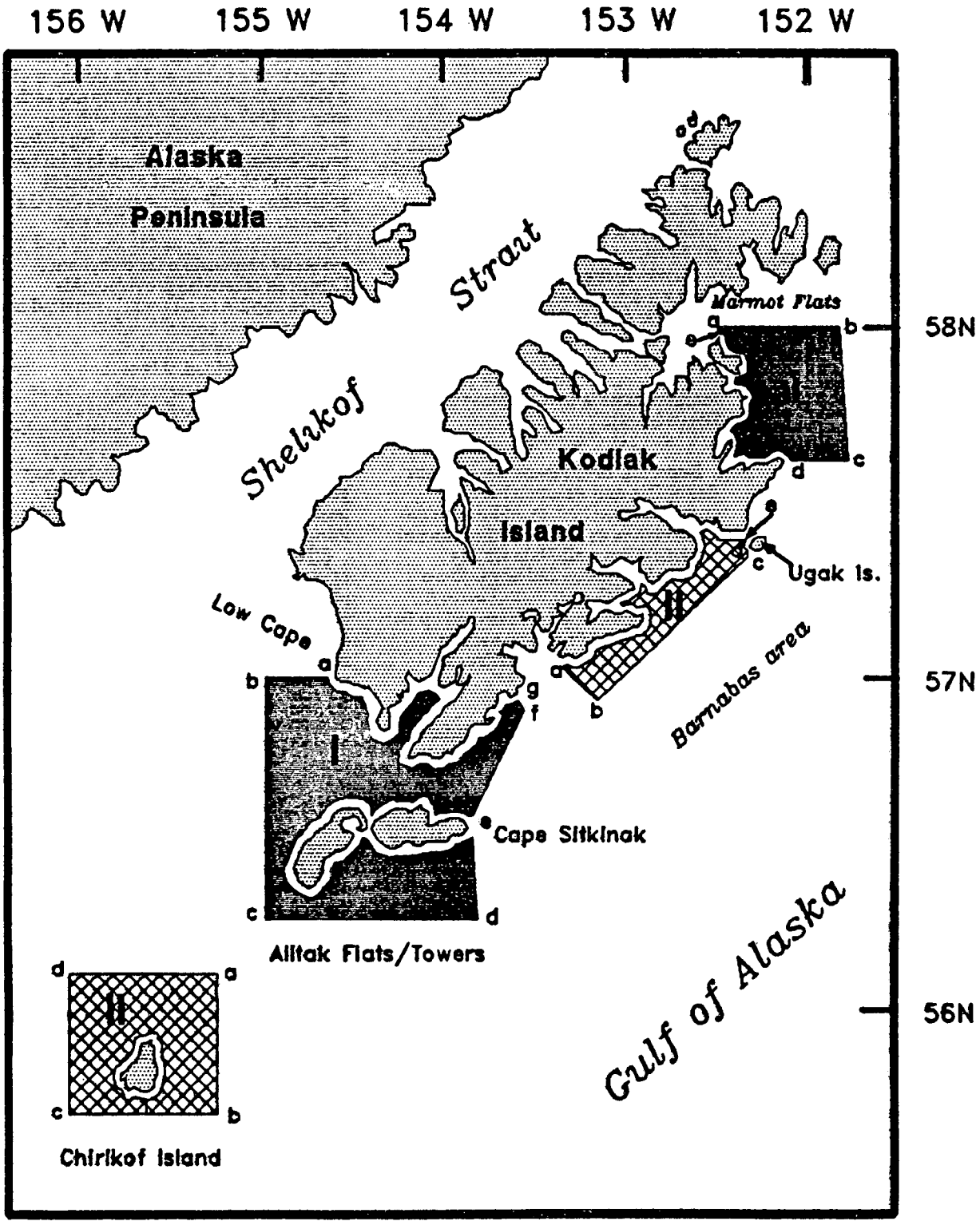

Figure 2. Areas around Kodiak Island closed to trawling except with pelagic trawls. TYPE I areas are closed year round. TYPE II areas are closed February 15 to June 15.
See section 672.24, Gear Limitations, for coordinate descriptions.

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14. § 672.27 is revised to read as follows:

§ 672.27 Observers.

All fishing vessels subject to this part and all shoreside processing facilities that receive groundfish from vessels subject to this part, must comply with terms contained in an observer plan that has been prepared by the Secretary, in consultation with the Council, for purposes of providing data useful in management of the groundfish fishery, unless specifically exempt from such compliance by the observer plan.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

15. The authority citation for Part 675 continues to read as follows:

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

16. In § 675.2, the definition for *Bottom trawl* is extended indefinitely; and new definitions for *Daily reporting period or day, Fish product weight, Pelagic trawl, Processor vessel, Quarterly reporting period or quarter, Reporting area, Vessel,* and *Weekly reporting period* are added in alphabetical order as follows:

§ 675.2 Definitions.

Bottom trawl means a trawl in which the ground rope of the net is equipped with bobbins or roller gear.

Daily reporting period or day is the period from midnight until the following midnight using Alaska local time (ALT).

Fish product weight means the weight of the fish product to the nearest tenth of a metric ton (0.1 mt) based upon the number of production units and the weight of those units. Production units include pans, cartons, blocks, trays, cans, bags, and individually frozen fish. The weight of a production unit is based on the average weight of the product as determined by analyzing representative samples. The weight of the production unit does not include packaging. The weight of the production unit does include water added to the product and other additives reported to NMFS. NMFS may use the weight of the production units, with an allowance for water added not to exceed 5 percent of the weight of the production unit, to determine net weight, and to calculate round weight equivalents.

Pelagic trawl means a trawl on which neither the net nor the trawl doors (or other trawl-spreading device) operates in contact with the seabed, and which does not have attached to it any protective devices, such as rollers or bobbins, that would make it suitable for fishing in contact with the seabed.

Processor vessel, unless otherwise restricted, includes any vessel which is used for, equipped to be used for, or of a type which is normally used for processing, including specifically catcher/processor vessels and mothership processor vessels.

Quarterly reporting period or quarter means a three month period; the first quarter is from January 1 through March 31, the second quarter is from April 1 through June 30, the third quarter is from July 1 through September 30, and the fourth quarter is from October 1 through December 31.

Reporting area means the relevant Bering Sea and Aleutian Islands statistical area and, in addition to the State waters described in the relevant statistical area, all State waters between the shore and any inshore boundary of that statistical area. A reporting area may be described by the same number or numbers used to identify the associated statistical area(s).

Vessel, unless otherwise restricted, includes catcher vessels and processor vessels.

Weekly reporting period means from midnight Sunday morning until midnight of the following Saturday night, Alaska local time (ALT).

17 Section 675.3 is amended by revising paragraph (b) as follows:

§ 675.3 Relation to other laws.

(b) For regulations governing foreign fishing for groundfish in the Gulf of Alaska, see 50 CFR Part 611.92. For regulations governing foreign fishing in the Bering Sea and Aleutian Islands area, see 50 CFR Part 611.93. For regulations concerning the conservation of halibut, see Part 301 of this chapter. For regulations governing fishing for groundfish in the Gulf of Alaska by vessels of the United States, see Part 672 of this chapter; and for those governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals, see 50 CFR 216.24 and 50 CFR 229.

18. In § 675.5, paragraph (a) is revised, paragraph (b) is redesignated as paragraph (d) and the heading revised, and new paragraphs (b) and (c) are added to read as follows:

§ 675.5 Recordkeeping and reporting.

(a) *Applicability and general requirements*—(1) *Applicability.* The operator of a vessel and the manager of a shoreside processing facility are each responsible for compliance with the applicable recordkeeping and reporting requirements of this section. In addition, the owner of the vessel or shoreside processing facility must ensure that the operator or manager complies with these requirements and is jointly and severally responsible for compliance. Except as otherwise provided, this section applies to all vessels required to have a Federal groundfish fishing permit under § 675.4 of this part. Except as otherwise provided, this section applies to all processor vessels and shoreside processing facilities that receive groundfish from vessels regulated under this Part. This section applies to any fishing or processing that involves any groundfish species, species group or prohibited species regulated under this Part.

(2) *General requirements.* The operators and managers of vessels and shoreside processing facilities must comply with the recordkeeping, reporting, logbook and notice requirements of this section, must maintain timely and accurate records, reports and logbooks required by this section, must maintain all required records, reports and logbooks in a legible manner and in English, and must maintain all required records, reports and logbooks based on Alaska Local Time (ALT). All reporting periods are calculated using ALT.

(3) *Requirement of availability for inspection.* The operator of a vessel and the manager of a shoreside processing facility must make available the original copy of any record, report or logbook required under this section immediately upon the request of an authorized officer or observer at any time during which the record, report or logbook is required to be maintained by the operator or manager.

(4) *Requirements related to submissions.* (i) Records and reports which are required to be submitted to the Alaska Fisheries Science Center must be addressed or delivered to the National Marine Fisheries Service, 7600 Sand Point Way NE Building 4, Seattle, Washington 98115.

(ii) Records, reports, and notices which are required to be submitted or provided to the Regional Director must be submitted or provided in the manner specified by the Regional Director.

(b) *Logbooks.* The operator of any catcher vessel 5 net tons or larger, the operator of any processor vessel, and

the manager of any shoreside processing facility must comply with the following recordkeeping requirements if that vessel or facility harvests or processes groundfish from any Bering Sea and Aleutian Islands reporting area:

(1) *General*—(i) *Retention of logbook records during the fishing year.* The operator of a vessel must retain the original copy of all logbooks required under this section on board the vessel until the end of the fishing year and for as long after the end of the fishing year as fish or fish products recorded in the logbook are retained on board that vessel. The manager of each shoreside processing facility must retain the original copy of all logbooks required under this section within the processing facility until the end of the fishing year and for as long after the end of the fishing year as fish and fish products recorded in the logbook are retained at the processing facility.

(ii) *Prescribed logbooks.* The Regional Director will prescribe and provide logbooks required under this section. The operator of a vessel and the manager of a shoreside processing facility must use these prescribed logbooks.

(iii) *Entries and alterations in logbooks.* The operator or manager must maintain and record information as required by instructions in the logbooks and in accordance with this section. No person may remove any original page of any logbook. Any entry or recording of information which is required to be made in a logbook must be made in indelible ink. No person may alter or change any entry or record in a logbook except that an inaccurate or incorrect entry or record may be corrected by lining out the original and inserting the correction, provided that the original entry or record remains legible.

(2) *Daily fishing logbook.* (i) The operator of a catcher/processor or catcher vessel harvesting groundfish from any Bering Sea and Aleutian Islands reporting area must maintain onboard a daily fishing log of the effort and catch information of the vessel as described in paragraph (b)(2)(ii) of this section. Daily effort entries are required for each day the vessel conducts fishing operations. Daily entries are not required for those days when the fishing vessel stays in port. The operator of a catcher/processor vessel will be provided with a daily fishing logbook that also functions as a daily cumulative production logbook required under paragraph (b)(3) of this section.

(ii) *Daily fishing logbook; contents.* (A) The daily fishing log must record the following effort information on a daily basis:

(*1*) The page number. This number must be consecutive beginning with page one for the first day the vessel conducted any fishing operation after the start of the fishing year and continuing throughout the logbook for the remainder of the fishing year. A separate page in the daily fishing logbook must be used for each day's fishing activity. If fishing activity is conducted with more than one gear type or in more than one reporting area, during any day, a separate page in the daily fishing logbook also must be used for each gear type or reporting area.

(*2*) The date.

(*3*) The vessel's name and the ADF&G vessel number.

(*4*) The reporting area where the vessel is conducting fishing activity.

(*5*) The gear type used by the vessel (pelagic trawl, bottom trawl, hook and line, or pot gear).

(*6*) The signature of the operator of the vessel.

(*7*) The size of the crew.

(*8*) Daily discard amounts of each groundfish species or species group to at least the nearest tenth of a metric ton (0.1 mt) round weight, and daily discard amounts of each prohibited species listed under § 675.20(e) of this part by number, except for discard amounts of herring, which must be reported by round weight (0.1 mt).

(B) The following information must be recorded for each haul or set, as appropriate to the gear type employed:

(*1*) The trawl or set number. This number must be consecutive beginning with number one for the first haul or set of the day.

(*2*) The time at the beginning of the trawl or set.

(*3*) The position of the vessel at the beginning of the trawl or set in geographic coordinates.

(*4*) The sea depth at the beginning of the trawl or set in fathoms.

(*5*) Information concerning the gear used by the vessel. If the vessel is using longline gear, this information must include the average number of hooks or pots per skate and the number of skates used. If the vessel is using trawl gear, this information must include average trawl depth in fathoms.

(*6*) The duration of the set or trawl in minutes.

(*7*) The position of the vessel at the completion of the trawl or set in geographic coordinates.

(*8*) The estimated total weight of the catch for the trawl or set in round weight to the nearest metric ton (mt).

(iii) *Maintenance of the daily fishing logbook.* Entries in the daily fishing logbook as to trawl or set number, time, position, and estimated catch weight must be recorded within two hours after completion of the applicable trawl or set. All other information required in the daily fishing log under paragraph (b)(2)(ii) of this section must be recorded by noon of the following day.

(iv) *In all cases, upon delivery or landing; provision of discard information to processors.* Notwithstanding other time limits, all information required under paragraph (b)(2)(ii) must be recorded in the daily fishing logbook prior to the time when the vessel's catch is off-loaded. The daily discard information for each day since the previous offload must be provided to the processor receiving the catch. The processor must record this discard information in the daily cumulative production logbook and in the weekly production report.

(v) *Quarterly submission of daily fishing logbooks.* The operator of a catcher vessel or catcher/processor vessel must submit a copy of the daily fishing logbook on a quarterly basis to the Alaska Fisheries Science Center. The copy of the daily fishing logbook or fishing activities conducted during the first quarter must be submitted by May 1 of that year, for the second quarter, by August 1 of that year, for the third quarter, by November 1 of that year, and for the fourth quarter, by February 1 of the following year.

(3) *Daily cumulative production logbook.* (i) The operator of a processor vessel and the manager of a shoreside processing facility that receives or processes groundfish from any Bering Sea and Aleutian Islands reporting area must maintain on the processor vessel or within the processing facility a daily cumulative production logbook of estimated catch receipt (if applicable), species discard amounts, and retained groundfish product information as described in paragraph (b)(3)(ii) of this section. Daily entries are required for each day a processor vessel or facility receives or processes groundfish.

(ii) *Daily cumulative production logbook; contents.* (A) The daily cumulative production logbook must record the following information on a daily basis:

(*1*) The page number. This number must be consecutive beginning with page one for the first day the processor vessel or processing facility conducted any fishing or processing activity after the start of the fishing year and continuing throughout the logbook for the remainder of the fishing year. A separate page in the daily cumulative production logbook must be used for each day's entries. If fish received by the processor vessel or facility during

any day are harvested with more than one gear type or are harvested from more than one reporting area, a separate page in the daily cumulative production logbook also must be used for each gear type or reporting area.

(*2*) The date.

(*3*) The name of the processing vessel or facility.

(*4*) The ADF&G vessel number or the Alaska State processor code, whichever is applicable.

(*5*) The reporting area where the groundfish was harvested.

(*6*) The gear type used to harvest the groundfish received by the processing vessel or facility (pelagic trawl, bottom trawl, hook and line, or pot gear).

(*7*) The signature of the operator of the processing vessel or the manager of the facility.

(*8*) The number of crew or employees engaged by a processor for fishing, processing, or other activities.

(*9*) The amounts of each groundfish species, groundfish species group, and prohibited species listed under § 675.20(c) of this part, that are discarded in related fishing or processing activity. These amounts should include discards reported to a processor by operators of catcher vessels under § 675.5(b)(2)(iv) of this part. Discard amounts of groundfish should be recorded to the nearest tenth of a metric ton (0.1 mt) round weight. Discard amounts for each prohibited species listed under § 675.20(c) of this part must be recorded by number, except for discard amounts of herring, which must be recorded by round weight (0.1 mt).

(*10*) Species product information for each day of processing activity. Fish product weight must be specified to the nearest tenth of a metric ton (0.1 mt). Product information must include the following information for any product resulting from the processing of any groundfish species or species group for which a total allowable catch (TAC) is specified under § 675.20 of this part:

(*i*) The product by species and product type codes.

(*ii*) The daily total amount of the product produced by species and product type codes in fish product weight.

(*iii*) The weekly total amount of the product produced by species and product type codes in fish product weight to be carried forward from the previous day. At the beginning of each weekly reporting period, the weekly total amount for each product is zero and nothing shall be carried forward from the previous weekly reporting period.

(*iv*) The updated weekly total amount of the product produced by species and product type codes in fish product weight calculated by adding the relevant daily total and the weekly total to be carried forward.

(B) The daily cumulative production logbook must record the following information for each catch receipt;

(*1*) For each groundfish set or codend received by mothership processor vessel:

(*i*) The State of Alaska fish ticket number.

(*ii*) The time when the set or codend is received.

(*iii*) The position of the mothership processor vessel in geographic coordinates when the set or codend is received.

(*iv*) The name of the catcher vessel delivering the set or codend.

(*v*) The ADF&G vessel number of the catcher vessel delivering the set or codend.

(*vi*) The estimated total weight of the set or codend in round weight to the nearest metric ton (mt).

(*2*) For each groundfish landing received by shoreside processors from catcher vessels:

(*i*) The State of Alaska fish ticket number.

(*ii*) The time when the catch is received.

(*iii*) The name of the vessel delivering the catch.

(*iv*) The ADF&G vessel number of the vessel delivering the catch.

(*v*) The estimated total weight of the catch in round weight to the nearest metric ton (mt).

(iii) *Maintenance of the Daily cumulative production logbook.* Information concerning the catch receipt number or State of Alaska fish ticket number, time of receipt, the name of the delivering vessel and, for a mothership processor vessel, the position of that vessel and the estimated catch receipt weight, must be recorded in the daily cumulative production logbook within 2 hours after the set, codend or catch is received. All other information required in the daily cumulative production logbook under paragraph (b)(3)(ii) of this section must be recorded by noon of the day following the day the catch receipt or production occurred. Information concerning product amounts must be recorded in the daily cumulative production logbook by noon of the day following the processing of the product regardless of when the set, codend or catch is received.

(iv) *Quarterly submission of the daily cumulative production logbook.* The operator of a processor vessel or manager of a shoreside processing facility must submit a copy of the daily cumulative production logbook on a quarterly basis to the Alaska Fisheries Science Center. The copy of the daily cumulative production logbook for activities conducted during the first quarter must be submitted by May 1 of that year, for the second quarter, by August 1 of that year, for the third quarter, by November 1 of that year, and for the fourth quarter, by February 1 of the following year.

(4) *Product transfer logbooks.* The operator of a processor vessel and the manager of a shoreside processing facility must record, in a separate transfer logbook, each transfer. A transfer includes any loading, offloading, shipment or receipt of any processed groundfish product, including quantities transferred outside the EEZ, within any state's territorial waters, or within the internal waters of any state or at any shoreside facility. Product transfer information must be recorded in the product transfer logbook within 12 hours of the completion of the product transfer.

(i) *Product transfer logbooks; contents.* The transfer logbook must record the following information:

(A) The page number. This number must be consecutive beginning with page one for the first transfer occurring after the start of the fishing year and continuing throughout the logbook for the remainder of the fishing year.

(B) The time, date and location. This information must include the time and date when the transfer began and the time and date when it is completed. If the product transfer logbook is maintained for a processor vessel, this information must include the location of the transfer. If the processor vessel is at sea, the location of the transfer must be specified in geographic coordinates. If the processor vessel is in port, the location of the transfer must be specified by identifying that port.

(C) Identification information. If the product transfer logbook is maintained for a processor vessel, the identification information must include the vessel's name, the Federal permit number, the ADF&G vessel number and radio call sign. If the product transfer logbook is maintained for a shoreside processing facility, the identification information must include the name of the facility, the location of the facility, and the Alaska State Processor Code number.

(D) Company representative information. Company representative information must include the name of a person representing the processor vessel or facility, the telephone number for that

person and either a telex or facsimile number for that person.

(E) Transfer information. The transfer information must include the type of transfer involved and must specify whether the transfer is a shipment or offloading or whether it is a receipt or loading.

(F) Second party information. Second party information must include information concerning the other parties involved in the transfer, including the name, Federal permit number and radio call sign of any vessel involved, the name of any shipping agent involved, and the name and location of any processing facility involved. If the transfer involves a shipment, the second party information must include the destination of the carrier or vessel receiving the fish product.

(G) The total amount of the products transferred by species code and product type in fish product weight to the nearest tenth of a metric ton (0.1 mt). Information concerning the amount of the product must include the total number of production units transferred and the estimated weight of each production unit type.

(ii) *Submission of product transfer logs.* An operator of a processor vessel and a manager of a shoreside processing facility must submit a copy of the product transfer logbook to the Regional Director for each week when any product transfer activity occurred. Copies of the product transfer logbooks must be received by the Regional Director within one week after the week when the transfer occurred.

(c) *Other reporting requirements.* The operator or manager of any vessel or shoreside processor of the United States that harvests or processes groundfish caught from any Bering Sea and Aleutian Islands reporting area must, in addition to the requirements of paragraphs (a) and (b) of this section, comply with the following requirements:

(1) *Alaska groundfish check-in/check-out notices:* (i) *Requirement.* Prior to the commencement of any fishing activity in, or the receipt of any groundfish from, any Bering Sea and Aleutian Islands reporting area during any fishing year by any processor vessel, the operator of the vessel must provide a check-in notice to the Regional Director. Upon the completion of fishing activity in or the receipt of any groundfish from any Bering Sea and Aleutian Islands reporting area during any fishing year by any processor vessel, the operator of the vessel must provide a check-out notice to the Regional Director.

(ii) *Check-in/check-out notices; contents:* The notice of check-in or check-out must include the following information:

(A) The processor vessel's name, radio call sign, and, if applicable, Federal groundfish permit number;

(B) Time and date information. If the notice concerns the commencement of fishing activity or the receipt of groundfish, this information must include the time and date of when these activities will commence. If the notice concerns the completion of fishing activities or the receipt of groundfish, this information must include the time and date of when these activities ceased.

(C) Location. The reporting area and position in geographic coordinates where the fishing activity or receipt of groundfish is expected to occur or has occurred.

(iii) *Check-in/check-out notices; submission or method of providing notice.* The operator of a processor vessel required to provide a check-in or check-out notice must provide that notice through the means and in the manner prescribed by the Regional Director.

(2) *Weekly production reports*—(i) *Requirements for processor vessels.* The operator of a processor vessel which conducts fishing activity in, or receives groundfish from, any Bering Sea and Aleutian Islands reporting area at any time during a fishing year must submit weekly production reports. Weekly production reports are required for a processor vessel for any week during the period beginning with the date specified in the check-in notice and ending after all groundfish harvested from and fish products prepared with any goundfish harvested from any Bering Sea and Aleutian Islands reporting area are off-loaded. Weekly production reports are required during this period even if no groundfish is harvested or received or processed during a particular week and these weekly production reports should specify "zero" with respect to the amounts harvested, received or produced.

(ii) *Weekly production reports; requirements for shoreside processors.* The manager of a shoreside processing facility must submit weekly production reports beginning with the first week of the year when the facility receives any groundfish from a Bering Sea and Aleutian Islands reporting area and continuing until the end of the year or until the facility ceases groundfish production for the year. Weekly production reports are required during this period even if no groundfish is received or processed during a particular week and these weekly production reports should specify "zero with respect to the amounts harvested, received or produced.

(iii) *Weekly production reports; contents.* The weekly production report must have a separate page for each gear type used. Each page must include the following information:

(A) The name of the person submitting the report, a telephone number for that person, and either a facsimile or telex number for that person.

(B) Identification information. If the weekly production report is submitted for a processor vessel, this information must include the name and radio call sign of that vessel. If the weekly report is submitted for a shoreside processing facility, this information must include the name of the plant.

(C) Federal permit number or Alaska State processor code, whichever is applicable.

(D) The end date of the weekly reporting period.

(E) The gear type used to harvest the groundfish catch or catch receipt (pelagic trawl, bottom trawl, hook and line, or pot gear).

(F) The reporting area or areas from which groundfish was harvested and retained during the weekly reporting period with the reporting area or areas specified for each groundfish species or species group.

(G) The number of days when fishing activities were conducted and when fish were received.

(H) The total estimated catch weight or catch receipt for each reporting area to the nearest metric ton (mt).

(I) The amount of each product by species code and product type with the amount produced during the weekly reporting period specified in fish product weight for each groundfish species or species group for which a total allowable catch is specified under § 675.20 of this part.

(J) The amount of each groundfish species, groundfish species group, or prohibited species listed under § 675.20(c) of this part, which is discarded in related fishing operations during the weekly reporting period.

(iv) *Weekly production reports; submission.* Weekly production reports must be submitted to the Regional Director. Weekly production reports must be received by the Regional Director within one week after the end of the applicable weekly reporting period.

(3) *Monthly product value report*—(i) *Requirement.* The operator of a processor vessel and the manager of a shoreside processing facility or the parent company of that vessel or facility

must prepare a monthly product value report for each month the vessel or facility sells any groundfish harvested from or any fish product produced from groundfish harvested from any Bering Sea and Aleutian Islands reporting area.

(ii) *Monthly product value reports; contents.* The monthly product value report must contain the following information:

(A) Company representative information. This information must include the name of the person representing the processing vessel, facility or company, the telephone number for that person and either a telex or facsimile number for that person.

(B) The name of the vessel or facility.

(C) Federal permit number or Alaska State processor code, whichever is applicable.

(D) The month and year.

(E) The products sold during the monthly reporting period by species code and product type with the amount specified in fish product weight for each product type and for each groundfish species or species group for which a total allowable catch is specified under § 675.20. The size or sizes of the products sold, the grade or grades of the products sold, if applicable, and the value of the products sold must also be specified.

(iii) *Monthly product value reports; submission.* The operator of a processor vessel and the manager of a shoreside processing facility or the parent company of that vessel or facility must submit monthly product value reports on an annual basis to the Alaska Fisheries Science Center. Monthly product value reports for a calendar year must be received by February 1 of the following year.

(d) *Groundfish utilization surveys.*

19. Section 675.7 is amended by adding paragraph (d) as follows:

§ 675.7 Prohibitions.

(d) Fish for groundfish except in compliance with the terms of an observer plan as provided by § 675.25 of this part.

20. In § 675.20, paragraph (a)(2) is revised to read as follows:

§ 675.20 General limitations.

(a)

(2) *Total Allowable Catch (TAC).* The Secretary, after consultation with the North Pacific Fishery Management Council (Council), will specify the annual TAC for each calendar year for each target species and the "other species" category, and will apportion the TACs among DAP JVP TALFF and reserves. TACs in the target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (b) of this section. The sum of the TACs so specified must be within the OY range of 1.4–2.0 million mt for target species and the "other species" category.

21. In § 675.22, paragraph (f) is added to read as follows:

§ 675.22 Time and area closures.

(f) No fishing is allowed during April 1 through September 30 of each of the 1990 and 1991 fishing years in that part of the Bering Sea subarea shoreward of a line on which each point is 12 miles from the base line used to measure the Territorial Sea around islands named Round Island and The Twins as shown on National Oceanic Survey Chart INT 500, and around Cape Peirce (160°10′ W longitude, 58°40′ N. latitude).

22. § 675.23 is added as follows:

§ 675.23 Seasons.

Fishing for groundfish during the January 1–December 31 fishing year in the statistical areas defined at § 675.2 of this part is authorized from January 1 through December 31, subject to other provisions of this part.

23. Section 675.24 is added to read as follows:

§ 675.24 Gear allocations.

Vessels using gear types other than those specified by paragraphs (a) and (b) of this section, must treat sablefish as a prohibited species.

(a) In the Bering Sea subarea, defined at § 675.2 of this part, hook-and-line and pot gear may be used to take up to 50 percent of the TAC for sablefish; trawl gear may be used to take up to 50 percent of the TAC for sablefish.

(b) In the Aleutian Islands subarea, defined at § 675.2 of this park, hook-and-line and pot gear may be used to take up to 75 percent of the TAC for sablefish; trawl gear may be used to take up to 25 percent of the TAC for sablefish.

(c) Sablefish closures. (1) When the Regional Director determines that the share of the sablefish TAC assigned to any type of gear for any year and any subarea under this paragraph may be taken before the end of that year, the Regional Director, in order to provide adequate bycatch amounts to ensure continued groundfish fishing activity by that gear group, will, by notice in the **Federal Register**, prohibit directed fishing for sablefish by persons using that type of gear in that subarea for the remainder of the year.

(2) When the Regional Director determines that the share of the sablefish TAC assigned to any type of gear for any year and any subarea under this paragraph is or will be reached, the Regional Director will, by notice in the **Federal Register**, require that sablefish be treated as a prohibited species by persons using that type of gear in that subarea for the remainder of that year.

24. Section 675.25 is added to read as follows:

§ 675.25 Observers.

All fishing vessels subject to this part and all shoreside processor facilities that receive groundfish from vessels subject to this part, must comply with terms contained in an observer plan that has been prepared by the Secretary in consultation with the Council for purposes of providing data useful in management of the groundfish fishery, unless specifically exempt from such compliance by the observer plan.

[FR Doc. 89–28388 Filed 12–1–89; 11:07 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 233
Wednesday, December 6, 1989

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-219-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which would require repetitive inspections for cracks in the wing top skins, and repair, if necessary. This proposal is prompted by the results of the manufacturer's full-scale fatigue testing which revealed cracks in the wing top skin center and front spar joints between Ribs 1 and 7 due to shear stresses from landing gear loads. This condition, if not corrected, could result in reduced structural capability of the wings.

DATE: Comments must be received no later than January 27 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-219-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: 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.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comment to Docket Number 89-NM-219-AD. The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Génerale de L Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300 series airplanes. During full-scale fatigue testing, the manufacturer discovered cracks in the wing top skin center and front spar joints between Ribs 1 and 7 The cracks started in clearance fit fastener holes in skin-to-spar joints due to shear stresses from landing gear loads. Additionally, cracks have been found in this area of the top skin on six Model A300 B2 series airplanes in service. These cracks may also be associated with high landing gear loads. This condition, if not corrected, could lead to reduced structural capability of the wings.

Airbus Industrie has issued Service Bulletin A300-57-158, dated June 10, 1989, which describes procedures for repetitive inspections to detect cracks in the wing top skins, and repair, if necessary. The DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 89-109-097(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive inspections to detect cracks in the wing top skins, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 2 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 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 the AD on U.S. operators is estimated to be $160.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the

regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2-1C, B2K-3C, and B2-203 series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

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

A. Perform a close visual inspection of the wing top skins in the areas bounded by the front and rear spars between Ribs 1 and 7 paying particular attention to the immediate vicinity of the center spar position, in accordance with Airbus Industrie Service Bulletin A300-57-158, dated June 10, 1989, as follows:

1. For airplanes that have accumulated less than 10,000 landings, the initial inspection must be performed prior to the accumulation of 12,000 landings.

2. For airplanes that have accumulated at least 10,000 landings, but not more than 15,000 landings, the initial inspection must be performed within 2,000 landings after the effective date of this AD.

3. For airplanes that have accumulated 15,000 or more landings, the initial inspection must be performed within 1,000 landings after the effective date of this AD.

B. If no cracks are found, repeat the inspection at intervals not to exceed 3,000 landings.

C. If cracks are found or suspected, confirm the finding by eddy current inspection, and repair, prior to further flight, in a manner approved by the Manager, Standardization Branch, ANM-113, Northwest Mountain Region. Repeat the inspections at intervals not to exceed 3,000 landings.

D. 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 will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

E. 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 request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-28443 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-220-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which would require repetitive ultrasonic inspections to detect cracks in the front and rear spar bottom boom inboard and outboard of Rib 9, and repair, if necessary. This proposal is prompted by fatigue testing by the manufacturer, which revealed cracks emanating from bolt holes inboard and outboard of Rib 9 on the front and rear spar bottom booms. This condition, if not corrected, could lead to reduced structural capability of the wings.

DATE: Comments must be received no later than January 27 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-220-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: 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.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-220-AD. The post card will be date/time stamped and returned to the commenter.

Discussion

The Direction Génerale de L Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300 series airplanes. The manufacturer reported that, during full-scale fatigue tests, cracks were found emanating from bolt holes inboard and outboard of Rib 9 on the front and rear spar bottom booms. This condition, if not corrected, could lead to

reduced structural capability of the wing.

Airbus Industrie has issued Service Bulletin A300-57-152, dated November 30, 1988, which describes procedures for repetitive ultrasonic inspections for cracks in the bolt holes in the front and rear spar bottom boom inboard and outboard of Rib 9, and repair, if necessary. The DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 89-109-097(B), dated July 19, 1989, addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive ultrasonic inspections to detect cracks in the bolt holes in the front and rear spar bottom boom inboard and outboard of Rib 9, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 66 airplanes of U.S. registry would be effected by this AD, that it would take approximately 14 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 the AD on U.S. operators is estimated to be $36,960.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

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

Airbus Industrie: Applies to Model A300 series airplanes, as listed in Airbus Industrie Service Bulletin A300-57-152, dated November 30, 1988, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the wing, accomplish the following:

A. Perform an ultrasonic inspection of the front and rear spar bottom boom inboard and outboard of Rib 9, in accordance with Airbus Industrie Service Bulletin A300-57-152, dated November 30, 1988.

1. Perform the initial and repetitive inspections as follows:

a. For airplanes that have accumulated less than 22,000 landings, perform the initial inspection prior to the accumulation of 24,000 landings. Repeat the inspection at intervals not to exceed 9,000 landings.

b. For airplanes that have accumulated 22,000 or more landings but less than 27,000, perform the initial inspection within 2,000 landings after the effective date of this AD. Repeat the inspection at intervals not to exceed 9,000 landings.

c. For airplanes that have accumulated 27,000 or more landings, perform the initial inspection within 1,000 landings after the effective date of this AD. Repeat the inspection at intervals not to exceed 9,000 landings.

2. If cracks are found, repair prior to further flight in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region. Repetitive inspections must be conducted thereafter in accordance with paragraph A.1., above.

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, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

C. 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 request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-28444 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-218-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notices proposes to adopt a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which would require repetitive visual or high frequency eddy current inspections to detect cracks in the wing bottom skin in the area of the magnetic level indicator (MLI) and slat can drains between Ribs 8 and 9. This proposal is prompted by the manufacturer's full-scale fatigue testing which revealed cracks emanating from either the peripheral bolt holes or the larger central holes of the MLI's and also the peripheral bolt holes or central holes of the slat can drains. This condition, if not corrected, could result in reduced structural capability of the wings.

DATE: Comments must be received no later than January 27 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-218-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA,

Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 431-1918. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: 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.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 89-NM-218-AD." The postcard will be date/time stamped and returned to the commenter.

Discussion

The Direction Générale de L Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300 series airplanes. During full-scale fatigue testing, the manufacturer discovered cracks in the area of the magnetic level indicators (MLI) and slat can drains between Ribs 8 and 9. The cracks were found emanating from either the peripheral bolt holes or the larger central holes of the MLI's, and also from the peripheral bolt holes or central holes of the slat can drains. This condition, if not corrected, could result in reduced structural capability of the wings.

Airbus Industrie has issued Service Bulletin A300-57-153, dated November 30, 1988, which describes procedures for repetitive visual or high frequency eddy current (HFEC) inspections to detect cracks in the wing bottom skin at MLI and slat can drain holes between Ribs 8 and 9, and repair, if necessary. The DGAC has classified this service bulletin as mandatory, and has issued Airworthiness Directive 89-109-097(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require repetitive visual or HFEC inspections to detect cracks in the wing bottom skin at MLI and slat can drain holes between Ribs 8 and 9, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 66 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 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 the AD on U.S. operators is estimated to be $7,920.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 series airplanes, as listed in Airbus Industrie Service Bulletin A300-57-153, dated November 30, 1988, certificated in any category. Compliance is required as indicated, unless previously accomplished.

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

A. Perform a visual or high frequency eddy current (HFEC) inspection of the wing bottom skin at magnetic level indicator (MLI) and slat can drain holes between Ribs 8 and 9, in accordance with Airbus Industrie Service Bulletin A300-57-153, dated November 30, 1988, as follows:

1. Model A300 B2 series airplanes:

a. For airplanes that have accumulated less than 19,000 landings, the initial inspection must be performed prior to the accumulation of 21,000 landings.

b. For airplanes that have accumulated at least 19,000 landings but not more than 24,000 landings, the initial inspection must be performed within 2,000 landings after the effective date of this AD.

c. For airplanes that have accumulated more than 24,000 landings, the initial inspection must be performed within 1,000 landings after the effective date of this AD.

2. Model A300 B4-100 and B4-2C series airplanes:

a. For airplanes that have accumulated less than 16,000 landings, the initial inspection must be performed prior to the accumulation of 18,000 landings.

b. For airplanes that have accumulated at least 16,000 landings, but not more than 20,000 landings, the initial inspection must be performed within 1,500 landings after the effective date of this AD.

c. For airplanes that have accumulated more than 20,000 landings, the initial inspection must be performed within 750 landings after the effective date of this AD.

3. Model A300 B4-200 series airplanes:

a. For airplanes that have accumulated less than 12,000 landings, the initial inspection must be performed prior to the accumulation of 14,000 landings.

b. For airplanes that have accumulated at least 12,000 landings, but not more than 16,000 landings, the initial inspection must be performed within 1,500 landings after the effective date of this AD.

c. For airplanes that have accumulated more than 16,000 landings, the initial inspection must be performed within 750 landings after the effective date of this AD.

B. If no cracks are found, repeat the inspections required by paragraph A., above, at the following intervals:

1. For Model A300 B2 series airplanes:

a. If the immediately preceding inspection was performed visually, the next inspection must be performed within 3,300 landings.

b. If the immediately preceding inspection was performed using HFEC, the next inspection must be performed within 7,000 landings.

2. For Model A300 B4-100 and B4-2C series airplanes.

a. If the immediately preceding inspection was performed visually, the next inspection must be performed within 3,000 landings.

b. If the immediately preceding inspection was performed using HFEC, the next inspection must be performed within 6,000 landings.

3. For Model A300 B4-200 series airplanes:

a. If the immediately preceding inspection was performed visually, the next inspection must be performed within 1,700 landings.

b. If the immediately preceding inspection was performed using HFEC, the next inspection must be performed within 4,600 landings.

C. If cracks are found, repair prior to further flight in a manner approved by the Manager, Standardization Branch ANM-113, FAA Northwest Mountain Region. Repeat inspections thereafter at intervals specified in paragraph B., above.

D. 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 will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

E. 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 request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-28445 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 89-NM-211-AD]

Airworthiness Directives; Boeing Model 767 -200 and -300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which would require the installation of a mechanical power transfer unit (PTU) system between the left and right hydraulic systems of each airplane. This proposal is prompted by analysis which indicates that airplane pitch control capability is marginal with adverse center-of-gravity (CG) and gross weight combinations when both left and center hydraulic systems become inoperative. This condition, if not corrected, could result in insufficient pitch control maneuvering capability in certain combinations of operational parameters of airspeed, weight, and CG.

DATE: Comments must be received no later than January 27 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-211-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. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn M. Dail, 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: 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.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-211-AD. The post card will be date/time stamped and returned to the commenter.

Discussion

The FAA has determined that the loss of both the left (L) and center (C) hydraulic systems on Model 767 series airplanes could result in a condition where pitch control would be marginal for certain center-of-gravity (CG) and gross weight combinations. Insufficient pitch control capability would result from the loss of stabilizer trim, a condition which would result in the stabilizer trim remaining in its last commanded position. This condition if not corrected, can result in a significant reduction in elevator effectiveness at certain trim positions, and could result in insufficient pitch control maneuvering capability in certain combinations of operational parameters of airspeed, weight, and CG.

As of this date, there has not been a single event of hydraulic failure resulting in the loss of both the left and center hydraulic systems. However, the FAA has determined that the addition of the power transfer (PTU) unit system will provide an additional hydraulic power source for stabilizer pitch control and landing flare capability. The PTU system adds the right hydraulic system

as a third power source for the stabilizer to provide stabilizer trim capability if either low pressure of the left and the center hydraulic systems, or low quantity of the left and low pressure of the center hydraulic systems should occur in flight. Also, the PTU system preserves the left system elevators for additional pitch capability if there is a loss in the left hydraulic system downstream of the isolation shutoff valve.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767-29A0039, dated May 11, 1989, which describes procedures to install a hydraulic power transfer unit system and associated components on certain airplanes.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of the hydraulic system in accordance with the service bulletin previously described (for those airplanes listed in the service bulletin), or in a manner approved by the Manager, Seattle Aircraft Certification Office (for all other affected airplanes).

A revision to the service bulletin is being prepared which will add the remaining airplanes to the effectivity. Once that revision is issued and aproved, the FAA may consider revising this action to include it as a source of service information.

There are approximately 245 Boeing Model 767-200 and 767-300 series airplanes of the affected design in the worldwide fleet. It is estimated that 106 airplanes of U.S. registry would be affected by this AD, that it would take approximately 130 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Parts would be provided to operators at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $551,200.

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, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[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. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 767-200 and 767-300 series airplanes on which Production Revision Release (PRR) B-11777 has not been incorporated, certificated in any category. Compliance required within 18 months after the effective date of this AD, unless previously accomplished.

To prevent the loss of stabilizer trim and decreased pitch control authority, accomplish the following:

A. For airplanes identified in Boeing Alert Service Bulletin 767-29A0039, dated May 11, 1989: Install the hydraulic power transfer unit system with its associated components in accordance with the procedures outlined in that service bulletin.

B. For all other airplanes: Install a hydraulic power transfer unit system with its associated components in accordance with the procedures approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Moutain Region.

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, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Seattle 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 request to Boeing Commercial Airplanes, P.O. Box 3707 Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on November 27 1989.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-28442 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 817

Availability of Petition to Initiate Rulemaking on Surface Coal Mining and Reclamation Operations; Permanent Program Performance Standards for Underground Mining Activities

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

ACTION: Notice of availability of a petition to initiate rulemaking and request for comment.

SUMMARY: The Office of Surface Mining Reclamation and enforcement (OSM) of the United States Department of the Interior (DOI) seeks comments concerning the rule change suggested in a petition, submitted pursuant to the Surface Mining Control operations at surface coal mines.

The petitioner suggests that OSM amend its rules by revising 30 CFR 817.62 and 30 CFR 817.67 to provide increased protection from blasting damage outside the permit area than is afforded under the current rules. OSM is requesting comments on the merits of the petition and the rule changes suggested in the petition.

Such comments will assist the Director of OSM in making the decision whether to grant or deny the petition.

DATE: OSM will accept written comments on the petition until 5 p.m. Eastern time on January 5, 1990.

ADDRESSES: Mail comments on proposal to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131A,

1951 Constitution Avenue, NW., Washington, DC. 20240; or hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L. St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dermot W. Winters, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202-343-1928 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments on the suggested changes should be specific, should be confined to issues pertinent to the proposed revisions, and should explain the reason for the comment. Where practicable, commenters should submit three copies of their comments. Comments received after the close of the comment period (see "DATES") or delivered to an address other than those listed (see "ADDRESSES") may not necessarily be considered or included in the Administrative Record on the petition.

Availability of Copies

Additional copies of the petition and copies of 30 CFR Part 817 are available for inspection and may be obtained at the location listed under ADDRESSES"

Public Hearing

OSM will not hold a public hearing on the proposed revision, but OSM personnel will be available to meet with the public during business hours, 9 a.m. to 5 p.m., during the comment period. In order to arrange such a meeting, call or write to the person identified under "FOR FURTHER INFORMATION CONTACT.

II. Background and Substance of Petition

OSM received a letter dated November 1, 1989, from Ms. Shirley Zell and Mr. John Albrecht of Clinton, Indiana petitioning for rulemaking to revise 30 CFR 817.62 and 30 CFR 817.67 Ms. Zell and Mr. Albrecht recommend the present regulatory language be replaced with the revised language provided in their petition. Ms. Zell and Mr. Albrecht contend that the existing rules have an inappropriate scientific basis and do not provide adequate protection for older structures from airblast and ground motion due to cast blasting, especially when such structures are built on glacial or other poorly consolidated deposits and/or overlie abandoned underground mine workings. Older structures are defined as being more than 20 years old and built with walls and ceilings of plaster-on-lath rather than gypsumboard drywall.

SMCRA was signed into law on August 3, 1977 Section 515(b)(15) of the Act contains the Statutory requirements governing blasting operations at surface coal mines. The current regulations implementing these requirements were published in final on March 8, 1983 (48 FR 9809).

Under section 201(g) of SMCRA, any person may petition the Director of OSM to initiate a proceeding for the issuance, amendment, or repeal of any of the regulations implementing SMCRA. Under the applicable regulations for rulemaking petitions, 30 CFR 700.12, this notice seeks public comment on the merits of the petition and on the rule changes suggested in the petition.

At the close of the comment period, a decision will be made whether to grant or deny the petition. Under 30 CFR 700.12, the Director shall issue a written decison either granting or denying the petition within 90 days of the date of its receipt. Soon thereafter, notice of that decision will be published in the **Federal Register**. If the petition is granted, rulemaking proceedings will be initiated in which public comment will again be sought before any final rulemaking notice appears. If the petition is denied, no further rulemaking action will occur pursuant to the petition.

III. Procedural Matters

Publication of this notice of the receipt of the petition for rulemaking is a preliminary step in the rulemaking process. If a decision is made to grant the petition, a formal rulemaking process will be initated. Thus, no regulatory flexibility analysis is needed at this stage, nor is a regulatory impact analysis necessary under Executive Order 12291.

Publication of this notice does not constitute a major Federal action having a significant effect on the human environment for which an environmental impact statement under the National Environmental Policy Act, 44 U.S.C. 4322(2)(C), is needed.

List of Subjects in 30 CFR Part 817

Environmental protection, Reporting and recordkeeping requirements, Surface Mining Reclamation and Enforcement Office, Underground mining.

Dated: November 29, 1989.

Harry M. Snyder,

Director.

Appendix

The text of the petition dated November 1, 1989, from Ms. Shirley Zell and Mr. John Albrecht, is as follows:

BEFORE THE DIRECTOR OF THE OFFICE OF SURFACE MINING

PETITION TO AMEND RULES:

§ 817.62 Use of Explosives: Preblasting Survey

§ 817.67 Use of Explosives: Control of Adverse Effects

Pursuant to "The Surface Mining Control and Reclamation Act of 1977" Public Law 95-87 Section 201(g) this is a petition to request amendments to Sections 817.62 and 817.67 of the "code of federal regulations.

Section 817.67 (a) General requirements. Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of surface or ground water outside the permit area.

The Federal regulations under 30 CFR 817.61 through 817.68 were developed for comparatively undisturbed geologic conditions. These regulations do not contain sound technical parameters regarding blast vibrations, frequency, long durations, structure response, long-term blasting vibration effects and the impacts and relationships between vibration and subsidence on houses.

Coal Industry is using new methods, such as cast blasting which was not the technique being used when research was done that the current regulations were based on. Cast blasting is a type of blast in which the energy from the blast is used to cast and fragment the shot material as opposed to just fragmenting as in a conventional shot. Cast blasting is helping operators increase production rates at their mines, while lowering stripping costs. One characteristic of cast blasting is that very large amounts of explosives per delay are utilized. The damage criteria was developed to quantify the response of and damage to residential type structures from small to intermediate sized blasts. Cast blasts can not be defined as small to intermediate sized blasts. There are still no clear-cut formulas to assure that the blaster can design a successful cast. Cast blasting produces a high amount of air overpressure. You can not compare ground vibrations or airblast from cast blasting to those of conventional blasting. A scientific study is needed analyzing waveforms recorded during conventional and cast blasting.

Low-level blasting vibrations are suspected to have the potential for accelerating subsidence. The effects of low-level blasting vibrations on subsidence-prone areas need to be investigated.

The current blasting standards need to be reduced immediately for the protection of people and property. Few experiences affect the average citizen more significantly than

the experience of having a surface coal mine operation next to your community. The Constitution of the United States of America gives citizens a right to life, liberty, and property. Should the blasting standards remain static, their inadequacies will continue to produce problems for all parties involved.

Dated: November 1, 1989.

Respectfully submitted,

Shirley Zell

—John Albrecht

PROPOSED AMENDMENTS TO THE SURFACE MINE BLASTING PERFORMANCE STANDARDS OF 30 CFR 817.62 AND 817.67

§ 817.62 Use of explosives: Preblasting survey.

(a) At least thirty (30) days before initiation of blasting in a permit area, the operator shall notify, in writing, all residents or owners of structures located within one (1) mile of the permit area how to request a preblast or condition survey.

(b) On the written request to the regulatory authority or the operator by a resident or owner of a dwelling or structure that is located within one (1) mile of any part of the permit area, or within an area determined by the regulatory authority to be appropriate in a particular situation on the basis of complaints or other information received by the regulatory authority, the operator shall promptly conduct a survey of the dwelling or structure and promptly submit a report of the survey to the regulatory authority and to the person requesting the survey. For any structure where, in accordance with this section, a survey has been requested by a previous resident or previous owner and the survey has been conducted by the operator and copies of the survey report have been provided to the previous owner or resident and the regulatory authority, the operator shall only be required to provide a copy of the previously completed survey report to any new or subsequent owner upon written request by the new or subsequent owner. If a structure is renovated or added to, subsequent to a survey, then upon request by the resident or owner a survey of such additions and renovations shall be performed by the operator in accordance with this section.

(c) The survey shall determine the condition of the dwelling or structure and document any preblasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipelines, cables, transmission lines, and cisterns, wells, and other water systems warrant special attention. Assessment of these structures may be limited to surface condition and other readily available data.

(d) All survey requests received by the operator more than ten (10) days before the planned initiation of blasting shall be completed by the operator before the initiation of blasting. If the request is made after the start of blasting the operator shall conduct a condition survey of the dwelling or structure. A condition survey shall contain information identical to a preblasting survey, but need not be completed prior to initiation of blasting.

(e) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions of proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the report shall be promptly provided to the person requesting the survey and to the regulatory authority. If the person requesting the survey disagrees with the result of the survey, he or she may notify, in writing, both the operator and the regulatory authority of the specific area of disagreement.

SUPPORTING FACTS FOR AMENDMENTS TO § 817.62

The current provisions require the operator to carry out a preblast survey of any dwelling or structure within one-half (½) mile of the permit area if requested in writing by the owner or resident. The owner or resident must be contacted by letter at least 30 days before the start of blasting, notifying them how they may request a preblasting survey. The current provisions are inadequate. Many citizen blasting complaints are from people who live more than one-half (½) mile from the mine site. This is because low frequency vibrations dominate at large distance. Even at relatively low amplitudes, less than 0.50 inches per second, the low frequencies tend to amplify the structure response as they correspond to the natural frequency of individual structures. Geologic conditions which favor the generation of low frequency vibrations (3 to 18 Hz) can increase the potential for structural damage, because these frequencies match the natural frequencies of low rise residential structures. Ground motion at the same frequency as the structure's natural frequency causes increased vibrational energy transfer into the structure. Every blasting operation, its environment, and its surrounding structures are unique.

By offering and conducting preblast or condition surveys for people who are or will be subjected to the adverse vibrations from blasting, a coal company has a chance to let the public know who they are, that they are concerned about the feelings of the public, and are taking or planning to take all necessary steps to prevent damage to homes. When the preblast or condition survey is conducted it is often the best opportunity to let the public know what is to be expected from the mining operation. Such requirements could be beneficial to residents and industry alike since it could (1) require surveys where low frequency vibrations are a problem, (2) more effectively alert the public as to its rights to a preblast or condition survey in particular problem situations, (3) protect coal companies from unsubstantiated damage claims, and (4) the survey report would determine the condition of the dwelling or structure and alert the regulatory authority of the presence of fragile conditions.

Recalling the intent of the Surface Mining Control and Reclamation Act of 1977 the regulatory authority must provide positive protection against damage to public or private property. It is clear that the possibility of actual damage is dependent not only on the peak particle velocity, but also on the frequency content of that vibration, on the type of terrain or rock upon which the structure stands and on the local geologic conditions. It is also dependent on the type of structure, the height of the structure, the natural frequency of the structure, and of course, on the state of repair-or-disrepair-of the structure. Even when that structure can be said to be in a good state of repair, it might also be that it is old. Factors such as this dictate special considerations, perhaps specific velocity limitations. The preblast survey or condition survey report should include recommendations for whatever changes are needed to prevent blasting damage.

§ 817.67 Use of explosives: Control of adverse effects.

(a) General requirements. Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of surface or ground water outside the permit area.

(b) Airblast—(1) Limits. (i) Airblast shall be controlled so that it does not exceed the maximum limits listed below at the location of any dwelling, public building, school, church, or community of institutional building outside the permit area, except as provided in paragraph (e) of this section.

Lower frequency limit of measuring system, in Hz (±3 dB)	Maximum level, in dB
0.1 Hz or lower-flat response	134 peak.
2 Hz or lower-flat response	133 peak.
6 Hz or lower-flat response	129 peak.
C-weighted-slow response	

Only when approved by the regulatory authority.

(ii) If necessary to prevent damage, the regulatory authority may specify lower maximum allowable airblast levels than those of subsection (b)(1)(i) of this section for use in the vicinity of a specific blasting operation.

(2) Monitoring. (i) Airblast shall be monitored and recorded by the operator for each blast to ensure compliance with the airblast standards. (ii) The regulatory authority may require an operator to conduct additional airblast measurements of blasts and may specify the locations at which such measurements are taken. (iii) The measuring systems used shall have an upper-end flat-frequency response of at least 200 Hz.

(c) Flyrock. Flyrock traveling in the air or along the ground shall not be cast from the blasting site.

(1) More than one-half the distance to the nearest dwelling or other occupied structure;

(2) Beyond the area of control required under § 817.66(c); or

(3) Beyond the permit boundary.

(d) Ground vibration—(1) General. In all blasting operations, except as otherwise authorized in paragraph (e) of this section, the maximum ground vibration shall not

exceed the values approved by the regulatory authority. The maximum ground vibration for protected structures listed in paragraph (d)(2)(i) of this section shall be established in accordance with either the maximum peak-particle-velocity limits of section (d)(2), the blasting-level chart of subsection (d)(3) of this section, or by the regulatory authority under subsection (d)(4) of this section. All structures in the vicinity of the blasting area, not listed in subsection (d)(2)(i) of this section, such as water towers, pipelines and other utilities, tunnels, dams, impoundments, and underground mines shall be protected from damage by establishment of a maximum allowable limit on the ground vibration, submitted by the operator and approved by the regulatory authority before the initiation of blasting.

(2) Maximum peak particle velocity. (i) The maximum peak particle velocity shall not exceed 0.50 inch per second at the location of any dwelling, public building, school, church or commercial or institutional building. (ii) A seismographic record shall be provided for each blast. Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

(3) Blasting-level chart. (i) An operator may use the ground-vibration limits in Figure 1 to determine the maximum allowable ground vibration.

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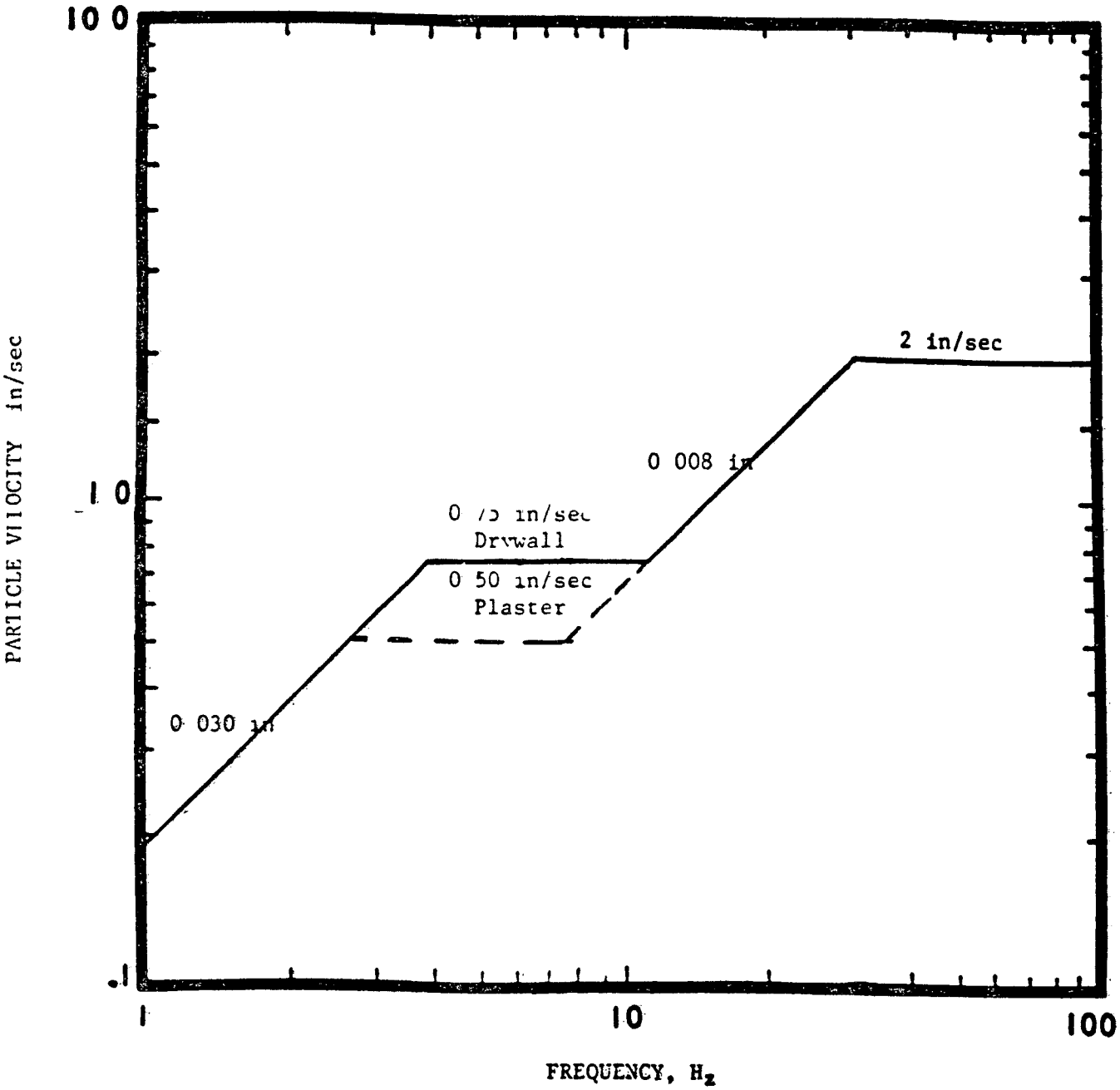

Figure 1 Alternative blasting level criteria.
(Source: Bureau of Mines RI8507 Appendix B)

(ii) If the figure 1 limits are used, seismographic record including both particle velocity and vibration-frequency levels shall be provided for each blast. The Method for the analysis of the predominant frequency contained in the blasting records shall be approved by the regulatory authority before application of this alternative blasting criterion.

(4) The maximum allowable ground vibration shall be reduced by the regulatory authority beyond the limits otherwise provided by this secton, if determined necessary to provide damage protection of if so recommended in any preblast or condition survey report provided pursuant to § 817.62.

(5) The regulatory agency may require an operator to conduct additional seismic monitoring of blasts and may specify the location at which the measurements are taken and the degree of detail necessary in the measurement.

(6) All blasts shall be monitored at the location of the dwelling, public building, school, church, or community or institutional building that is located nearest to the blast and which the operator does not own. Other locations may be approved if it is not possible to locate the seismograph at the afore-mentioned location.

(e) The maximum airblast and ground-vibration standards of paragraphs (b) and (d) of this section shall not apply at the following locations:

(1) At structure owned by the permittee and not leased to another person,

(2) At structures owned by the permittee and leased to another person, if a written waiver by the lessee is submitted to the regulatory authority before blasting.

SUPPORTING FACTS FOR AMENDMENTS TO § 816.67

Public Law 95–87 the "Surface Mining Control and Reclamation Act of 1977" Section 507 Permit application requirements (g) states "Each applicant for a surface coal mining and reclamation permit shall submit to the regulatory authority as part of the permit application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of section 515(b)(15). Section 515(b)(15) states in part "insure that explosives are used only in accordance with existing State and Federal law and the regulations promulgated by the regulatory authority, which shall include provisions to (C) limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent (i) injury to persons, (ii) damage to public or private property outside the permit area, (iii) adverse impacts on any underground mine, and (iv) change in the course, channel, or availability of ground or surface water outside the permit area.

Two adverse effects of blasting are airblast and ground motion. The regulatory authority approves the standards that the operator will have to comply with. Surface mining operations damage the property of citizens and create hazards dangerous to life and property by degrading the quality of life in local communities. How does the regulatory authority know if people are being injured or damage is being done to public or private property if the operator isn't required to monitor their blasting? Why do we have compliance limits if operators are not required to monitor their blasting? Doesn't the regulatory authority have a moral obligation to require continuous monitoring to protect the homeowner since it is the regulatory authority that approves the standards in the permit that allows the operator to blast? Since homeowners are almost always responsible for the burden of proving that their health or property has been adversely effected by a surface mining operation continuous airblast and seismic monitoring should be mandatory for all operations. Blasting with explosives is not an exact science and there are to many unknown factors. Wouldn't continuous airblast and seismic monitoring protect the operator from unfounded claims and litigation or does the operator have something to hide? Citizens do not trust a coal operator to honestly fill out the blasting records. Isn't not requiring continuous airblast and seismic monitoring allowing the fox to watch the hen house and opening the door to the operator to falsify blasting records? Wouldn't continuous airblast and seismic monitoring provide the operator with data he could use to evaluate the effects of the blasting operation? Wouldn't continuous airblast and seismic monitoring allow the regulatory authority to have immediate access to records necessary to evaluate vibration characteristics when investigations into blasting complaints are conducted? The only way the regulatory authority can determine whether a problem exists is to evaluate airblast and seismic data. Without continuous airblast and seismic monitoring too many questions remain unanswered when problems arise for all parties involved, the regulatory authority, the operator, and the homeowner. The homeowner is the victim to this situation.

Existing Federal and State regulations pertaining to the Use of explosives: Control of adverse effects are not adequate to protect society and the environment from the adverse effects of surface coal mining. Recent studies have shown that frequency has a very considerable effect on the possibility of blast vibration damage. The current blasting vibration limits are based on quarry blasting (limestone, granite, dense rocks) which are characterized by high particle velocities and high frequency waves. This is not the case for strip mine blasting which occurs in areas of low-strength, low-velocity materials (alluvium, conglomerates, glacial till, poorly cemented, and inherently weak rock, thick beds of various soils and water-saturated sand) which are characterized by low particle velocity, low frequency, long duration vibrations which increases the structural response and damage potential. What works at high frequencies in hard massive limestone may not work at lower frequencies typical of coal mine overburden.

The **Federal Register** / Vol. 48, No. 46 / Tuesday, March 8, 1983 / Rules and Regulations page 9799 defines older and modern homes: *Older homes* more than 20 years old with construction elements such as plaster-on-lath interiors and deteriorated or rigid, easily fractured construction materials. *Modern Homes* less than 20 years old with gypsum-board interiors, reinforced concrete or concrete masonry unit foundations, and other wood-frame and wood-clad structure. Structural response varies from structure to structure and within each structure. The vibration standards do not address structural response which is the homeowners greatest concern. Are standards set to protect all structures or is it the regulatory authorities position to wait to see if damage occurs before deciding what vibrations a structure can withstand? Who determines if the property at risk might be a particularly vulnerable building? Many mining operations have surrounding neighbors whose homes are older. All homes require protection.

The Office of Surface Mining chose not to adpt the Bureau of Mines blasting criteria as published in RI 8507 and then included it in the Office of Surface Mining Blasting Guidance Manual, page 120, Section: Actual Blast Damage Criteria, which states "Practical, safe criteria for blasts that generate low-frequency ground vibrations are 0.75 in/sec for modern gypsumboard houses and 0.50 in/sec for plaster on lath interiors. For frequencies above 40 Hz, a safe particle velocity maximum of 2.0 in/sec is recommended for all houses. Does the regulatory authority's responsibility lie with protecting the health and property of citizens living near a mine? Without effective regulations that contain sound technical parameters regarding blast vibrations, structure response, and damage citizens lives will continue to be devastated as damage continues to occur to their homes.

Bureau of Mines Information Circular/1983, IC 8925, by Richard A. Dick, Larry R. Fletcher, and Dennis V. D'Andrea states on page 79 "Two vibration limits are important; the level above which damage is likely to occur and the level above which neighbors are likely to complain. There is no precise level at which damage begins to occur. The damage level depends on the type, condition, and age of the structure, the type of ground on which the structure is built, and the frequency of the vibration, in hertz. Research completed by the Bureau of Mines in the late 1970's recommends that for very close-in construction blasting, where the frequency is above 40 Hz, vibration levels be kept below 2 in/sec to minimize damage. However, all mine and quarry blast vibrations, and those from large construction jobs, have frequencies below 40 Hz. For these blasts it is recommended that the vibration level be kept below 0.75 in/sec for homes of modern, drywall construction and below 0.50 in/sec for older homes with plaster-on-lath walls. These values could change as more research is done.

Bureau of Mines Report of Investigation/ 1980 RI 8485 by David E. Siskind, Virgil J. Stachura, Mark S. Stagg, and John W. Kopp states on page 55 "Direct measurement of blast damage and reanalysis of the nine previous studies have demonstrated that a stricter safe vibration level is required for low-frequency situations. In addition, the concept of a threshold for the most superficial types of damage needs to be

reintroduced in the light of the late data. Nonstructural cracks on interior walls are the most sensitive indicators of blast damage, and have a threshold level (with a 95-pct confidence of nondamage) of 0.75 in/sec. Inclusion of the Bureau's shaker tests and the Dvorak blast data lowers this to approximately 0.05 in/sec, although the shaker tests are somewhat suspect since they produce only localized vibrations and last longer than blasts. This lower criterion is applicable to sensitive residential structures (plaster interior walls), superficial damage (hairline plaster cracks), and low-frequency ground vibrations (structure on soft ground or thick overburden, and/or at long distances). Wallboard (gypsum Drywall) is more damage resistant than plaster by a factor of approximately two, and as previously discussed the high-frequency damage threshold is considrably higher (2 to 3 in/sec).

Bureau of Mines Report of Investigations/1980 RI 8507 by David E. Siskind, Mark S. Stagg, John W. Kopp, and Charles H. Dowding states on pages 58 and 59 "Safe vibration levels for blasting are given in table 13, being defined as levels unlikely to produce interior cracking or other damage in residences. Implicit in these values are assumptions that the structures are cited on a firm foundation, do not exceed 2 stories, and have the dimensions of typical residences, and that the vibration wave trains are not longer than a few seconds. Also, "The almost-constant particle velocities for the lower damage probabilities of 2 and 1 pct strongly suggest that the 0.50 in/sec level will provide protection from blast damage in >95 pct of the cases. The damage probabilities realistically refer to numbers of homes being affected by a given shot rather than the number of shots required to damage a single home. This results from the much wider variation of damage susceptibilities among structures with various degrees of prestrain as compared with a time-dependent susceptibility for a given structure. Additional work on fatigue and special soil and foundation types may later justify stricter criteria. Also, "Data are insufficient for a thorough analysis of the damage potentials in structures of various construction types.

TABLE 13.—SAFE LEVELS OF BLASTING VIBRATIONS FOR RESIDENTIAL TYPE STRUCTURES

Type of structure	Ground vibration-peak particle velocity, in/sec	
	At lw frequency (<40 Hz)	At high frequency (>40 Hz)
Modern homes, Drywall interiors	0.75	2.0
Older homes, plaster on wood lath construction for interior walls	.50	2.0

All spectral peaks within 6 dB (50 pct) amplitude of the predominant frequency must be analyzed.

Also, "The safest approach is to consider the low-frequency part of the time history separately, and where it is below 40 Hz, use the 0.75 in/sec or 0.50 in/sec criteria. Also, "Particle velocity is the most practical descriptor for regulating the damage potential for a class of structures with well-defined response characteristics (e.g., single-family residences). Also, damage potentials for low-frequency blasts (<40 Hz) are considerably higher than those for higher frequency blasts (>40 Hz); with the latter often produced by close-in construction and excavation blasts. Also, "Practical safe criteria for blasts that generate low-frequency ground vibrations are 0.75 in/sec for modern gypsumboard houses and 0.50 in/sec for plaster on lath interiors. For frequencies above 40 Hz, a safe particle velocity maximum of 2.0 in/sec is recommended for all houses.

The Bureau of Mines criteria is needed until additional work on fatigue, special soil and foundation types, effects of cast blasting on structural response, effects of blasting on abandoned underground workings, damage potentials in structures of various construction types may later justify stricter criteria.

The coal industry's supporting consultancy which makes its livelihood off the industry are users of the Bureau of Mines research published in RI 8507 They have adopted it into their seismograph reports and sales literature, and use it to show that good practices are being followed.

The eight millisecond criteria, as it is commonly called, originated with a Bureau of Mines study conducted in 1962 by a researcher named Duvall. This study dealt with construction and quarry blasting. Duvall found that if explosive charges were separated in time by at least 8 milliseconds, the individual ground vibration pulses caused by the detonation of the charges may be considered separate and should preclude the occurrence of constructive interference and unreasonably high ground vibrations. The researchers found a correlation with charge separation and resulting ground vibration levels and based on their data recommended that 8 milliseconds (ms) be used a minimum separation between explosive charges. Since 1962 little research has done to substantiate the validity of the 8 ms criteria for different types of blasting. This study on construction and quarry blasting produced ground vibrations of high particle velocities and high frequencies. This is not the case where low-strength, low velocity materials are found in old stream and lake beds and hydraulically filled ground as found at strip mine operations where severe structural responses, long duration wave trains, low frequencies, and abnormally large strains (or displacements) often result. Recent research by the Bureau of Mines has found that the 8 ms minimum time separation for independent charges appears insufficiently long for low-frequency sites and should not be used in cases of vibrations with dominant frequencies below about 10 Hz. The 8 ms criterion is not very useful when you have a low-frequency problem. Explosive users and related professionals have also made this finding.

When citizens who are adversely affected by a surface mine operation know that tax dollars are being spent on research, these citizens expect the findings of these research projects to be put into effect so that they do not have to bear an unreasonable personal cost when their health or property are threatened.

[FR Doc. 89-28459 Filed 12-5-89; 8:45 am]

BILLING CODE 4310-05-M

Notices

Federal Register
Vol. 54, No. 233
Wednesday, December 6, 1989

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

National Conservation Review Group; Meeting

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of meeting.

SUMMARY: The National Conservation Review Group will meet to consider recommendations from State and County Conservation Review Groups with respect to the operational features of the Agricultural Conservation Program (ACP), the Emergency Conservation Program (ECP), and the Forestry Incentives Program (FIP). Comments and suggestions will be received from the public concerning these conservation and environmental programs administered by the Agricultural Stabilization and Conservation Service (ASCS).

DATES: *Meeting Date:* December 19, 1989.

ADDRESSES: Meeting Location: Room 5066 South Building, U.S. Department of Agiculture, 14th and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Chief, Conservation Programs and Automation Branch, Conservation and Environmental Protection Division, ASCS, U.S. Department of Agiculture, Room 4723, South Building, Washington, DC 20013, 202-447-7333.

SUPPLEMENTARY INFORMATION: The National Conservation Review Group meeting is scheduled to be held from 9:00 a.m. to 12:00 noon on December 19, 1989, in Room 5066 South Building, U.S. Department of Agriculture, Washington, DC. Meeting sessions will be open to the public. The agenda will include consideration of State and County Review Group recommendations for changes in the administrative procedures and policy guidelines of the ACP ECP and FIP An opportunity will be provided for the public to present comments at the meeting on these conservation and environmental programs administered by ASCS. Because of time constraints and anticipated participation from interested individuals and groups, comments will be limited to not more than 5 minutes. Individuals or groups interested in making recommendations may also make them in writing and submit them to Chief, Conservation Programs and Automation Branch, Conservation and Environmental Protection Division, ASCS, U.S. Department of Agriculture, Room 4723-S, Washington, DC 20013. The meeting may also include discussion of current procedures, criteria, and guidelines relevant to the implementation of these programs.

Because of the limitations of space available, persons desiring to attend the meeting should call Mr. Vincent Grimes (202) 447-7333 to make reservations.

Signed at Washington, DC, on November 30, 1989.

John A. Stevenson,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 89-28458 Filed 12-5-89; 8:45 am]

BILLING CODE 3410-05-m

Forest Service

Nursery Pest Management Activities, Including the Control of Unwanted Vegetation, Diseases, Insects and other Animals in the J.W. Toumey Nursery, Ottawa National Forest, Gogebic County, MI

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for Nursery Pest Management Activities at the J.W. Toumey Nursery, Watersmeet, Michigan. The proposed action is to control unwanted vegetation, disease, insects and animals in the J.W. Toumey Nursery. The nursery management activities that require controls include the cover crop, seed pre-treatment, nursery seedbed preparation, sowing, seedling growth from germination to lifting, and seedbed storage. The control methods under consideration include biological, chemical, manual, mechanical techniques, and a combination of these techniques in an integrated pest management strategy. The agency invites written comments and suggestions on the scope of the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope of the analysis must be received by December 29, 1989.

ADDRESS: Submit written comments and suggestions concerning the scope of the analysis to David H. Morton, USDA Forest Service, Ottawa National Forest, East U.S. 2, Ironwood, Michigan 49938.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Nursery Manager, J.W Toumey Nursery, USDA Forest Service, Ottawa National Forest, P.O. Box 445, Watersmeet, Michigan 49969. (906) 358-4523.

SUPPLEMENTARY INFORMATION: In preparing the EIS, the Forest Service will identify and consider a range of alternative pest management strategies for this project. One of those is no action. This means that pest management is not done. Other alternatives will consider a range of methods for the control of unwanted vegetation, diseases, insects and other animals in the J.W. Toumey Nursery. The methods under consideration include biological, chemical, manual, mechanical techniques, and a combination of these techniques in an integrated pest management strategy. The activities that require controls include the cover crop, seed pre-treatment, nursery seedbed preparation, sowing, seedling growth from germination to lifting and seedling storage.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations interested in or affected by the proposed project. This input will be used in

preparation of the draft EIS. The scoping process includes:

1. Identifying the issues and determining the significant issues to be considered and analyzed within the EIS.
2. Determining the effective use of time and money in conducting the analysis.
3. Identifying potential environmental effects of the proposed action and alternatives, (i.e. direct, indirect, and cumulative effects, and connected actions).
4. Determining potential cooperating agencies.
5. Identifying groups or individuals interested or affected by the decision.

David H. Morton, Forest Supervisor, Ottawa National Forest, Ironwood, Michigan, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June, 1990. At that time, EPA will publish in the **Federal Register** a Notice of Availability of the draft EIS.

The comment period on the draft EIS will be 45 days from the date the EPA's Notice of Availability appears in the **Federal Register**. It is very important that those interested in the management project participate at that time. Comments on the draft EIS should be as specific as possible. They may address the adequacy of the statement or the merit of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and will alert an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by December, 1990. In the final EIS the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the draft EIS, and applicable laws, regulations, and policies in making a decision regarding this project. The responsible official will document the decision and the reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217

Dated: November 30, 1989.

David H. Morton,

Forest Supervisor.

[FR Doc. 89-28480 Filed 12-5-89; 8:45 am]

BILLING CODE 3400-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 91043-9243]

Foreign Availability Assessment; Initiation of an Assessment on High Purity Polycrystalline Silicon

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of an assessment with a request for comments.

SUMMARY: Pursuant to the receipt of an allegation of foreign availability, the Office of Foreign Availability (OFA) is initiating an assessment to investigate the foreign availability of high purity polycrystalline silicon. OFA is also seeking public comments on the foreign availability of high purity polycrystalline silicon.

DATE: The period for submission of information will close January 5, 1990.

ADDRESSES: Submit information relating to the allegation of foreign availability to: Dr. Irwin M. Pikus, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Room SB701, 14th Street and Pennsylvania Avenue NW Washington, DC 20230.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, Room 4886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dr. Jo-Anne A. Jackson, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202)377-5953.

SUPPLEMENTARY INFORMATION: Under sections 5(f) and (h) of the Export Administration Act of 1979, as amended, the Office of Foreign Availability (OFA) assesses claims of foreign availability. Part 791 of the Export Administration Regulations (EAR) establishes the procedures and criteria for initiating and reviewing claims of foreign availability on items controlled for national security reasons.

Pursuant to sections 5(f) (3) and (9) of the EAA, as amended by the Omnibus Trade and Competitiveness Act of 1988, OFA is publishing this notice:

On 12 September 1989, OFA accepted for filing an allegation of foreign availability for high purity polycrystalline silicon, which is controlled for national security reasons under Export Control Commodity Number (ECCN) 1757A(f).

After determining that we had received a completed submission claiming foreign availability for high purity polycrystalline silicon, and that it was supported by reasonable evidence addressing the established criteria, the Office of Foreign Availability initiated an assessment on 12 September 1989. Consistent with the requirements of the EAA, the Department intends to publish in the **Federal Register** the results of the assessment by 12 February 1990.

To assist the Department in assessing the claim, the Office of Foreign Availability will receive any information regarding the foreign availability of high purity polycrystalline silicon. A person wishing to submit relevant information relating to this claim may submit it to the Office of Foreign Availability of the Department of Commerce.

The following types of information would be of use:

—The names and locations of the non-U.S. sources;
—Key attributes and characteristics of the items on which quality comparisons may be made;
—The non-U.S. sources' production quantitites and/or sales;
—An estimate of market demand and of the economic impact of the control; and
—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is alleged.

Such relevant information may include, but is not limited to: foreign manufacturers' catalogues, brochures, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 provides additional examples of evidence that would be helpful to the investigation.

The Office of Foreign Availability will carefully and fully consider all information received. The Office will use information received to supplement other information to evaluate the claim of foreign availability.

The Department will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to the Bureau of Export Administration (BXA) separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." The Bureau of Export Administration will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by the Bureau of Export Administration as privileged under section (b)(3) or (4) of the Freedom of Information Act (5 U.S.C. 552(b)(3) and (4)) will be kept confidential and will not be available for public inspection, except as authorized by law.

Communications between agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record of information received on the allegation for foreign availability will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Room 4886, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission of relevant information will close 30 days from the date of publication. The Department will consider all information received before the close of the comment period in developing the assessment. Information recieved after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages persons who wish to provide information related to this allegation of foreign availability to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: November 30, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-28469 Filed 12-5-89; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 91044-9244]

Foreign Availability Assessment; Initiation of an Assessment on Polycrystalline Silicon Rods and Chunks

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of an assessment with a request for comments.

SUMMARY: Pursuant to the receipt of an allegation of foreign availability under § 791.4 of the Export Administration Regulations, the Office of Foreign Availability is initiating an assessment to investigate the foreign availability to Poland of polycrystalline silicon rods and chunks. The Office of Foreign Availability is also seeking public comments on the foreign availability to proscribed countries to polycrystalline silicon rods and chunks.

DATE: The period for submission of information will close January 5, 1990.

ADDRESSES: Submit information relating to the allegation of foreign availability to: Dr. Irwin M. Pikus, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Room SB701, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, Room 4886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dr. Jo-Anne A. Jackson, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

SUPPLEMENTARY INFORMATION: Under sections 5 (f) and (h) of the Export Administration Act of 1979, as amended, the Office of Foreign Availability (OFA) assesses claims of foreign availability. Part 791 of the Export Administration Regulations (EAR) establishes the procedures and criteria for initiating and reviewing claims of foreign availability on items controlled for national security reasons.

Pursuant to sections 5(f) (3) and (9) of the EAA, as amended by the Omnibus Trade and Competitiveness Act of 1988, OFA is publishing this notice.

On 5 September 1989, OFA accepted for filing an allegation of foreign availability for polycrystalline silicon rods and chunks in connection with a denied export license to Poland per § 791.4 of the EAR. This item is controlled for national security reasons under Export Control Commodity Number (ECCN) 1757A(f).

After determining that we had received a completed submission claiming foreign availability to Poland for specific shipments of polycrystalline silicon rods and chunks, and that it was supported by reasonable evidence addressing the established criteria, the Office of Foreign Availability initiated an assessment on 5 September 1989. Consistent with the requirements of the EAA, the Department intends to publish in the **Federal Register** the results of the assessment by 5 February 1990.

To assist the Department in assessing the claim, the Office of Foreign Availability will receive any information regarding the foreign availability to proscribed countries of polycrystalline silicon rods and chunks. A person wishing to submit relevant information relating to this claim may submit it to the Office of Foreign Availability of the Department of Commerce.

The following types of information would be of use:

—The names and locations of non-U.S. sources;

—Key attributes and characteristics of the items on which quality comparisons may be made;

—The non-U.S. sources' production quantities and/or sales;
—An estimate of market demand and of the economic impact of the control; and
—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is alleged.

Such relevant information may include, but is not limited to: foreign manufacturers' catalogues, brochures, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 provides additional examples of evidence that would be helpful to the investigation.

The Office of Foreign Availability will carefully and fully consider all information received. The Office will use information received to supplement other information to evaluate the claim of foreign availability.

The Department will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its propriety nature or for any other reason. The information for which confidential treatment is requested should be submitted to the Bureau of Export Administration (BXA) separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information" The Bureau of Export Administration will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by the Bureau of Export Administration as privileged under section (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 552(b) (3) and (4)) will be kept confidential and will not be available for public inspection, except as authorized by law.

Communications between agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information relating to the notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying.

The public record of information received on the allegation for foreign availability will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Room 4886, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission of relevant information will close 30 days from the date of publication. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages persons who wish to provide information related to this allegation of foreign availability to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: November 30, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-28468 Filed 12-5-89; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Foreign Fishing; Notice of Final Amendment of Foreign Fishing Permits for the Bering Sea and Aleutian Islands Groundfish Fishery; Correction

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

ACTION: Final Permit Amendment; correction.

SUMMARY: This document corrects the final permit amendment for foreign vessels published December 4, 1989 (54 FR 50009). A comment and response in opposition to the proposed amendment were inadvertently omitted.

EFFECTIVE DATE: November 27 1989, 01:00 p.m., Alaska Standard Time.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, (301) 427-2337 or telex 467856 US COMM FISH CI.

In FR Doc. 89-28248 beginning on page 50009 in the issue of December 4, 1989, make the following correction.

On page 50010, third column, after the reply to comment 9, insert the following:

"10. One commenter suggested that NOAA explore the ramifications the proposal might have on the political and economic situation in Poland and investigate how the proposal would affect the U.S. goals of encouraging democratic self-government in Poland and developing a market-based economy in that country.

"Reply: The suggestions of the commenter indicate that NOAA should make a thorough analysis of the foreign policy implications of this proposal. Analysis of foreign policy is the responsibility of the Department of State, and NOAA relied on that Department's expertise with respect to the foreign policy implications of this proposal. That Department initiated the request, encouraged our action, and supported the proposal. Accordingly, NOAA believes the action taken will have a beneficial affect on U.S. foreign policy with respect to Poland."

Dated: December 4, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 89-28626 Filed 12-5-89; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION FOR THE IMPROVEMENT OF THE FEDERAL CROP INSURANCE PROGRAM

Meeting

Under the Federal Crop Insurance Commission Act of 1988 (7 U.S.C. 1508 note), notice is hereby given of the following meeting of the Commission for the Improvement of the Federal Crop Insurance Program:

Date: December 12, 1989.

Time: 8:30 a.m.-noon, 2:00 p.m.-5:30 p.m.

Place: Hyatt Regency Washington Hotel, 400 New Jersey Avenue NW., Washington, DC 20001, Telephone: (202) 857-3388.

Type of Meeting: Open to the public.

Comments: The public may file written comments before or after the

meeting with the contact person listed below.

Purpose: To review the extent to which the Commission's recommendations for improvements in the Federal crop insurance program have been implemented; to draft the Commission's December monthly report; to consider other possible recommendations to improve the program; and to consider any other item of business necessary for the effective functioning of the Commission.

At this meeting, the Commission will be reviewing the extent to which its recommendations for improvements in the Federal crop insurance program are being implemented.

In April 1989, the Commission submitted an interim report to the congressional agriculture committees and the Secretary of Agriculture. The report sets forth the Commission's findings and recommendations for immediate administrative improvements in the Federal crop insurance program that it believes would foster increased participation by farmers. The Commission's findings and recommendations fall into four general categories: (1) Increased responsiveness to producer needs; (2) broadening participation; (3) program simplification; and (4) improvement of delivery system performance.

In July 1989, the Commission submitted its principal report to the congressional agriculture committees and the Secretary. In addition to recommendations for administrative improvements in the Federal crop insurance program, the report includes recommendations for legislation and a status report on the improvement of program administration by the Secretary based on the recommendations made by the Commission in the April report. The recommendations and findings of the Commission contained in the July report fall into four general categories: (1) Increased responsiveness to producer needs; (2) broadening participation; (3) program simplification; and (4) improved program administration.

Under the Federal Crop Insurance Commission Act of 1988, the Commission is charged with the responsibility of continuing to monitor the Federal crop insurance program and reporting on a monthly basis, through December 31, 1990, to the congressional agriculture committees and the Secretary on (1) the extent to which the recommendations of the Commission have been implemented, and (2) the level of participation in the program by producers.

The Commission considers the continued monitoring and monthly reporting a very serious responsibility. In addition to meeting the statutory requirements, the Commission intends to use the monthly reporting process as a means of furnishing the congressional agriculture committees and the Secretary with any additional recommendations it may develop on ways to improve the program.

The Commission also intends to study and analyze the recommendations contained in the April report and the July report and furnish the congressional agriculture committees and the Secretary, through the monthly reporting process, with any views or comments it may develop with respect to such recommendations.

Accordingly, at this meeting, the Commission will be reviewing the extent to which its recommendations are being implemented; drafting the Commission's December report; and considering other possible recommendations to improve the Federal crop insurance program. The Commission will also consider any other item of business necessary for the effective functioning of the Commission.

Contact Person: Kellye A. Eversole, Executive Director, Commission for the Improvement of the Federal Crop Insurance Program, 1255 23rd Street NW., Suite 880, Washington, DC, 20037 Telephone: (202) 887-6700.

Done at Washington, DC, this 30th day of November 1989.

Kellye A. Eversole,

Executive Director.

[FR Doc. 89-28523 Filed 12-5-89; 8:45 am]

BILLING CODE 3410-PM-M

COMMISSION ON RAILROAD RETIREMENT REFORM

Meeting

ACTION: Meeting.

SUMMARY: The Commission on Railroad Retirement Reform ("the Commission") will hold a meeting on Tuesday, December 19, 1989. The Commission was established by Section 2101 of the Omnibus Budget Reconciliation Act of 1987 Public Law 100-203, enacted December 22, 1987

DATE, TIME, AND PLACE: December 19, 1989, 9:30 a.m.-3:30 p.m., Association of American Railroads, 50 F Street, NW., Washington, DC (4th Floor Conference Center).

AGENDA: The open meeting will include a discussion of Railroad Retirement Account investments, the extension of benefits to certain categories of spouses, and the review of the latest privatization proposal of the Office of Management and Budget.

FOR ADDITIONAL INFORMATION: Contact Maureen Kiser, 202-254-3223, Commission on Railroad Retirement Reform, 1111 18th Street, NW., Washington, DC 20036.

SUPPLEMENTARY INFORMATION: See Federal Register, volume 54 FR, NO. 40, Thursday, March 2, 1989, Page 8856.

Keneth J. Zoll,

Executive Director.

[FR Doc. 89-28533 Filed 12-5-89; 8:45 am]

BILLING CODE 6820-63-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment to the Requirements for Participating in the Special Access and Special Regime Programs

November 30, 1989.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amendment of requirements and procedures for participation in the Special Access Program for Caribbean Basin Countries and the Mexico Special Regime Program.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Brian F Fennessy, Commodity Industry Specialist, the Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION: This notice identifies new implementation and enforcement procedures for the Special Access Program under the CBI and the Mexico Special Regime Program.

Background

On February 20, 1986, the President announced a special program to guarantee access to the U.S. market for Caribbean-produced textile products assembled from fabric formed and cut in the United States. Since the 1986 announcement, Caribbean countries have entered into bilateral agreements with the United States under which guaranteed levels of access are permitted for their exports of qualifying assembled textile products. These guaranteed access levels are separate from the quota or designated consultation levels applicable to textile products not assembled solely from U.S. formed and cut fabric.

Pursuant to authority delegated by Executive Order No. 11651 of March 3, 1972, as amended, and in accordance

with the President's Announcement of February 20, 1986, the Committee for the Implementation of Textile Agreements (CITA), announced the Special Access Program, published on June 11, 1986 (51 FR 21208) and (July 10, 1987 (52 FR 26057)), the requirements for participation in the Special Access Program. Under the Special Access Program, the United States has established Guaranteed Access Levels, or GALS, assuring access to the U.S. market for textile products which fulfill the requirements of the Special Access Program.

A June 11, 1986 **Federal Register** notice announced that firms participating in the program must complete a Special Access Program CBI Export Declaration, Form ITA-370P (available from the U.S. Government Printing Office), for each qualifying shipment (See 52 FR 18414 (May 15, 1987)). That notice also explained the three-part Form ITA-370P and the procedures for presenting the form to the U.S. Customs Service.

On February 13, 1988, the Government of the United States and the Government of Mexico entered into a textile agreement, effective January 1, 1988. Under the terms of that agreement, a Special Regime was established under which a number of categories were placed under quotas which distinguish between Mexican products produced from foreign fabric and Mexican products assembled from U.S. formed and cut fabric. In essence, each category has a sublimit for products that are not assembled from U.S. formed and cut fabrics.

On May 3, 1988 and August 25, 1988, notices were published in the **Federal Register** (53 FR 15723 and 53 FR 32421), announcing requirements for firms participating in the Special Regime Program. The notices explained that merchandise qualifying for entry under the Special Regime Program must be accompanied by a Form ITA-370P

Effective January 1, 1990 new implementation and enforcement procedures will be in place for the Special Access and Special Regime Programs.

New Implementation Procedures

Revised ITA-370P Form

As announced in the **Federal Register** on November 9, 1989, effective January 1, 1990 all goods exported under these programs must be accompnaied by the new revised ITA-370P form. The form is available from the U.S. Government Printing Office.

The principal revisions to the form are:

—A pre-inscribed certification number
—The inclusion of the importer of record number on the Shipper's Declaration and the Importer's Declaration (the importer of record number in the Shipper's and Importer's sections must match)
—A reference stating Also identify foreign findings, trimmings, & elastic strips of less than one inch in width. (Such foreign findings, trimmings & elastic strips may not exceed 25 percent of the cost of the components of the assembled article.)" This specific reference to trim and findings is not intended as a change in practice or policy but as a reminder that the records pertaining to foreign components must be retained by the importer.
—The elimination in the Shipper's Declaration of specific references to weight, yarn size, thread count, pattern, and color.

Entry Procedure

The new entry procedure is designed to ease the administrative burden on importers by establishing a streamlined system similar to a checking account. An account consists of the importer's ID number, textile category, and country of exportation. On exportation from the United States the quantity as reported on the 370P will be credited to the importer's account. Upon importation the amount imported will be debited against the importer's account, if there is a credit balance the shipment may be released.

Automated Commercial System (ACS)

The inventory system for the Special Access Program and Special Regime will be incorporated into the ACS, thus eliminating the use of personal computers for record keeping and clearing procedures. The requirement of exporting and importing for the Special Regime at ports within the same districts of San Diego, Nogales, El Paso and Laredo will be eliminated.

Reconciliation

The U.S. Customs Service (Customs) will maintain the balance for each account. Should an importer's records differ from those of Customs, the importer should provide Customs with a complete accounting of all exportations and importations. Customs will verify the importer's records against its own. Until the discrepancy is resolved, Customs will implement the Program using its figures.

Enforcement Procedures

In order to determine if the cut components were of U.S. origin and the imported apparel was made from U.S. formed fabric, Customs will conduct a series of Post Entry Compliance Reviews. These reviews will be conducted by Customs beginning April 1, 1990 for entries made in the first quarter of 1990 and shall continue for each successive quarter.

Recordkeeping for Compliance Reviews

The importer must provide Customs officials conducting the review with documented proof that all goods entered under the Programs were made from U.S. cut and formed fabric. Customs officials will request documents for goods in one textile category, from one country, entered in the prior calendar quarter. Documents should be organized and filed to facilitate a request for this information. It is recommended that the documents be kept in a single location to expedite the review. The following documents are required to be made available for the Compliance Reviews conducted by Customs.

Records—by calendar quarter, by country, by category:

Entry documents made during the quarter

Documents covering the involved entries:

—ITA-370P
—Cutting ticket including name and location of facility
—Mill invoice (the name of the mill where the fabric was formed, if the fabric was purchased from a third party the importer is responsible for obtaining the mill invoice. Also required is a signed statement from a principal at the mill that the fabric is of U.S. origin. This can be stated directly on the invoice or in a separate document that relates to each specific shipment of fabric).
—Transportation documents (mill to cutting facility; cutting facility to border/assembler).
—Export documentation

Penalties

19 U.S.C. 1592 authorizes the imposition of civil penalties against any person who by fraud, gross negligence, or negligence enters or attempts to enter goods into the United States by means of a false document, statement, or act.

Companies must maintain full and complete records and provide access to them upon request, and penalties may be imposed if companies are found to have misrepresented significant information such as the origin, quantity, or nature of the component parts or the country of assembly. Importers found to be violating the terms of the Program or

intent of the Program may be prohibited from further participation in the Program.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-28447 Filed 12-5-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice. The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Civil Aircraft Landing Permit System; DD Forms 2400, 2401 and 2402; and OMB control number 0701-0050.

Type of Request: Extension of the expiration date of a currently approved collection.

Average Burden Hours/Minutes Per Response: 5 hours.

Frequency of Response: Reporting on Occasion.

Number of Respondents: 6,000.

Annual Burden Hours: 3,000.

Annual Responses: 6,000.

Needs and Uses: "Respondents are civil aircraft owners/operators applying for use of military airfields. The information provided is aircraft data, justification for use, and insurance coverage.

Affected Public: Individuals.

Frequency: Onetime only.

Respondent's Obligation: Required to obtain or retain a benefit..

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: November 30, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-280402 Filed 12-5-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.031A-1]

Strengthening Institutions Program, Title III, Part A of the Higher Education Act of 1965, as Amended; Notice Inviting Applications for New Awards for Fiscal Year 1990

Purpose of Program: Provide grants to eligible institutions of higher education to improve their academic quality, institutional management, and fiscal stability to enable institutions to become self-sufficient.

Deadline for Transmittal of Applications: March 12, 1990.

Applications Available: Applications will be mailed by January 15, 1990, to the Office of the President of all institutions that are designated eligible to apply for a grant under the Strengthening Institutions Program.

Available Funds: $23,000,000.

Estimated Range of Awards: $20,000 to $25,000 for planning grants; $125,000 to $500,000 for development grants.

Average Size of Awards: $23,000 for planning grants; $185,000 per year for one- to three-year development grants; $450,000 per year for four- and five-year development grants.

Project Period: Up to 12 months for planning grants; up to 60 months for development grants.

Estimated Number of Awards: 12 planning grants and 80 development grants.

Special Funding Considerations: In tie-breaking situations described in § 607.23 of the Strengthening Institutions Program regulations, 34 CFR 607.23, the Secretary awards additional points under §§ 607.21 and 607.22 to an application from an institution which has an endowment fund of which the current market value, per FTE student, is less than the average, per FTE student, at similar type institutions; or which has expenditures for library materials, per FTE student, which are less than the average, per FTE student, at similar type institutions. For the purposes of these funding considerations, an applicant must be able to demonstrate that the current market value of its endowment fund, per FTE student, or expenditures for library materials, per FTE student, is less than the following national averages for base year 1985-86.

	Average market value of endowment fund, per FTE	Average library expenditures for materials, per FTE
Two-year Public Institutions	$28.00	$120.00
Two-year Nonprofit, Private Institutions	$321.00	$105.00
Four-year Public Institutions	$109.00	$306.00
Four-year Nonprofit, Private Institutions	$955.00	$380.00

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77 and 85; and (b) the Strengthening Institutions Program Regulations, 34 CFR part 607

For Information, Contact: Dr. Louis J. Venuto, U.S. Department of Education, 400 Maryland Avenue SW Room 3042, ROB-3, Washington, DC 20202-5335. Telephone: (202) 732-3314.

Authority: 20 U.S.C. 1057

Dated: November 27, 1989.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 89-28419 Filed 12-5-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award—Intent To Renew Grant With the National Association of Regulatory Utility Commissioners (NARUC)

AGENCY: United States Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2)(i)(A), it is renewing a financial assistance award under Grant Number DE-FG01-89CE28301 to NARUC to build on the knowledge base developed under the current grant, and transfer and implement that knowledge into substantial improvements in the practice of Least-Cost Utility Planning (LCUP) among the State Commissions.

Scope: The objective of the proposed 18 month project is to evaluate emerging LCUP techniques and transfer LCUP information data among regulators and utilities as follows: (1) The Development of a Technical Appendix to Accompany the NARUC "White Paper" on Financial and Regulatory Incentives; (2) Research and Analysis of Case Studies Which Involve a Coordinated Agreement Between a State Regulatory Commisson and One or More Utilities Subject to the

Regulation of the Commission; (3) Coordination of a National Workshop on Regulatory Options for Incorporating Environmental Externalities into Utility Resource Planning; and (4) Preparation of a Report Identifying Priority Information Needs and Methods for Transferring and Data, Relating to Renewable Energy Technologies to Regulators and Utilities.

The Grant is being awarded on a non-competitive basis because NARUC has the exclusive domestic capability to perform this activity successfully based upon previous performance, technical expertise and the unique nature of the organization. There is no known other regulatory entity which is conducting or planning to conduct such activities.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurment Operations, ATTN: Lisa Tillman, MA-405.42, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 89-28498 Filed 12-5-89; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award (Grant)

AGENCY: San Francisco Operations Office, DOE.

ACTION: Grant solicitation announcement for laser fusion research applications.

SUMMARY: Department of Energy (DOE) San Francisco Operations Office (SAN) announces that it plans to conduct a technically competitive solicitation for basic research experiments in high-energy density studies at the National Laser User's Facility (NLUF) located at the University of Rochester/Laboratory for Laser Energetics (UR/LLE). Universities or other higher education institutions, private sector not-for-profit or for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding expected to be available for the FY91 cycle of this program is $700,000, and multiple awards are anticipated.

Grant Solicitation Number: DE-PS03-90SF18479.

The actual work to be accomplished will be determined by the experiments that are selected for award. Proposed experiments will be evaluated and ranked through scientific peer review against predetermined, published and available criteria. Final selection for awards will be made by the DOE from among the top ranked applications. It is anticipated that multiple grants will be awarded within the available funding.

The unique resources of the NLUF are available to scientists for state-of-the-art experiments primarily in the area of inertial fusion and related plasma physics. Other areas such as spectroscopy of high ionized atoms, laboratory astrophysics, fundamental physics, materials science, and biology and chemistry will be considered on a second priority basis.

The LLE was established in 1970 to investigate the interaction of high power lasers with matter. Available at the LLE for NLUF researchers is the OMEGA laser, a 2.5 trillion watt, 24-beam laser system (at 0.35 μm) and the Glass Development Laser (GDL) a 250 billion watt, single-beam prototype for OMEGA (at 0.35 μm). The NLUF offers the capability for laser-matter interaction experiments or for using short (100 picosecond) pulses of laser light, X-rays, or neutron for probing the structure of matter. More technical information about the facilities and potential collaboration at the NLUF can be obtained from: Dr. James Knauer, Manager, Telephone No.. (716) 275-2074, National Laser User's Facility, University of Rochester/LLE, 250 East River Road, Rochester, NY 14623.

The solicitation document contains all the information relative to this acquisition for prospective applicants. The solicitation is targeted for release in mid-December 1989. Recipients of the NLUF solicitation during the last (FY90) cycle of the program will automatically be sent a copy of the solicitation. New interested parties can obtain copies of the solicitation document by submitting a written request to: James Solomon, CM, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

James H. Solomon,

Contracting Officer, Contracts Management Division.

[FR Doc. 89-28499 Filed 12-5-89; 8:45 am]

BILLING CODE 6450-01-M

Rank Taylor Hobson, Inc., Intent to Grant Exclusive Patent License

AGENCY: Office of the General Counsel, DOE.

ACTION: Notice of intent to grant exclusive patent license.

SUMMARY: Notice is hereby given of an intent to grant to Rank Taylor Hobson, Inc., of Keene, NH, an exclusive license to practice in the United States the invention described in U.S. Patent No. 4,435,905, entitled "Telescoping Magnetic Ball Bar Test Gage. The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in the United States, in which applicant states that he already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

DATE: Written comments or nonexclusive license applications are to be received at the address listed below no later than February 5, 1990.

ADDRESS: Office of Assistant General Counsel for Patents, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Robert J. Marchick, Office of the Assistant General Counsel for Patents, U.S. Department of Energy, Forrestal Building, Room 6F-067 1000 Independence Avenue, Washington, DC 20585; Telephone (202) 586-4792.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209(c) provides the Department with authority to grant exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations (37 CFR 404) require that the necessary determinations be made after public notice and opportunity for filing written objections.

Rank Taylor Hobson, Inc., of Keene, NH, has applied for an exclusive license to practice the invention embodied in U.S. Patent No. 4,435,905, entitled "Telescoping Magnetic Ball Bar Test Gage. Applicant has submitted a plan for commercialization of the invention, contingent on obtaining exclusivity.

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government, and will be subject to a negotiated royalty. The Department will review all timely written responses to this notice, and will grant the license if, after expiration of the 60-day notice period,

and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, on November 30, 1989.

Stephen A. Wakefield,

General Counsel.

[FR Doc. 89-28500 Filed 12-5-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER90-80-000, et al.]

Doswell Limited Partnership, et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Doswell Limited Partnership

[Docket No. ER90-80-000]

November 23, 1989.

Take notice that on November 22, 1989, Doswell Limited Partnership, organized under the laws of the Commonwealth of Virginia, submitted for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207 an initial rate schedule for sales to Virginia Electric and Power Company.

Comment date: December 27 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Company

[Docket No. ER90-79-000]

November 28, 1989.

Take notice that Wisconsin Electric Power Company (Wisconsin Electric), on November 22, 1989, tendered for filing a Settlement Agreement and revised rates for wholesale rate reduction of $2,678,000 (4%).

Wisconsin Electric requests waiver of the Commission's notice requirements in order to allow an effective date of January 1, 1990. Wisconsin Electric is authorized to state that its wholesale customers join in the requested effective rate.

Copies of the filing have been served on the wholesale customers, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: December 12, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Centel Corporation

[Docket No. ER90-72-000]

November 28, 1989.

Take notice that on November 7 1989, Centel Corporation (Centel), tendered for filing a notice of cancellation of Rate Schedule 88-Mwh-5, FERC No. 88 Supplement 13. Centel requests an effective date of October 1, 1988.

Copies of the filing were served upon the Mayor of Coats and the Utilities Division, Kansas Corporation Commission, Topeka, Kansas.

Comment date: December 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Power and Light Company

[Docket No. ER89-485-000]

November 28, 1989.

Take notice that on November 22, 1989, the Kansas Power and Light Company (KPL) tendered for filing Rate Schedule FERC Nos. 254, 255 and 256 consisting of revised Transmission Agreements dated June 1, 1978 between KPL and Kansas Gas & Electric Company, Centel Corporation—Western Power Division and Missouri Public Service Company. KPL states that the filing has been submitted in compliance with the Commission's October 23, 1989, Order in Docket No. ER89-485-000.

Comment date: December 12, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Illinois Power Company

[Docket No. ES90-13-000]

November 30, 1989.

Take notice that on November 27 1989, Illinois Power Company ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), seeking authority pursuant to section 204 of the Federal Power Act, to issue not more than $500 million aggregate principal amount of unsecured short-term notes and commercial paper notes to be issued from time to time with a final maturity date no later than December 31, 1991.

Comment date: December 18, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa Southern Utilities Company

[Docket No. ES90-7-000

November 30, 1989.

Take notice that on November 27 1989, Iowa Southern Utilities Company ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), seeking authority pursuant to section 204 of the Federal Power Act, to issue not more than $15 million aggregate principal amount of unsecured short-term promissory notes and commercial paper notes to be issued from time to time prior to January 1, 1992.

Comment date: December 18, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28415 Filed 12-5-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-229-000, et al.]

United Gas Pipe Line Company, et al., Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP90-229-000]

November 28, 1989.

Take notice that on November 9, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed a request with the Commission in Docket No. CP90-229-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for permission and approval to abandon the firm transportation service for gas sales delivered to Marathon LeTourneau Company (Marathon), under United's blanket certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

United states that Marathon has consented to this proposal and that such abandonment of 150 Mcfd to Marathon

in Warren County, Mississippi, would be accomplished without detriment to its other existing customers. United also states that such service was authorized at Docket No. CP87-220 and the contract expired on its own terms.

Comment date: January 12, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Williams Natural Gas Company

[Docket No. CP90-235-000]

November 28, 1989.

Take notice that on November 13, 1989, Williams Natural Gas Company (WNG) P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-235-000, an application pursuant to sections 7(b) and 7(c) of the Commission's Regulations under the Natural Gas Act, as amended, for a blanket certificate authorizing WNG to sell natural gas for resale under a new Limited Sales Service Rate Schedule (LSS), to transport natural gas for direct sale end-users, and for pregranted abandonment authorization of each service, as more fully described in the application.

Specifically, WNG proposes to offer a limited sales service to any qualified purchaser of natural gas on an interruptible basis, only to the extent that the company determines that it has sufficient capacity and excess gas supply available beyond those quantities currently required to meet WNG's firm sales obligations.

WNG proposes to charge for any LSS sales transaction the rate negotiated between the parties within a range established by the currently effective maximum and minimum rates for the LSS Rate Schedule. WNG states that the LSS program is an essential tool to permit it to manage its system supply more effectively and that it also will allow WNG to sell supplies at more competitive prices. Further WNG proposes various terms and conditions for rendering LSS service, including tariff revisions, nominations, scheduling, determination of deliveries, suspension and termination of the service, and a form of service agreement which will be presented as pro forma tariff sheets to be included in WNG's FERC Gas Tariff.

Comment date: December 19, 1989, in accordance with Standard Paragraph F at the end of this notice.

3. Southern Natural Gas Company

[Docket No. CP90-270-000]

November 29, 1989.

Take notice that on November 21, 1989, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP90-270-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to partially abandon sales service to United Cities Gas Corporation (United Cities), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that United Cities has requested and Southern has agreed to convert 9,000 Mcf of United Cities' Contract Demand to firm transportation demand under Southern's Rate Schedule FT. Southern states that it has entered into a service agreement with United Cities under Rate Schedule FT, dated October 20, 1988, and Southern therefore requests authorization to abandon 9,000 Mcf of its sales service to United Cities effective November 1, 1988.

Pursuant to 18 CFR 284.10(d)(2) the exercise of the customer's option to convert constitutes consent to the proposed abandonment.

Comment date: December 20, 1989, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP90-281-000]

November 29, 1989.

Take notice that on November 27 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP90-281-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas, on an interruptible basis, for BP Gas Inc. (BP) under Transco's blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that the total volume of natural gas to be transported for BP on a peak day would be 50,000 dt; on an average day would be 3,500 dt; and on an annual basis would be 1,277,500 dt.

Transco indicates that it would receive the natural gas at an existing receipt point in offshore Louisiana and would deliver the natural gas at an existing delivery point in offshore Louisiana.

Transco states that it commenced the transportation of natural gas for BP on October 1, 1989, in Docket No. ST90-474-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: January 16, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP90-278-000

November 29, 1989.

Take notice that on November 27 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-278-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of National Steel Corporation (National), an end-user of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport, on an interruptible basis, up to 13,400 Dt. per day for National. Tennessee states that construction of facilities would not be required to provide the proposed service.

Tennessee further states that the maximum day, average day, and annual transportation volumes would be approximately 13,400 Dt., 13,400 Dt. and 4,891,000 Dt. respectively.

Tennessee advises that service under § 284.223(a) commenced November 2, 1989, as reported in Docket No. ST90-555.

Comment date: January 16, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act

and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on their filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28416 Filed 12-5-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2643 Oregon]

Pacific Power & Light Co., Intent To File an Application for Subsequent License

November 30, 1989.

Take notice that on December 28, 1988, Pacific Power & Light Company, the existing licensee for the Bend Hydroelectric Project No. 2643, filed a notice of intent to file an applicaiton for a subsequent license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. Although Project No. 2643 has a minor license with a waiver of section 15 of the Act, the requirements of section 15(b)(1) of the Act were made applicable to this proceeding by 18 CFR 16.19(b) (*see* Docket No. RM 87-33-000, Order No. 513, Final Rule, issued May 17 1989, a copy of which may be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426). The original license for Project No. 2643 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located on the Deschutes River in Deschutes County, Oregon. The principal works of the Bend Project include a 14-foot-high, 250-foot-long timber-crib spillway dam and a 150-foot-long buttressed concrete gravity wing wall; a reservoir of about 40 acres; a powerhouse with an installed capacity of 1,110 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, as made applicable to this proceeding by 18 CFR 16.19(c) (Order No. 513), the licensee is required to make available certain information described in 18 CFR 16.7 (as redesignated by Order No. 513). The above information is now available from the licensee at 920 SW 6th Avenue, Portland, Oregon 97204, Attn: S. A. deSousa, telephone (503) 464-5343.

Pursuant to 18 CFR 16.20 (Order No. 513), each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28412 Filed 12-5-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2187 Colorado]

Public Service Company of Colorado, Intent To File an Application for Subsequent License

November 30, 1989.

Take notice that on December 22, 1988, Public Service Company of Colorado, the existing licensee for the Georgetown Hydroelectric Project No. 2187 filed a notice of intent to file an application for a subsequent license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. Although Project No. 2187 has a minor license with a waiver of section 15 of the Act, the requirements of section 15(b)(1) of the Act were made applicable to this proceeding by 18 CFR 16.19(b) (*see* Docket No. RM87-33-000, Order No. 513, Final Rule, issued May 17 1989, a copy of which may be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426). The original license for Project No. 2187 was issued effective August 1, 1964, and expires December 31, 1993.

The project is located on South Clear Creek in Clear Creek County, Colorado. The principal works of the Georgetown Project include five dams and reservoirs; interconnecting water conduits; a powerhouse with an installed capacity of 1,440 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, as made applicable to this proceeding by 18 CFR 16.19(c) (Order No. 513), the licensee is required to make available certain information described in 18 CFR 16.7 (as redesignated by order No. 513). The above information is now available from the licensee at 550-15th Street, Denver, CO 80202, Attn: John W. Steck, telephone (303) 571-7643.

Pursuant to 18 CFR 16.20 (Order No. 513), each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28413 Filed 12-5-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2544 Washington]

The Washington Water Power Co., et al., Intent To File an Application for Subsequent License

November 30, 1989.

Take notice that on December 19, 1988, The Washington Water Power Company (Lessee-Operator) and Lee W. Cagle (Owner), the existing licensee for the Meyers Falls Hydroelectric Project No. 2544, filed a notice of intent to file an application for a subsequent license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. Although Project No. 2544 has a minor license with a waiver of section 15 of the Act, the requirements of section 15(b)(1) of the Act were made applicable to this proceeding by 18 CFR 16.19(b) (*see* Docket No. RM87-33-000, Order No. 513, Final Rule, issued May 7 1989, a copy of which may be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426). The original license for Project No. 2544 was issued

effective January 1, 1961, and expires December 31, 1993.

The project is located on the Colville River in Stevens County, Washington. The principal works of the Meyers Falls Project include a 25-foot-high, 306-foot-long timber and concrete buttress dam with earthfill sections at each end; a forebay; a concrete intake structure; a 4-foot-diameter, 325-foot-long penstock; a powerhouse with an installed capacity of 1,200 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, as made applicable to this proceeding by 18 CFR 16.19(c) (Order No. 513), the licensee is required to make available certain information described in 18 CFR 16.7 (as redesignated by Order No. 513). The above information is now available from the licensee at PO Box 3727 Spokane, WA 99220.

Pursuant to 18 CFR 16.20 (Order No. 513), each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28414 Filed 12-5-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9625-002 California]

Frontier Land and Power; Surrender of Exemption

November 30, 1989.

Take notice that Frontier Land and Power, Exemptee for the Mohawk Power Project No. 1, has requested that its exemption be terminated. The exemption for Project No. 9625 was issued June 30, 1986. The project would have been located on the pipe conduit which is part of a private water distribution system that obtains water from an unnamed tributary to Sulfur Creek near Clio in Plumas County, California.

The Exemptee filed the request on May 2, 1988, and the exemption for Project No. 9625 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-28420 Filed 12-5-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3693-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduciton act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATE: Comments must be submitted on or before January 4, 1990.

FOR FURTHER INFORMATON CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Significant New Use Rules for Existing Chemicals (EPA ICR # 1188.03; OMB # 2070-0038). This ICR requests renewal of the existig clearance.

Abstract: Under section 5 of the Toxic Substances Control Act, EPA has the authority to monitor and control significant new uses of chemical substances. When EPA designates a chemical use as a significant new use, the initating party—chemical manufacturer, importer or processor—must use the Premanufacture Notice form to notify the Agency 90 days prior to commencing the use.

Burden Statement: The public reporting burden for this collection of information is estimated to vary from 30 to 180 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Chemical manufacturers, importers, and processors.

Estimated No. of Respondents: 2.

Estimated Total Annual Burden on Respondents: 359 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street SW., Washington, DC 20460; and

Tim Hunt, Office of Management and Budget, Paperwork Reduction Project (2070-0057), Washington, DC 20503, Telephone: (202) 395-3084.

Dated: November 22, 1989.

David Schwarz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 89-28482 Filed 12-5-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3694-3]

Extension of the Public Comment Period for the Proposed Determination to Restrict the Specification of Leonard Pond and Its Wetlands as Disposal Sites

AGENCY: Environmental Protection Agency.

ACTION: Notice to extend the comment period for August 30, 1989 § 404(c) Proposed Determination.

SUMMARY: A Public Notice entitled "Proposed Determination to Restrict the Specification of Leonard Pond and Its Wetlands as Disposal Sites" was published in the **Federal Register** on August 30, 1989 [54 FR 35927]. That notice indicated that comments should be received at the address listed below on or before October 16, 1989. That time frame was extended to November 27 1989 [54 FR 45801] at the request of a landowner in the area of the proposed determination and the U.S. Fish and Wildlife Service in order to submit information pertaining to the environmental values and the nature and scope of the section 404(c) action. In order to allow completion of the comments, EPA is hereby extending the comment period for all interested parties until close of business, December 11, 1989.

This time extension is made under authority of 40 CFR 231.8

DATE: Comments should be postmarked on or before December 11, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph W. Abele, EPA Water Quality Branch, JFK Federal Building, WWP-1900, Boston, MA 02203-2211, (617) 565-4438.

Dated: November 30, 1989.

Stephen Ells,

Acting Regional Administrator, Region I.

[FR Doc. 89-2851 Filed 12-5-89; 8:45 am]

BILLING CODE 6560-50-M

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Science and Technology Policy

Biotechnology Science Coordinating Committee; Meeting

AGENCY: Executive Office of the President, Office of Science and Technology Policy.

ACTION: Open meeting.

Name: Federal Coordinating Council for Science, Engineering, and Technology, Biotechnology Science Coordinating Committee (BSCC).

Correction

In notice document 89-27812 on page 48960 in the issue of Tuesday, November 28, 1989, make the following corrections:

Date and Time: Thursday, December 21, 1989; 3:00-5:00 p.m.

Dated: December 1, 1989.

Barbara J. Diering,

Special Assistant, Office of Science and Technology Policy.

[FR Doc. 89-28543 Filed 12-1-89; 5:09 pm]

BILLING CODE 3170-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: New collection.

Title: Application for Waiver of Prohibition on Acceptance of Brokered Deposits by Undercapitalized Insured Depository Institutions.

Form Number: Letter application.

Frequency of Response: On occasion.

Respondents: Undercapitalized insured depository institutions wishing to accept or renew brokered deposits.

Number of Respondents: 370.

Number of Responses Per Respondent: 1.

Total Annual Responses: 370.

Average Number of Hours Per Response: 6.

Total Annual Burden Hours: 2,220.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FDIC Contact: John Keiper, (202) 898-3810, Assistant Executive Secretary, Room 6096, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before February 5, 1990.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Section 224 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (codified to 12 U.S.C. 1831f) prohibits the acceptance or renewal of brokered deposits by any undercapitalized insured depository institution (bank or thrift) after December 7 1989, except on specified application to and waiver of the prohibition by the FDIC. In order to obtain a waiver, an undercapitalized institution must demonstrate that its acceptance of such deposits does not constitute an unsafe or unsound practice.

The FDIC is requesting OMB approval to require certain information whenever an undercapitalized insured depository institution (bank or thrift) applies to the FDIC for a waiver from the statutory prohibition on the acceptance of brokered deposits. The information will be used by the FDIC to decide whether to grant the waiver requested. The information is expected to be prescribed in a new § 337.6(d) of the FDIC's regulations (12 CFR 337.6) and consists essentially of the undercapitalized institution's plans to meet applicable capital requirements within a reasonable time period; the volume, rates and maturities on brokered deposits currently held; the scope of the waiver sought in terms of the volume and cost of brokered deposits to be obtained or retained and the time period for which a waiver may be needed; alternative funding sources available to the institution; and the reasons the institution believes that its acceptance of brokered deposits does not constitute an unsafe or unsound practice in its particular circumstances.

Dated: November 30, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-28426 Filed 12-5-89; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-848-DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama (FEMA-848-DR), dated November 17 1989, and related determinations.

DATED: November 21, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3614.

Notice: The notice of a major disaster for the State of Alabama, dated November 17, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 17, 1989:

Jackson County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 89-28471 Filed 12-5-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-848-DR]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA-848-DR), dated November 17, 1989, and related determinations.

DATED: November 17 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency

Management Agency, Washington, DC 20472, (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated November 17, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Alabama, resulting from tornadoes and severe storms on November 15, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707 I, therefore, declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288, as amended by PL 100-707 for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of Section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Thomas P Credle of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alabama to have been affected adversely by this declared major disaster: Madison County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-28472 Filed 12-5-89; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-849-DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-849-DR), dated November 22, 1989, and related determinations.

DATED: November 22, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

Notice: Notice is hereby given that, in a letter dated November 22, 1989, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288, as amended by Pub. L. 100-707), as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from heavy rains and flooding on November 7-9, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288, as amended by Public Law 100-707 I, therefore, declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. You are also authorized to provide Public Assistance in the affected areas, if requested and necessary, and an acceptable State commitment for these purposes is provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93-288, as amended by PL 100-707, for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of Section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Warren M. Pugh of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster: The parishes of Jefferson, Orleans, and St. Charles for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert H. Morris,

Acting Director, Federal Emergency Management Agency.

[FR Doc. 89-28473 Filed 12-5-89; 8:45 am]

BILLING CODE 6718-02-M

Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy.

Dates of Meeting: January 7-9, 1990.

Place: National Emergency Training Center, G Bldg., 2nd Floor Conference Room, Emmitsburg, MD 21727

Time:

January 7—2:00 p.m. to 5:00 p.m.
January 8—9:00 a.m. to 5:00 p.m.
January 9—8:30 a.m. to Agenda Completion

Proposed Agenda: Old Business, New Business; Annual Report, Visit Classes.

The meeting will be open to the public with seating available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727 (telephone number, 301-447-1123) on or before December 27 1989.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the director's Office, Office of Training, Federal Emergency Management Agency, 500 C Street S.W., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: November 16, 1989.

Dave McLoughlin,

Director, Office of Training.

[FR Doc. 89-28474 Filed 12-5-89; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal

Maritime Commission, 1100 L Street NW Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of the Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.. 224-002161-006

Title: Port of Seattle Terminal Agreement.
Parties:

Port of Seattle (Port)
Cargill, Inc. (Cargill)

Synopsis: The Agreement amends the basic agreement. It provides for a change in the procedure for billing dockage. It also provides that Cargill will share the dockage revenue with the Port on a 50/50 basis. Cargill will bill and collect all dockage charges from vessels using the leased premises and have the exclusive right to assess vessels a service facility charge for use of the premises.

Agreement No.. 224-010974-005

Title: Port of Oakland Terminal Agreement.
Parties:

Port of Oakland (Port)
International Transportation Service, Inc. (ITS)

Synopsis: The Agreement amends the basic agreement to provide for the Port to reimburse, out of certain wharfage revenue at the assigned facilities, ITS for its costs in making certain transtainer runway improvements to the marine terminal facilities assigned under the basic agreement.

Agreement Nos.. 224-200178-001, 224-200178-002.

Title: Port Authority of New York and New Jersey Terminal Agreement.
Parties:

Port Authority of New York and New Jersey (Port Authority)
Carco, Inc. (Carco)

Synopsis: Agreement No. 224-200178-001 amends the basic agreement for the lease of premises at the Port Authority Auto Marine Terminal to provide for the interim operation of certain terminal facilities pending completion of construction work at the leased facilities by Carco as set forth in section 5(a) of the basic agreement.

Agreement No. 224-200178-002 further amends the basic agreement to increase the amount which the Port Authority will reimburse Carco for construction costs.

By Order of the Federal Maritime Commission.

Dated: November 30, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-28435 Filed 12-5-89; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89D-0398]

Sponsored Compounds Used in Food-Producing Animals; Guideline for the Safety Evaluation of Bound Residues From Carcinogenic Animal Drugs; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline, "VIII. Guideline for the Human Food Safety Evaluation of Bound Residues Derived from Carcinogenic New Animal Drugs," that describes the kinds of tests that the sponsor may conduct to establish the safety of bound residues derived from carcinogenic animal drugs. This guideline applies to human food safety, not to target animal safety. FDA invites interested persons to submit written comments on this guideline.

DATES: Written comments on the guideline may be submitted at any time. FDA will respond to comments received before February 5, 1990.

ADDRESSES: Submit written requests for single copies of "VIII. Guideline for the Human Food Safety Evaluation of Bound Residues Derived from Carcinogenic New Animal Drugs" to the Division of Chemistry (HFV-140), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on "VIII. Guideline for the Human Food Safety Evaluation of Bound Residues Derived from Carcinogenic New Animal Drugs" to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 Requests and comments should be identified with the docket number found in brackets in the heading of this document. The guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Steven D. Brynes, Center for Veterinary Medicine (HFV-144), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-2841.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 31, 1987 (52 FR 49589), FDA announced the availability of a series of seven guidelines that describe the tests that a sponsor of a new animal drug may conduct to establish the safe conditions of use of the drug in food-producing animals. Although one of these guidelines, "I. Guideline for Metabolism Studies and for Selection of Residues for Toxicological Testing, discussed in general terms some considerations FDA has made with respect to bound residues, FDA had not prepared a guideline dealing specifically with the safety evaluation of bound residues derived from carcinogenic drugs.

The human food safety assessment of bound residues derived from carcinogenic animal drugs has long challenged FDA scientifically and policywise. The complex nature of bound residues, which result primarily from the reaction of a drug metabolite with cellular macromolecules, makes the usual approaches to a safety evaluation unsuitable. FDA has prepared a guideline entitled "VIII. Guideline for the Human Food Safety Evaluation of Bound Residues Derived from Carcinogenic New Animal Drugs. In this guideline FDA describes the kinds of data it will consider in evaluating the toxicological significance of bound residues derived from carcinogenic animal drugs.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for use of guideline to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. Sponsors may rely upon a guideline with the assurance that it represents procedures acceptable to the agency (see § 10.90). If such persons believe that alternative procedures are also applicable, a guidelines does not preclude them from pursuing the alternative procedures. Under such circumstances, however, the agency encourages sponsors to discuss the alternative procedures in advance with FDA to prevent the expenditure of money and effort for work that may later be found to be unacceptable.

This notice is issued under 21 CFR 10.85

Dated: November 28, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-28393 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0504]

Drug Export; Imodium® A-D (Loperamide HCL) Caplet, 2 mg.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that McNeil Consumer Products Co. has filed an application requesting approval for the export of the human drug Imodium® A-D (Loperamide HCL) Caplet, 2 mg. to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Mary F Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that McNeil Consumer Products Co., Camp Hill Rd., Ft. Washington, PA 19034, has filed an application requesting approval for the export of the drug Imodium® A-D (Loperamide HCL) Caplet, 2 mg., to Canada. This drug is indicated for use to control the symptoms of diarrhea. The application was received and filed in the Center for Drug Evaluation and Research on October 20, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. to 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by December 18, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: November 21, 1989.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89-28394 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0416]

Vitarine Pharmaceuticals, Inc., Proposal to Withdraw Approval of Abbreviated Antibiotic Drug Applications and Abbreviated New Drug Applications; Opportunity for a Hearing; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that proposed to withdraw approval of certain abbreviated antibiotic drug applications (AADA's) and abbreviated new drug applications (ANDA's) held by Vitarine Pharmaceuticals, Inc., 227-15 North Conduit Ave., Springfield Gardens, NY 11413 (54 FR 40740; October 3, 1989). The notice inadvertently omitted the words "250 mg &" in the listing for AADA 61-471. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Margaret Sharkey, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-295-8041.

SUPPLEMENTARY INFORMATION: In FR Doc. 89-23374, appearing at page 40740 in the **Federal Register** of Tuesday, October 3, 1989, the following correction is made: On page 40747 first column, under the heading "Proposed Action and Notice of Opportunity for Hearing" the listing for AADA 61-471" is corrected to read "AADA 61-471; Tetracycline Hydrochloride 250 mg & 500 mg Capsules"

Dated: November 28, 1989.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 89-28395 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89F-0481]

Exxon Chemical Co., Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Exxon Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyisobutylene and isobutylene/isoprene copolymers as components of food-contact materials sterilized with a hydrogen peroxide solution.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4176) has been filed by Exxon Chemical Co., P.O. Box 45, Linden, NJ 07036, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of polyisobutylene and isobutylene/isoprene copolymers as components of food-contact materials sterilized with a hydrogen peroxide solution.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be

published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: November 28, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-28448 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0193]

Second Draft Proposed Standard for the Infant Apnea Monitor; Availability; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of its "Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989" to request public comment. FDA is also announcing that it is holding a public meeting to discuss the draft standard in conjunction with the Eighth Annual Conference on Apnea of Infancy to be held on January 25 to 27 1990, Rancho Mirage, CA 92270.

DATES: Comments on the "Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989" by March 26, 1990. The public meeting will be held on January 24, 1990, from 1 p.m. to 5 p.m., in the California Room of the Gene Autry Hotel, 4200 East Palm Canyon Dr., Palm Springs, CA 92264.

ADDRESSES: Submit written requests for single copies of the "Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989" to the Operations Staff (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft standard to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft standard and any received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: E. Jane McCarthy, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-4874.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of September 10, 1982 (47 FR 39816), FDA published a final rule under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) classifying the generic type of device, the breathing (ventilatory) frequency monitor (21 CFR 868.2375), into class II (performance standards). In the Federal Register of July 8, 1983 (48 FR 31392), FDA initiated a proceeding to establish for the breathing frequency monitor a performance standard under section 514 of the act (21 U.S.C. 360d). In a notice published in the Federal Register of February 26, 1986 (51 FR 6886), FDA continued the proceeding to establish a performance standard for the breathing frequency monitor, pursuant to section 514(c) of the act and 21 CFR Part 861. The notice invited any interested persons to submit an existing standard as a proposed performance standard for the device, or to submit an offer to develop such a proposed standard. In that notice, FDA limited its proceeding to those breathing frequency monitors commonly called noenatal apnea monitors, which are intended for use on infants to detect cessation of breathing.

In the Federal Register of July 1, 1986 (51 FR 23832), FDA announced that, in accordance with the provisions of section 514(e)(3) of the act and 21 CFR 861.32, FDA may, upon application (which may be made before the acceptance of the offer), agree to contribute to the accepted offeror's cost in developing a proposed standard if FDA determines that such contribution is likely to result in a more satisfactory standard that would be developed without such contribution. Subsequently, FDA allocated approximately $250,000 to contribute to the offeror's cost for the first year of effort in developing a proposed standard.

In the Federal Register of April 22, 1988 (53 FR 13296), FDA advised that a notice of grant award (cooperative agreement) had been issued to the Emergency Care Research Institute (ECRI), 5200 Butler Pike, Plymouth Meeting, PA 19462. The cooperative agreement with ECRI was completed on August 31, 1988. Because certain requirements for the infant apnea monitor were unable to be addressed in the draft document delivered to the agency, FDA proceeded to develop a proposed standard for the infant apnea monitor, using the information developed during the cooperative agreement with ECRI (21 U.S.C. 360d(f)).

In the Federal Register of January 4, 1989 (54 FR 187), FDA announced the availability of its "First Draft Proposed Standard for the Infant Apnea Monitor—October 1988, to request public comment. Under 21 CFR 861.30, FDA shall provide interested persons an opportunity to participate in the development of a standard by accepting comments, and where appropriate, holding public meetings on issues relating to development of the standard.

Accordingly, in the same notice, FDA also announced an open public meeting to discuss the draft standard. The meeting was held on January 25, 1989, in conjunction with the Seventh Annual Conference on Apnea of Infancy held in Rancho Mirage, CA 92270.

In the Federal Register of July 25, 1989 (54 FR 30951), FDA announced an open public meeting that was held on September 11 and 12, 1989, at the Crowne Plaza Holiday Inn, Rockville, MD 20852, to discuss the current sensor modalities and devices used to measure infant apnea, combinations of sensors used to detect apnea and the pathophysiological result of apnea, and the currently used test methods.

II. Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989

Based on 22 written comments received in response to the Federal Register request for comments on the first draft proposed standard and on comments and information received at the public meetings, FDA revised the first draft proposed standard. FDA is now making available for comment its "Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989."

FDA is also announcing that it will hold an open public meeting to discuss the second draft proposed standard on January 24, 1990, from 1 p.m. to 5 p.m. at the Gene Autry Hotel (address above). FDA's public meeting will be held in conjunction with the Eighth Annual Conference on Apnea of Infancy, January 25 to 27 1990, Rancho Mirage, CA 92270.

A summary of the proceedings of the public meeting, as well as all data and information submitted voluntarily to FDA during the public meeting to discuss the draft standard will become part of the administrative record and will be available to the public under 21 CFR 20.111 from the Dockets Management Branch (address above). After comments, data, and information are submitted at the open public meeting and in response to this request for comments on the second "Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989," FDA will publish in the Federal Register a

proposed mandatory standard under section 514(g) of the act of (21 U.S.C. 360d(g) and 21 CFR 10.40).

Interested persons should submit to the Dockets Management Branch (address above) written comments on the "Second Draft Proposed Standard for the Infant Apnea Monitor—October 1989" by March 26, 1990. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 30, 1989.

Alan L. Hoeting,

Acting Associate Commission for Regulatory Affairs.

[FR Doc. 89-28449 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress.

Council on Graduate Medical Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G-400, 330 Independence Avenue SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from: Dr. Marilyn H. Gaston, Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 Telephone (301) 443-6190.

Dated: November 30, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89-28450 Filed 12-5-89; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Consensus Development Conference on Noise and Hearing Loss

Notice is hereby given of the NIH Consensus Development Conference on "Noise and Hearing Loss" sponsored by the National Institute on Deafness and Other Communication Disorders and by the NIH Office of Medical Applications of Research. The conference will be held January 22-24, 1990 in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

There are approximately 28 million people in the United States with impaired hearing. In many instances, exposure to occupational and recreational noise has caused irreversible damage to the inner ear. Daily, people are exposed to hazardous levels of noise on their jobs, including firefighters, military personnel, disc jockeys, construction workers, musicians, farmers, industrial arts teachers, computer operators, factory workers, as well as taxicab, truck, and bus drivers to name a few. Exposure to live or recorded high-volume music, recreational vehicles, airports, heavy traffic, lawn mowers, household appliances, chain saws, and power tools are all sources of potentially damaging noise.

During the last decade, significant progress has been made in understanding the effects of noise on the inner ear, but important questions remained unsolved. The purpose of this Consensus Development Conference is to examine what is known of the epidemiology, pathogenesis, and pathophysiology of noise-induced hearing loss as well as its prevention and management. The conference will bring together biomedical and behavioral scientists, health care providers, and the public, and it will address: (1) The characteristics of noise-related hearing loss, (2) acoustic parameters of hazardous noise exposure, (3) individual and age-specific susceptibility, and (4) prevention strategies.

Following a day and a half of presentations by experts and discussion by the audience, a Consensus Panel will weigh the scientific evidence and write a draft statement in response to the following questions:

What is noise-related hearing loss?

What sounds can damage hearing?

What factors, including age, determine an individual's susceptibility to noise-related hearing loss?

What can be done to prevent noise-related hearing loss?

- What are the directions for future research?

On the third day of the conference, following deliberation of new findings or evidence that might have been presented during the meeting, the panel will present its final consensus statement.

Information on the program may be obtained from: Dina Rice, Prospect Associates, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 468-6555.

Dated: November 28, 1989.

William Raum,

Acting Director, NIH.

[FR Doc. 89-28430 Filed 12-5-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, on January 30-31, 1990, in Building 31, Conference Room 4, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9:00 a.m. to recess on January 30 and 8:30 a.m. to adjournment on January 31 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. William R. Harlan, Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: November 29, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-28431 Filed 12-5-89; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung and Blood Institute; Meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung and Blood Institute, January 8-9, 1990, Federal Building, Room B119, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from approximately 8:30 a.m. on January 8, to adjournment on January 9, to evaluate program support in arteriosclerosis, hypertension and lipid metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4235, will provide a summary of the meeting and a roster of the committee members.

Dr. G.C. McMillan, Associate Director, Arteriosclerosis, Hypertension and Lipid Metabolism Program, NHLBI, Room 4C12, Federal Building, National Institutes of Health, Bethesda, MD 20892, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837 Heart and Vascular Diseases Research, National Institutes of Health)

Dated: November 29, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-28432 Filed 12-5-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-89-2085]

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, D.C. 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: November 29, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Coinsurance Umbrella Reporting System.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: This automated data collection system will enable the Department to evaluate and review on an on-going basis the coinsuring lender's underwriting practices and subsequent project performance. The information will assist HUD in its responsibility to monitor lenders to assure adherence and compliance to statutory and regulatory requirements.

Form Number: None.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: Monthly.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	70		12		3.34		2,806

Total Estimated Burden Hours: 2,806.

Status: Reinstatement.

Contact: Matthew Andrea, HUD (202) 755-4956, John Allison, OMB, (202) 395-6880.

Date: November 29, 1989.

[FR Doc. 89-28409 Filed 12-5-89; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-89-2084]

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 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: November 30, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Community Development Technical Assistance Program.

Office: Community Planning and Development.

Description of the Need for the Information and Its Proposed Use: The Technical Assistance regulations are designed to inform potential applicants for funds of the Community Development Technical Assistance Program. It provides such information as who may apply for an award, types of proposals and applications, selection criteria, submission times and places, and proposal content. This information will help the Department determine the capability of applicants and the merits of funding their unsolicited proposals.

Form Number: SF-424.

Respondents: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting burden:

	Number of respondents	x	Frequency response	x	Hours per response	=	Burden hours
Unsolicited Proposals	200		1		80		16,000

Total Estimated Burden Hours: 16,000.

Status: New.

Contact: Maggie H. Taylor, HUD, (202) 755-6090, John Allison, OMB, (202) 395-6880.

Date: November 30, 1989.

[FR Doc. 89-28410 Filed 12-5-89; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-89-2083]

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 submissions 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: November 29, 1989.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Mortgagee's Certification and Application/Monthly Summary of Assistance Payments Due Under section 235(b), 235(j), or 235(i) or of Interest Reduction Payments Due Under section 236.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The Form Monthly Summary of Assistance Payments (HUD-300), will be submitted by mortgages with the Form, Mortgagee's Certification and Application or Interest Reduction Payments (HUD-93102). The information is needed because all assistance payments disbursed under this program must be monitored by the Department.

Form HUD-300 supports the billing information provided on Form HUD-93102 for each mortgage.

Form Number: HUD-300 and 93102.

Respondents: Business or Other For-Profit.

Frequency of Submission: Monthly.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-300	962		13.756		1		13,224
HUD-93102	962		.18		.25		4,399

Total Estimated Burden Hours: 17,553.

Status: Reinstatement.

Contact: Florence Brooks, HUD, (202) 755-7330; John Allison, OMB, (202) 395-6880.

Date: November 29, 1989.

[FR Doc. 89-28411 Filed 12-5-89; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-030-00-4212-14; WIES 038811]

Realty Action; Sale of Public Land in Vilas County, Wisconsin

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public lands in Vilas County, Wisconsin (WIES 038811 in Town of Land O'Lakes and WIES 041887 Town of Winchester)—direct sales.

SUMMARY: The following public land(s) have been examined and determined to be suitable for sale under section 203(a)(1) of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at no less than the appraised fair market value shown below.

Fourth Principal Meridian, Wisconsin

WIES 038811
T.43N., R.10E., Section 32
Town of Land O'Lakes
Government Lot 5, (0.06 acres)

Appraised Fair Market Value $50.00

Fourth Principal Meridian, Wisconsin

WIES 041887
T.43N., R.5E., Section 4
Town of Winchester
Government Lot 10, Lot 25 (0.54 acres)

Appraised Fair Market Value $4000.00

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

The above described land (WIES 038811) is being offered by direct sale to Glenn E. and Carol L. Ninko, and (WIES 041887) is being offered by direct sales to Sulo and Margaret Wainio. The Patent(s) will be subject to valid existing rights.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Milwaukee District, P.O. Box 631, Milwaukee, Wisconsin 53201-0631. In the absence of timely objections, this proposal shall become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning these sales is available at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 225, Milwaukee, Wisconsin 53203; or by calling Paulette Francis at 414-291-4416.

Chris Hanson,

Acting District Manager.

[FR Doc. 89-28397 Filed 12-5-89; 8:45 am]

BILLING CODE 4310-GJ-M

[WY-940-00-4730-12]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., November 27 1989.

Sixth Principal Meridian

T. 57 N., R. 62 W.

The plat showing a subdivision of original lots 6 and 13, section 5, T. 57 N., R. 62 W., Sixth Principal Meridian, Wyoming, was accepted November 21, 1989.

T. 58 N., R. 62 W.

The plat showing a subdivision of original lot 20, section 31, T. 58 N., R. 62 W., Sixth Principal Meridian, Wyoming, was accepted November 21, 1989.

These supplemental plats were prepared to meet certain administrative needs of this Bureau.

T. 50 N., R. 75 W.

The plat representing the dependent resurvey of a portion of the south boundary, the east and west boundaries and the subdivisional lines, T. 50 N., R. 75 W Sixth Principal Meridian, Wyoming, Group No. 481, was accepted November 21, 1989.

T. 50 N., R. 76 W.

The plat representing the dependent resurvey of the Ninth Auxiliary Meridian West, through T. 50 N., between Rs. 76 and 77 W a portion of the south boundary and the subdivisional lines, T. 50 N., R. 76 W Sixth Principal Meridian, Wyoming, Group No. 481, was accepted November 21, 1989.

These surveys were executed to meet certain administrative needs of this Bureau.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: November 27 1989.

John P Lee,

Chief, Branch of Cadastral Survey.

[FR Doc. 89-28495 Filed 12-5-89; 8:45 am]

BILLING CODE 4310-22-M

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Katmai National Park and Preserve/Aniakchak National Monument and Preserve and the Chairperson of Aniakchak National Monument Subsistence Resource Commission announce a forthcoming meeting of the Aniakchak National Monument Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of guests.

(2) Status of new appointments to commission.

(3) Role of Subsistence Resource Commission.

(4) Overview of recent AFN Subsistence Workshop and Chairmen's Meeting.

(5) Overview of impact of *Exxon Valdez* Oil Spill on Aniakchak coast.

(6) Review of minutes from last meeting.

(7) Elect new Chairperson.

(8) Review and redraft the Subsistence Hunting Plan Recommendations.

(9) New business.

DATE: The meeting will begin at 10:00 a.m. on Thursday, January 11, 1990 and conclude at 5:00 p.m. The meeting will reconvene at 10:00 a.m. on Friday, January 12, 1990 and conclude at 1:00 p.m.

ADDRESS: The meeting will be held at the Port Heiden Hall, Port Heiden, Alaska.

FOR FURTHER INFORMATION CONTACT: G. Ray Bane, Superintendent, Katmai National Park and Preserve/Aniakchak National Monument, P.O. Box 7 King Salmon, AK 99613. Phone (907) 146-3305.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487 and operates in accordance with the provisions of the Federal Advisory Committees Act.

Paul F. Haertel,

Acting Regional Director.

[FR Doc. 89-28434 Filed 12-5-89; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 25, 1989. 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 December 21, 1989.

Carol D. Shull,

Chief of Registration, National Register.

GEORGIA

Morgan County

Madison Historic District (Boundary Increase), Roughly Main St., Old Post Rd., Academy St., Dixie St., and Washington, St., Madison, 89002159

MASSACHUSETTS

Essex County

Manchester Village Historic District, Roughly Friend, School, North, Washington, Sea, Union, Central, Bennett, Bridge Sts., and Ashland Ave., Manchester, 89002156

NORTH CAROLINA

Buncombe County

Alexander, Mrs. Minnie, Cottage, 216 Patton Ave., Asheville, 89002135

Jackson County

Hedden, Elisha Calor, House, Main St., and Old Webster-Sylva Rd., Webster, 89002133

Webster Baptist Church, MC 116 and SR 1340, Webster, 89002137

Webster Methodist Church, MC 116/Main St., Webster, 89002130

Jones County

Bryan-Bell Farm, MC 58, 1 mi. E of SR 1119, Pollocksville vicinity, 89002155

Lenoir County

Sunrell and McCoy Building (Kinston MPS), Kinston, 89002134

Madison County

White, James W., House, 5 Hill St., Marshall, 89002136

Nash County

Bellemonte, 3400 N. Wesleyan Blvd., Rocky Mount, 89002132

Robeson County

Lumberton Commercial Historic District, Roughly Sixth St., Elm St., Fifth St., Chestnut St., Second St., Walnut St., Seaboard Coast Railroad tracks, & Water St., Lumberton 89002131

Wake County

Downtown Garner Historic District, Roughly Garner Rd. and Main St. from New Rand Rd. to Broughton St., Garner, 89002157

Green-Hartsfield House, SR 2303 at jct. with SR 2304, Rolesville vicinity, 89002158

SOUTH CAROLINA

Berkeley County

Otranto Plantation Indigo Vats, SC Sec. Rd. 503, E of Goose Creek, Goose Creek vicinity, 89002150.

Darlington County

Japonica Hall, S. Main St., Society Hill, 89002153

Greenville County

First National Bank, 102 S. Main St., Greenville, 89002152

Tullyton, 606 Hickory Tavern Rd., Fountain Inn vicinity, 89002151

Lancaster County

Allison, Robert Barnwell, House (Lancaster County MPS), 404 Chesterfield Ave., Lancaster, 89002148

East Richland Street—East Church Street Historic District, (Lancaster County MPS), Roughly bounded by E. Church St., Ingram St., E. Richland St., and Hart St., Kershaw, 89002142

Heath Springs Depot (Lancaster County MPS), E. Railroad Ave., Heath Springs, 89002147

Huey, Thomas Walker, House (Lancaster County MPS), Jct. of SC 200 and SC 285, Lancaster vicinity, 89002146

Ivy, Adam, House (Lancaster County MPS), SC 55, 1.5 mi. SW of jct. with Co. Rd. 2109, Van Wyck vicinity, 89002144

Lancaster Cotton Oil Company (Lancaster County MPS), S. Main St. at Lancaster & Chester Railroad tracks, Lancaster, 89002145

Matson Street Historic District (Lancaster County MPS), Matson St. from Hilton to Pine Sts., Kershaw, 89002143

Sapp, William Harrison, House (Lancaster County MPS), SC 522 and SC 51, Tradesville vicinity, 89002141

Pickens County

Clemson College Sheep Barn (Clemson University MPS), S. Palmetto Blvd., Clemson University Campus, Clemson, 89002140

Clemson University Historic District I (Clemson University MPS), Northern portion of campus along US 76, Clemson, 89002138

Clemson University Historic District II (Clemson University MPS), Center of campus, Clemson, 89002139

Richland County

Waverly Historic District, Roughly bounded by Hampton St., Heidt St., Gervais St., and Harden St., Columbia, 89002154

Sumter County

Heriot-Moise House, Jct. Brewington Rd. and US 401, Sumter vicinity, 89002149

[FR Doc. 89-28433 Filed 12-5-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 377-TA-298]

Certain Low Friction Drawer Supports, Components Thereof, and Products Containing Same; Decision Not To Review an Initial Determination Terminating the Investigation on the Basis of a Consent Order Issuance of Consent Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 4) issued on October 31, 1989, by the presiding administrative law judge (ALJ) terminating the above-captioned investigation on the basis of a consent order.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Calvin Cobb, Esq., Official of the General Counsel, U.S. International Trade Commission, 500 E Street, SW Washington, DC 20436, telephone 202-252-1103.

Hearing impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On April 26, 1989, GWN, Inc. d/b/a Delta Industries (Delta) filed a complaint with the Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), alleging unfair practices in the importation and sale in the United States of certain low friction drawer supports, components thereof, and products containing the same. Specifically, Delta alleged that respondent GM International, Inc. imported certain disc rollers, which were alleged to infringe claims 1-6, 9, and 11-15 of U.S. Letters Patent 4,236,773 (the '773 patent), and certain drawer slides, which were alleged to infringe claims 11 and 15 of U.S. Letters Patent 4,125,297 (the '297 patent). The Commission voted to institute an investigation on May 23, 1989, and published a notice of institution on May 31, 1989. 54 FR 23294. The ALJ granted a motion to amend the complaint on July 5, 1989; the Commission published a notice not to review that initial determination on August 9, 1989. 54 FR 32701.

On October 27 1989, the parties filed an Amended Joint Motion for Termination of the Investigation and for Entry of Consent Order Based on a Consent Order Agreement (Motion). On October 30, 1989, the Commission's investigative attorney (IA) filed a response in support of the Motion. The ALJ found that the consent order agreement (Agreement) contains a proposed consent order (Consent Order), an admission of all jurisdictional facts, an express waiver of all rights to seek judicial review or otherwise challenge or consent the validity of the consesnt order, and a statement that the enforcement, modification, and revocation of the Order will be carried out pursuant to subpart C of part 211 of the Commission's rules. Accordingly, the ALJ found that the requirements of interim rule 211.22(a) were met. The ALJ further found that the Agreement and Order are consistent with the public interest, and granted the motion to terminate the investigation by issuing the ID.

No petitions for review, comments from other government agencies, or written comments from the public were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Interim Rules of Practice and Procedure (53 FR 33070, Aug. 29, 1988).

Issued: November 24, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28490 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-292]

Certain Methods of Making Carbonated Candy Products; Change of Investigative Attorneys

Notice is hereby given that, as of this date, David A. Guth, Esq. and Daniel M. Duty, Esq., of the Office of Unfair Import Investigations have been designated as the Commission investigative attorneys in the above-cited investigation instead of David A. Guth, Esq.

The Secretary is requested to publish this notice in the **Federal Register**.

Dated: November 30, 1989.

Respectfully submitted,

Jeffrey R. Whieldon,

Acting Director, Office of Unfair Import Investigations.

[FR Doc. 89-28492 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

Certain Novelty Teleidoscopes; Decision Not To Review an Initial Determination Finding Respondent Rich Trees International in Default

[Investigation No. 337-TA-295]

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation finding respondent Rich Trees International (Rich Trees) in default pursuant to Commission interim rule 210.25.

FOR FURTHER INFORMATION CONTACT: George Thompson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1090. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On October 13, 1989, pursuant to a motion filed by complainant Homespun Imports, Inc., d/b/a Silver Deer Ltd., the presiding ALJ ordered respondent Rich Trees to show cause why it should not be found in default. No response to the show cause order was received. Consequently, the ALJ issued the subject ID (Order No. 18) finding Rich Trees in default pursuant to Commission interim rule 210.25, and finding that Rich Trees is deemed to have waived its right to be served with documents and to contest the allegations at issue in this investigation. No petitions for review or government agency comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission interim rules 210.25 and 210.53(h) (53 FR 33070, Aug. 29, 1988).

Issued: November 29, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28488 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Man's Trading Company (Man's).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on November 28, 1989.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street, SW Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone 202-252-1805.

Issued: November 28, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28489 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Decision Not To Review Initial Determination Terminating Three Respondents on the Basis of Settlement Agreements

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review two initial determinations (IDs) (Order Nos. 16 and 17) issued by the presiding administrative law judge (ALJ) terminating, respectively, respondents China Toy and Novelty Co. (China Toy) and Western Novelty Co. (Western), and Universal Specialties Co. (Universal), from the above-captioned investigation on the basis of settlement agreements.

FOR FURTHER INFORMATION CONTACT: George Thompson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1090.

SUPPLEMENTARY INFORMATION: On October 18, 1989, the presiding ALJ isued an ID terminating the investigation with respect to China Toy and Western. The ID granted joint motions of complainant Homespun Imports, Inc., d/b/a Silver Deer Ltd. (Silver Deer) and China Toy, and Silver Deer and Western, to terminate the investigation with respect to those respondents on the basis of settlement agreements. On October 19, 1989, the presiding ALJ issued an ID terminating the investigation with respect to Universal. The ID granted a joint motion of Silver Deer and Universal to terminate the investigation with respect to Universal on the basis of a settlement agreement.

No petitions for review of the IDs or government agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission interim rule 210.53(h) (53 FR 33070, Aug. 29, 1988).

Issued: November 29, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28491 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]

Certain Novelty Teleidoscopes; Commission Decision Not To Review Initial Determinations Terminating Two Respondents on the Basis of Settlement Agreements

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review two initial determinations (IDs) (Orders Nos. 19 and 20) issued by the presiding administrative law judge (ALJ) terminating, respectively, respondents Imperial Toy Corporation (Imperial Toy) and Importoys, Inc. (Importoys) from the above-captioned investigation on the basis of settlement agreements.

FOR FURTHER INFORMATION CONTACT: George Thompson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1090. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On October 25, 1989, the presiding ALJ issued an ID (Order No. 19) terminating the investigation with respect to Imperial Toy. The ID granted a joint motion of complainant Homespun Imports, Inc., d/b/a Silver Deer Ltd. (Silver Deer) and Imperial Toy to terminate the investigation with respect to Imperial Toy on the basis of a settlement agreement. On October 26, 1989, the presiding ALJ issued an ID (Order No. 20) terminating the investigation with respect to Importoys. The ID granted a joint motion of Silver Deer and Importoys to terminate the investigation with respect to Importoys on the basis of a settlement agreement.

No petitions for review of the IDs or government agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission interim rules 210.51 and 210.53(h) (53 FR 33069-70, Aug. 29, 1988).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: November 29, 1989.

[FR Doc. 89-28485 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-296]

Certain Phenylene Sulfide Polymers and Polymer Compounds and Products Containing Same; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Hoechst Celanese Corporation (Hoechst Celanese), Kureha Chemical Industry Co., Ltd. (Kureha), and Polyplastics Co., Ltd. (Polyplastic).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. S1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on November 24, 1989.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW. Washington, DC 20436, telephone 202-252-1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary of the Commission, 500 E Street, SW Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-252-1802.

Issued: November 29, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28486 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-435 (Final)]

Certain Steel Pails From Mexico; Import Investigations

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-435 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of certain steel pails,[1] provided for in subheadings 7310.21.00 and 7310.29.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 640.30 of the former Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before January 22, 1990, and the Commission will make its final injury determination by March 14, 1990 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207 subparts A and C (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201), as amended.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Brian C. Walters (202-252-1198), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain steel pails from Mexico are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on May 31, 1989, by counsel for the Pail Producers' Committee of the Steel Shipping Container Institute, Union, NJ. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (54 FR 31090, July 26, 1989).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will

[1] For purposes of this investigation, certain steel pails are defined as cylindrical containers of steel with volume (capacity) of 1 to 7 gallons, and outside diameter of 11-¼ inches or greater, and a wall thickness of 29-22 guage steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order and business proprietary information service list.—Pursuant to section 207.7(a), of the Commission's rules (19 CFR 207.7(a) as amended (53 FR 33039, August 29, 1988, and 54 FR 5220, February 2, 1989)), the Secretary will make available business proprietary information gathered in this final investigation to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on January 26, 1990, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on February 8, 1990, at the U.S. International Trade Commission, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 30, 1990). A nonparty who has testimony that may aid the Commission's deliberation may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 2, 1990, at the U.S. International Trade Commission Building. Pursuant to § 207.22 of the Commission's rules (19 CFR 207.22) each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is February 5, 1990.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the precedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—Prehearing briefs submitted by parties must conform with the provisions of § 207.22 of the Commission's rules (19 CFR 207.22) and should include all legal arguments, economic analyses, and factual materials relevant to the public hearing. Posthearing briefs submitted by parties must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on February 15, 1990. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 15, 1990.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than February 20, 1990. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: November 27 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28487 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-426 and 428 (Final)]

Certain Telephone Systems and Subassemblies Thereof From Japan and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Japan and Taiwan of certain small business telephone systems and subassemblies thereof,[3] provided for in subheadings 8504.40.00, 8517.10.00, 8517.30.20, 8517.30.25, 8517.30.30, 8517.81.00, 8517.90.10, 8517.90.15, 8517.90.30, 8517.90.40, and 8518.30.10 of the Harmonized Tariff Schedule of the United States (previously in items 682.60, 684.57 684.58, and 684.59 of the former Tariff Schedules of the United

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[1] The record is defined in § 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] Chairman Brunsdale, Vice Chairman Cass, and Commissioner Lodwick dissenting.

[3] For the purposes of these investigations, "certain small business telephone systems and subassemblies thereof" are telephone systems, whether complete or incomplete, assembled or unassembled, the foregoing with intercom or internal calling capability and total nonblocking port capacities of between 2 and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of such a system. These subassemblies are defined as follows: control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch; circuit cards and modules, including power supplies; and telephone sets and consoles, consisting of proprietary corded telephone sets or consoles.

States), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective August 2, 1989, following preliminary determinations by the Department of Commerce that imports of certain small business telephone systems and subassemblies thereof from Japan, Korea, and Taiwan were being sold at LTFV within the meaning of section 735 of the act (19 U.S.C. 1673d(a)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of August 16, 1989 (54 FR 33783). The hearing was held in Washington, DC, on October 31, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 29, 1989. The views of the Commission are contained in USITC Publication 2237 (November 1989), entitled "Certain Telephone Systems and Subassemblies Thereof from Japan and Taiwan: Determinations of the Commission in Investigations Nos. 731-TA-426 and 428 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By Order of the Commission.

Issued: December 1, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-28510 Filed 12-5-89; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 399]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Publication of cost recovery percentage.

SUMMARY: Section 202 of the Staggers Rail Act of 1980 requires the Commission to calculate an annual Cost Recovery Percentage (CRP) for all railroad traffic. The CRP is a revenue to variable cost percentage calculated using railroad unit costs and a statistical sample of railroad traffic. If the CRP falls between 170 percent and 180 percent it becomes the jurisdictional threshold for rate regulation of market dominant traffic. The Commission found that the CRP for both 1986 and 1987 was in excess of 180 percent. The jurisdictional threshold remains at 180 percent of variable costs.

EFFECTIVE DATE: December 6, 1989.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354; Robert C. Hasek (202) 275-0938; (TDD for hearing impaired (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289-4357 or 4359. Assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., Room 2229 at Commission Headquarters.

This action will not significantly affect either the quality of the human environment or energy conservation. It will not have a significant impact on a substantial number of small entities.

Authority: 49 U.S.C. 10321, 10709, 5 U.S.C. 553.

Decided: November 29, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Lamboley, Phillips, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 89-28502 Filed 12-5-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7 and 42 U.S.C. 9622(d)(2), notice is hereby given that on November 22, 1989 a proposed consent decree in *United States* v. *TBG Inc. and Indian Head Industries, Inc.*, Civil Action No. was lodged with the United States District Court for the Northern District of California. The complaint filed by the United States, under sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, alleged that defendant TBG Inc. is the owner of property and the improvements which are a part of the MGM Brakes Site ("the facility") in Cloverdale, California and that TBG Inc. is the successor in interest to corporations that owned and operated the facility at times when hazardous substances were disposed. The complaint also alleges that Indian Head Industries, Inc. is the operator of a casting plant at the facility. The complaint further alleges that there have been releases of hazardous substances into the environment from the facility, which releases have caused the United States to incur response costs; and that there is or may be an imminent and substantial endangerment to the public health, welfare, or the environment because of the actual or threatened releases. The complaint sought injunctive relief to require the defendant to abate and remedy the imminent and substantial endangerment and the effects of the actual or threatened releases from the facility. The complaint also sought the reimbursement of past costs which were incurred by the United States in responding to the actual or threatened releases. The consent decree requires the defendants to implement fully the remedy selected by the Environmental Protection Agency as set forth in the Record of Decision, dated September 29, 1988. More specifically the defendants will be required to excavate PCB-contaminated soil at the Site and properly dispose of the excavated soil on at off-site landfill operating in compliance with the Resource, Conservation, and Recovery Act and/or the Toxic Substances Control Act. The defendants are also required to clean up the groundwater to specified levels under the consent decree. The defendants will pay all future costs at the Site, and pay past costs in an amount of $823,119.55. Under the consent decree the United States will provide the defendants a covenant not to sue with a release as to off-site PCB disposal pursuant to 42 U.S.C. 9622(f)(2)(A).

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Chief, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *TBG Inc. and Indian Head Industries, Inc.* D.J. Ref. 90-11-2-188.

A copy of the proposed consent decree may be examined at the office of the United States Attorney, Northern District of California, 450 Golden Gate Avenue, San Francisco, California, 94102

or at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California, 94105, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517 Ninth Street and Pennsylvania Avenue NW., Washington, DC. A copy of the proposed consent decree may be obtained in person from the Department of Justice at the above address or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. When requesting a copy, please refer to *United States* v. *TBG Inc. and Indian Head Industries, Inc.* D.J. Ref. 90-11-2-188 and enclose a check in the amount of $40.40 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-28496 Filed 12-5-89; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977 the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons and a field investigation of the conditions at the mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627 4015 Wilson Boulevard, Arlington, Virginia 22203.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Dated: November 29, 1989.

Affirmative Decisions on Petitions for Modification

Docket No.. M-85-6-C.
FR Notice: 50 FR 13891C.
Petitioner: Nowacki Coal Company.
Reg Affected: 30 CFR 75.301.
Summary of Findings: Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-8-C.
FR Notice: 50 FR 13892.
Petitioner: Picklands Mather and Company.
Reg Affected: 30 CFR 75.503.
Summary of Findings: Use of metal locking devices, each consisting of a fabricated metal bracket and a metal locking screw, in lieu of padlocks for the purpose of locking battery plugs to machine-mounted battery-powered machines, considered acceptable alternate. Granted with conditions.

Docket No.. M-85-10-C.
FR Notice: 50 FR 13887
Petitioner: Barnes and Tucker Company.
Reg Affected: 30 CFR 75.1100-0.
Summary of Findings: Petitioner's proposal to maintain a dry waterline along the slope belt conveyor, equipped with an automatic actuating valve considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-45-C.
FR Notice: 50 FR 35614.
Petitioner: Jim Walter Resources, Inc.
Reg Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal to use high-voltage cables (2,300 volt) to supply power to permissible longwall face equipment in or inby the last open crosscut considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-77-C.
FR Notice: 50 FR 35615.
Petitioner: Plateau Mining Company.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to develop the coal mine with a two-entry longwall development system, to use the belt entry as a separate intake split or air to the longwall face, and to provide the belt intake entry with an environmental monitoring system for low-level carbon monoxide monitoring considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-96-C.
FR Notice: 51 FR 33612.
Petitioner: S. and T. Coal Company.
Reg Affected: 30 CFR 75.1714.
Summary of Findings: Petitioner's proposal to use filter-type self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-119-C.
FR Notice: 51 FR 36491.
Petitioner: R. S. and W. Coal Company.
Reg Affected: 30 CFR 75.1714.
Summary of Findings: Petitioner's proposal to use filter-type self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-126-C.
FR Notice: 51 FR 36490.
Petitioner: Buck Mountain Coal Company.
Reg Affected: 30 CFR 75.1714.
Summary of Findings: Petitioner's proposal to use filter-type self-rescuers in lieu of self-contained self-rescuers considered acceptable alternate method. Granted with conditions.

Docket No.: M-85-155-C.
FR Notice: 50 FR 47293.
Petitioner: National Mines Corporation.
Reg Affected: 30 CFR 75.1710.
Summary of Findings: Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.

Docket No.. M-85-202-C.
FR Notice: 51 FR 10697
Petitioner: River Processing, Inc.
Reg Affected: 30 CFR 75.1710.
Summary of Findings: Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.

Docket No.. M-85-85-207-C.
FR Notice: 51 FR 10697
Petitioner: Peabody Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish measurement stations where the air quality and quantity will be measured and where

the air quality readings will be conducted by a certified person on a weekly basis considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-208-C.
FR Notice: 51 FR 10696.
Petitioner: Eastern Coal Corporation.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish two evaluation points where checks for methane, and direction and velocity of the airflow will be made by a certified person on a weekly basis considered acceptable alternate method. Granted with conditions.

Docket No.. M-86-112-C.
FR Notice: 51 FR 33309.
Petitioner: A. and D. Coal Company.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal 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 considered acceptable alternate method. Granted with conditions.

Docket No.. M-86-115-C.
FR Notice: 51 FR 33818.
Petitioner: Atascosa Mining Company.
Reg Affected: 30 CFR 77.216-3(a).
Summary of Findings: Petitioner's proposal to inspect the ponds on a monthly basis considered acceptable alternate method. Granted with conditions.

Docket No.. M-86-116-C.
FR Notice: 51 FR 28906.
Petitioner: Consol Pennsylvania Coal Company.
Reg Affected: 30 CFR 75.503.
Summary of Findings: Use of spring-loaded metal locking devices in lieu of padlocks for the purpose of locking battery plugs to machine-mounted battery-powered machines, considered acceptable alternate method. Granted with conditions.

Docket No.. M-86-234-C.
FR Notice: 52 FR 13145.
Petitioner: Pyro Mining Company.
Reg Affected: 30 CFR 75.303.
Summary of Findings: Petitioner's proposal to cut the southwest panel into the main aircourse at the intake air shaft, to use the panel to ventilate number one and three units, and to install continuous reading methane and carbon monoxide sensors considered acceptable alternate method. Granted with conditions.

Docket No.. M-87-218-C.
FR Notice: 52 FR 42356.
Petitioner: Ratliff Elkhorn Coal Company, Inc.
Reg Affected: 30 CFR 75.1710.
Summary of Findings: Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a dimunition of safety. Granted.

Docket No.. M-87-248-C.
FR Notice: 52 FR 46863.
Petitioner: Big Diamond Coal Company.
Reg Affected: 30 CFR 75.301.
Summary of Findings: Proposed air flow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket No.. M-87-253-C.
FR Notice: 53 FR 13343.
Petitioner: The Helen Mining Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal that a mine examiner conduct weekly examinations of the return aircourses by traveling the aircourse and examining the inby and outby ends of the roof falls to ensure proper flow and volume, and to test for methane considered acceptable alternate method. Granted with conditions.

Docket No.. M-87-261-C.
FR Notice: 53 FR 1419.
Petitioner: C. and B. Coal Company, Inc.
Reg Affected: 30 CFR 75.1710.
Summary of Findings: Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.

Docket No.. M-87-275-C.
FR Notice: 53 FR 9825.
Petitioner: Kelly Energy Company, Inc.
Reg Affected: 30 CFR 75.1710.
Summary of Findings: Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.

Docket No.. M-87-292-C.
FR Notice: 53 FR 2548.
Petitioner: BethEnergy Mines, Inc.
Reg Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal to use high-voltage cables (4,160 volt) to supply power to permissible longwall face equipment in or in by the last open crosscut considered acceptable alternate method. Granted with conditions.

Docket No.. M-87-296-C.
FR Notice: 53 FR 3472.
Petitioner: M. and F Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-46-C.
FR Notice: 53 FR 15475.
Petitioner: S. and J. Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-49-C.
FR Notice: 53 FR 28714.
Petitioner: The Helen Mining Company.
Reg Affected: 30 CFR 75.205.
Summary of Findings: Petitioner's proposal method of installing roof bolts using a continuous mining machine with intergral roof-bolting equipment considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-67-C.
FR Notice: 53 FR 20029.
Petitioner: Duquesne Light Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to install an electrical installation in fireproof enclosures and to have the electrical equipment examined and maintained by a qualified person considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-69-C.
FR Notice: 53 FR 14868.
Petitioner: Bend Branch Coal Company.
Reg Affected: 30 CFR 75.301.
Summary of Findings: Petitioner's proposal to use an underground auger mining machine after traditional room and pillar mining is performed considered acceptable alternate method. Granted in part with conditions.

Docket No.. M-88-77-C.
FR Notice: 53 FR 25021.
Petitioner: Paramount Coal Corporation.
Reg Affected: 30 CFR 75.1713-6.
Summary of Findings: Petitioner's proposed method of fulfilling the requirements for 10 class hours of training in a course of instruction for initial first aid training, and five class hours of refresher first aid training annually, considered acceptable alternate method. Granted in part.

Docket No.. M-88-80-C.
FR Notice: 53 FR 20033.
Petitioner: Quarto Mining Company.
Reg Affected: 30 CFR 75.503.
Summary of Findings: Petitioner's proposal to increase the maximum

length of trailing cables, and increase the voltage supplied to the shuttle cars considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-82-C.
FR Notice: 53 FR 19348.
Petitioner: A. and G. Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-83-C.
FR Notice: 53 FR 18917
Petitioner: Gang Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-88-C.
FR Notice: 53 FR 20031.
Petitioner: Hawkeye Services Corporation.
Reg Affected: 30 CFR 77.811.
Summary of Findings: Petitioner's proposal to use a rubber-tired, trailer-mounted, portable generator, connected with a short length of trailing cable and pulled by a tractor truck, to move large electric mining shovels and draglines, using specific equipment and safety procedures considered acceptable alternate method. Granted.

Docket No.: M-88-91-C.
FR Notice: 53 FR 19350.
Petitioner: Krystal Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-92-C.
FR Notice: 53 FR 19351.
Petitioner: Rough Hill Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-95-C.
FR Notice: 53 FR 25023.
Petitioner: Wolf Creek Collieries Company.
Reg Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal to clean out and plug all active oil and gas wells encountered in the No. 4 Mine considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-96-C.
FR Notice: 53 FR 22234.
Petitioner: Freeman United Coal Mining Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish evaluation stations at specific locations where a person would make weekly examinations for the quantity of air and test for methane, considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-97-C.
FR Notice: 53 FR 20028.
Petitioner: AMAX Coal Company.
Reg Affected: 30 CFR 75.1700.
Summary of Findings: Petitioner's proposal to clean out and plug oil and gas wells considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-98-C.
FR Notice: 53 FR 25022.
Petitioner: Rushton Mining Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish monitoring stations at which examinations for hazardous conditions would be conducted considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-106-C.
FR Notice: 53 FR 25022.
Petitioner: Quarto Mining Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to house a rectifier installation in a fireproof structure considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-113-C.
FR Notice: 53 FR 26688.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to house electric equipment in a fireproof structure considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-118-C.
FR Notice: 53 FR 26906.
Petitioner: Quarto Mining Company.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to house a pump installation in a fireproof structure considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-122-C.
FR Notice: 53 FR 27780.
Petitioner: Old Ben Coal Company.
Reg Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal to use high-voltage cable (2400 volt) to supply power to the longwall mining equipment inby the last open crosscut and within 159 feet of gob areas considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-123-C.
FR Notice: 53 FR 29967
Petitioner: Green River Coal Company, Inc.
Reg Affected: 30 CFR 75.1105.
Summary of Findings: Petitioner's proposal to use a TRW submergible pump to drain water from the pump beneath the intake air shaft in lieu of a permanent pump housed in a fireproof structure considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-126-C.
FR Notice: 53 FR 31774.
Petitioner: Clinchfield Coal Company.
Reg Affected: 30 CFR 75.1101-1(b).
Summary of Findings: Petitioner's proposal that a qualified person conduct a weekly functional test on each deluge type spray system and that the results be recorded in a book kept on the surface considered acceptable alternate method. Granted in part with conditions.

Docket No.: M-88-129-C.
FR Notice: 53 FR 26907
Petitioner: Summit Coal Company.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal 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 considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-133-C.
FR Notice: 53 FR 28715.
Petitioner: Michael Mining Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-134-C.
FR Notice: 53 FR 32120.
Petitioner: The Ohio Valley Coal Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish input and output evaluation stations in lieu of traveling the aircourse in its entirety considered acceptable alternate method. Granted with conditions.

Docket No.: M-88-139-C.
FR Notice: 53 FR 32799.
Petitioner: Rushton Mining Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish safe evaluation

procedures for the safety of the examiners considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-141-C.
FR Notice: 53 FR 31775.
Petitioner: Eastern Associated Coal Corporation.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal that the carbon monoxide monitoring system be examined visually at least once each coal-producing shift and tested for functional operation at intervals not exceeding 7 days to ensure the monitoring system is functioning properly and that required maintenance is being performed considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-146-C.
FR Notice: 53 FR 33193.
Petitioner: Consolidated Coal Company.
Reg Affected: 30 CFR 75.902.
Summary of Findings: Petitioner's proposal to design and install low- and medium-voltage, three phase alternating current, resistance grounded circuits underground without ground wire monitoring considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-152-C.
FR Notice: 53 FR 34597
Petitioner: Beckley Coal Mining Company.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to establish checkpoints where a certified person will make weekly examinations considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-172-C.
FR Notice: 53 FR 36514.

Petitioner: Amy Coal Company (formerly Helton Energy).
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.. M-88-177-C.
FR Notice: 53 FR 37658.

Petitioner: EMCO Coal Company.
Reg Affected: 30 CFR 75.313.
Summary of Findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-4-M.
FR Notice: 50 FR 27074.

Petitioner: Texasgulf Chemicals Company.
Reg Affected: 30 CFR 57.21046.
Summary of Findings: Petitioner's proposal that crosscuts be made at intervals not in excess of 250 feet between entries and between rooms in lieu of 100 feet considered acceptable alternate method. Granted with conditions.

Docket No.. M-85-25-M.
FR Notice: 51 FR 5617

Petitioner: Union Oil Company of California.
Reg Affected: 30 CFR 57.110058.
Summary of Findings: Petitioner's proposal to locate its primary check-in and check-out system in the underground lamp room where an accurate record of persons in the mine will be recorded considered acceptable alternative method. Granted.

Docket No.. M-85-27-M.
FR Notice: 51 FR 3278.

Petitioner: Hecla Mining Company.
Reg Affected: 57.11037
Summary of Findings: Lengthening the legs of the hexagonal crib and the raise caps would cause a diminution and deterioration of the structural integrity of the hexagonal crib and raised caps, resulting in a diminution of safety. Granted.

Docket No.. M-86-7-M.
FR Notice: 51 FR 39435.

Petitioner: Climax Molybdenum Company.
Reg Affected: 30 CFR 57.4533.
Summary of Findings: Petitioner's proposal to use a positive pressure ventilation system which eliminates the hazard of smoke or gas from a surface fire entering the underground mine considered acceptable alternate method. Granted with conditions.

Docket No.. M-86-14-M.
FR Notice: 51 FR 40093.

Petitioner: (Tg Soda Ash, Inc., formerly Texasgulf Chemicals Company).
Reg Affected: 30 CFR 57.4761.
Summary of Findings: Petitioner's proposal to use air from the shop to ventilate working areas in the mine and to install a carbon monoxide sensor at a specific location considered acceptable alternate method. Granted with conditions.

Docket No.. M-86-15-M
FR Notice: 52 FR 4204.

Petitioner: Blue Ridge Stone Corporation.
Reg Affected: 30 CFR 56.9087.
Summary of Findings: Petitioner's proposal to use a visual warning in lieu of an audible warning on the two loaders working in the area considered acceptable alternate method. Granted with conditions.

Docket No.. M-87-33-M.
FR Notice: 52 FR 47646.
Petitioner: Vermont Marble Company.
Reg Affected: 30 CFR 56.19017
Summary of Findings: Petitioner's proposal to add an additional qualified hoist operator at the derrick hoist controls when hoisting persons considered acceptable alternate method. Granted with conditions.

Docket No.. M-87-43-M.
FR Notice: 53 FR 7061.

Petitioner: Green Limestone Company.
Reg Affected: 30 CFR 57.4463.
Summary of Findings: Petitioner's proposal to use propane to fuel a maintenance truck in lieu of liquified petroleum gas considered acceptable alternate method. Granted with conditions.

[FR Doc. 89-28506 Filed 12-5-89; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-89-170-C]

De'Lyn Limited, Inc., Petition for Modification of Application of Mandatory Safety Standard

De'Lyn Limited, Inc., P.O. Drawer 907 Skelton, West Virginia 25919 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Mine No. 7 (I.D. No. 46-07162) located in Boone County, West Virginia. 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 entries used as intake and return aircourses be separated from belt haulage entries, and belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use a Lo-Lo Belt in return air from the face for a distance of 300 feet.

3. In support of this request petitioner states that—

(a) A barrier pillar would be left between panels in order to provide greater roof stability. At 300-foot intervals, an entry would be driven through the barrier pillar to provide direct access to the return;

(b) All equipment in the area would be permissible;

(c) Alternative haulage methods are impractical and would not conform to the seam height. Also, such methods would be dangerous to operators, and to workers crawling on their hands and knees;

(d) In case of a belt fire, face personnel would be in fresh air, and any dangerous condition would be quickly observed by personnel traveling the belt; and

(e) The 300-foot section of the Lo-Lo Belt affected would be examined once every hour.

4. 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 January 5, 1990. Copies of the petition are available for inspection at that address.

Dated: November 29, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-28505 Filed 12-5-89; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Oregon State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereafter called the Assistant Secretary) (29 CFR 1953.4) will review an approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of subpart D to part 1952 containing the decision. The Oregon plan provides for adoption of Federal standards as State standards by reference.

In response to Federal standards changes, the State has submitted by letter dated March 3, 1989 from John A. Pompei, Administrator, to James W Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.177 Servicing of Multi-piece and Single Piece Rim Wheels, Final Rule, as published in the **Federal Register** (53 FR 34737) on September 8, 1988.

The State's rules pertaining to Servicing of Multi-piece and Single Piece Rim Wheels, contained in OAR 437-02-220(2), were adopted by reference and became effective on March 1, 1989, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under Oregon APD Administrative Order 2-1989. Concurrently, equivalent State rules contained in Division 56, Vehicles, which pertained to servicing of Multi-piece and Single Piece Rim Wheels were repealed by the same Administrative Order. On January 30, 1989, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 436-01-000 and to those on the Department's distribution list as their interest appeared. No requests for a public hearing were received.

2. Decision

Having reviewed the State submission in comparison with the Federal standard, it has been determined that the State standard is identical to the Federal standard and accordingly is approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Insurance and Finance, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Occupational Safety And Health Administration, Room N-3476, 200 Constitution Ave. NW., Washington DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard amendment is identical to the Federal standard which was promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standard amendment was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective December 6, 1989, (Sec. 18, Pub. L. 91-596, 84 Stat. 6108 [29 U.S.C. 667]).

Signed at Seattle, Washington this 11th day of May, 1989.

James W. Lake,

Regional Administrator.

[FR Doc. 89-28507 Filed 12-5-89; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[89-33]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Life Sciences Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Life Sciences Subcommittee.

DATES: December 19, 1989, 9 a.m. to 5 p.m., December 20, 1989, 8:30 a.m. to 2 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald J. White, Code EB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1525).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space

Science and Applications (OSSA) on long range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Life Sciences Subcommittee provides advice to the Life Sciences Division concerning all of its programs in the space life sciences. The Subcommittee will meet to discuss Life Sciences status and issues, activities of the Space Science and applications Advisory Committee and the Aerospace Medicine Advisory Committee, receive Life Sciences Division Reports, and new start activities for 1992. The Subcommittee is chaired by Dr. Francis J. Haddy and is composed of 17 members. The meeting will be closed on Wednesday, December 20, 1989, from 10:30 a.m. to 11:45 a.m. to discuss and evaluate qualifications of candidates being considered for membership on the Subcommittee. Such discussions would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the capacity of the room (approximately 45 including Subcommittee members).

Type of Meeting: Open—except for a closed session as noted in the agenda below.

AGENDA:

Tuesday, December 19, 1989

9 a.m.—Introduction and Chairman's Remarks.

9:15 a.m.—Office of Space Science and Applications Status and Implications for Life Sciences.

10:15 a.m.—Life Sciences Status and Issues.

1:30 p.m.—Activities of the Space Science and Applications Advisory Committee (SSAAC), the Aerospace Medicine Advisory Committee (AMAC), and other Advisory Committees.

2:15 p.m.—Life Sciences Division Reports.

5 p.m.—Adjourn.

Wednesday, December 20, 1989

8:30 a.m.—New Start Activities for 1992.

10:30 a.m.—Closed Session.

1 p.m.—Committee Strategy and Actions.

2 p.m.—Adjourn.

Dated: November 30, 1989.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-28467 Filed 12-5-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Advisory Committee on the White House Conference on Library and Information Services

Date and Time: Dec. 12 & 13, 1989.

Place: Embassy Suites Hotel, 1250 22nd Street, NW., Delegate Room, Washington, DC 20037 857-3388.

Status: Dec. 12, 1989—1:00 p.m.-9:30 p.m., Open; Dec. 13, 1989—8:45 a.m.-9:00 p.m., Open.

Matters To Be Discussed: Advisory Committee, Subcommittee Meetings:

—Goals and Objectives Development

—Delegate Selection

—Preconference Activities

—Public Relations and Awareness

—Exhibits Planning and Development

—Resources

—Public and Private Sector Liaison

Review and Approval of Agenda and Minutes

Reports by all Advisory Committee Subcommittees: Including Executive Director Subcommittee

Federal Funding Budget and Spending Plan

Report by FSCS/WHC Statistics Working Group

Report on Support Activities—Networking, Federal Library

WHCLIS Administrative Update

Persons appearing before, or submitting ony written statements to, the Advisory Committee are asked to hand over to the Committee prior to presenting testimony, 80 copies of their prepared statement. This will insure that ample copies are available for the members of the Advisory Committee, the attending press and the observers.

Special provisions will be made for handicapped individuals by contacting John W.A. Parsons 1—(202) 254-3100, no later than one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: White House Conference on Library and Information Services, 1111 18th Street, NW., Suite 302, Washington, DC 20036, 1-(202) 254-3100.

Dated: November 30, 1989.

Mary Alice Hedge Reszetar,

Associate Director, NCLIS, Designated Federal Official.

Tuesday—December 12, 1989

1:00-3:00 p.m.—Subcommittee Meetings

Asp's Suite—Delegate Selection Subcommittee,

—William Asp, Chairman, Discussion of Draft Report on Delegate Selection Guidelines

Board Room—Exhibits Planning and Development Subcommittee,

—Richard Akeroyd, Chairman, Discuss Planning for the Conference Exhibit including specific components of the exhibit and assigning tasks to subcommittee members

Asp's Suite—Pre-Conference Activities Subcommittee

—Virginia Young, Chairwoman, Discuss assistance to the States, Territories and Native Americans

Board Room—Public and Private Sector Liaison Subcommittee

—Joseph Fitzsimmons, Chairman, Discuss Private Sector Participation and possible exhibition interests

Reeves Suite—Public Relations and Awareness Subcommittee

—James Roberts, Chairman, Logo, Brochure, Newsletter, Mailing Lists, Speakers Bureau, Budget Requirements, Press Releases

Board Room—Resources Subcommittee

—Hugh Mahoney, Chairman, Foundation Grants, Individual Fundraising, Total Funding Projections for WHC

4:00-4:15 p.m.—Welcome; Delegate Room

—Daniel H. Carter, Advisory Committee Chairman

—Introduction of Advisory Committee Members and Guests

—Review and Approval of Agenda

4:15-4:20 p.m.—Executive Director Selection Subcommittee Report

—Jerald Newman, Chair

4:20-5:15 p.m.—Goals and Objectives Development Subcommittee Report

—Gordon Ambach, Chair

5:15-6:30 p.m.—Delegate Selection Subcommittee Report—William G. Asp, Chair

6:30-7:15 p.m.—Break

7:15-9:30 p.m.—Working Dinner (See Below)

7:45-9:30 p.m.—Preconference Activities Subcommittee Report

—Virginia Young, Chairwoman

Wednesday—December 13, 1989

Delegate Room

8:45-9:00 a.m.—Set Next Meeting Date

9:00-9:30 a.m.—Federal Funding Budget and Spending Plan

—Daniel H. Carter

9:30-10:00 a.m.—Resources Subcommittee Report

—Hugh Mahoney, Chairman

10:00-10:30—Public and Private Sector Liaison Subcommittee Report

—Joseph Fitzsimmons, Chairman

10:30-10:45 a.m.—Break

10:45-12:00 Noon—Discussion of Emerging Issues

—Daniel H. Carter

12:00–1:00 p.m.—Working Lunch (See Below)
12:30–1:00 p.m.—Public Relations and Awareness Subcommittee Report
—James Roberts, Chair
1:00–2:00 p.m.—Charles McClure, Professor of Information Studies, Syracuse University
2:00–2:15 p.m.—Break
2:15–3:30 p.m.—Exhibits Planning and Development Subcommittee Report
—Richard Akeroyd, Chair
3:30–4:00 p.m.—FSCS/WHC Statistics Working Group Report
—John Lorenz, FSCS Coordinator
4:00–4:45 p.m.—Networking Support Activities
—Henriette Avram, Associate Librarian for Collections, Library of Congress
4:45–5:30 p.m.—Federal Library Support Activities
—Mary Berghaus Levering, Executive Director, Federal Library Information Center Committee (FLICC)
5:30–7:00 p.m.—Break
7:00–9:00 p.m.—Working Dinner (See Below)
7:30–8:30 p.m.—Old and New Business
8:30–8:45 p.m.—Administrative Update
—Mary Alice Hedge Reszetar
8:45–9:00 p.m.—Summary Remarks
—Daniel H. Carter
9:00 p.m.—Adjourn

Note: All subcommittee meetings and the Advisory Committee meetings are open to the public and have been published in the **Federal Register.**

As time allows public comment will be invited.

[FR Doc. 89–28428 Filed 12–5–89; 8:45 am]

BILLING CODE 7527-01-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SNYDROME

Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of a working group of the Commission.

DATES AND TIMES: January 4, 1990, 9:00 a.m. to 5:00 p.m. January 5, 1990, 9:00 a.m. TO 5:00 p.m.

PLACE: St. Paul Hotel, St. Paul, Minnesota.

TYPE OF MEETING. Open.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, The National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street NW Suite 815, Washington, DC 20006 (202/254–5125).

AGENDA:

On January 4 the working group will hear from a variety of public witnesses with experience responding to the HIV epidemic on Local, State and Federal levels of government.

On January 5 the working group will focus on developing a consensus document which will be presented at the next full meeting of the National Commission on AIDS.

Maureen Byrnes,

Executive Director.

[FR Doc. 89–28403 Filed 12–5–89; 8:45 am]

BILLING CODE 6820-CN-M

NUCLEAR REGULATORY COMMISSION

Staff Assessment of Proposed Amended Agreement Between the Nuclear Regulatory Commission

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Proposed Amended Agreement with State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment the NRC staff assessment of a proposed amended agreement received from the Governor of the State of Utah for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. Comments are requested on the public health and safety aspects of the proposal.

A staff assessment of the State's proposed amended program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the proposed amended agreement, program narrative, including the referenced appendices, applicable State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 2120 L Street, NW, Washington, DC. Exemptions from the Commission's regulatory authority, which would implement this proposed amended agreement, have been published in the **Federal Register** and codified as part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATES: Comments must be received on or before December 15, 1989.

ADDRESSES: Submit comments to: the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Comments may also be delivered to 11555 Rockville Pike, Rockville, Maryland from 7:45 a.m. to 4:15 p.m. Monday through Friday. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, State, Local and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301–492–0326.

SUPPLEMENTARY INFORMATION: Assessment of proposed amended Utah Program to regulate certain radioactive materials pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to amend its agreement with the NRC whereby the NRC would relinquish and the State would assume regulatory authority for land disposal of source, byproduct and special nuclear material received from other persons pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the **Federal Register.**

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulatory authority over agreement materials [1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, section 274j provides that the Commission shall periodically review

A. Byproduct materials as defined in 11e.(1)
B. Byproduct materials as defined in 11e.(2)
C. Source materials; and
D. Special nuclear materials in quantities not sufficient to form critical mass

such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. On March 29, 1984, the Governor of Utah signed an agreement with the NRC for the assumption of regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material and special nuclear material in quantities not sufficient to form a critical mass. In a letter dated July 17 1989, Governor Norman H. Bangerter of the State of Utah requested that the Commission enter into an amended agreement with the State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, under which the State would also assume responsibility for regulating the land disposal of these materials received from other persons. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed amendment to the agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A.

The specific authority requested is for permanent disposal of low-level waste containing the material for which Utah has assumed regulatory authority under the 1984 agreement but not containing uranium and thorium mill tailings (byproduct material as defined in section 11e.(2) of the Act). The State does not wish to assume authority over uranium recovery activities. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in this area. The proposed amendment to the agreement covers the following areas:

1. Amending Article I of the Agreement of March 29, 1984 to add land disposal of source, byproduct and special nuclear material received from other persons to the list of materials covered by the agreement.

2. Amending Article II of the Agreement of March 29, 1984 to delete land disposal of source, byproduct and special nuclear material received from other persons from the list of materials and activities over which the Commission continues to retain regulatory authority and responsibility.

3. Specifies the effective date of the amended agreement.

C. Utah Code Annotated (UCA) 26-1-27 through 26-1-29 authorizes the State Department of Health to issue licenses to, and perform inspections of (see, also, UCA 26-23-8), users of radioactive materials under the 1984 agreement and otherwise carry out a total radiation control program. Utah Radiation Control Rules UCA-10 through UCA-80 adopted November 8, 1982 under authority of 26-1-27 through 26-1-29 Utah Code Annotated 1953, as amended, provide standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. These regulations have been determined to be compatible with the Commission s regulations. Utah Radiation Control Rules R447-10 through R447-70 were amended and recodified in July 1989. Regulations R447-25 were adopted in July 1988 for licensing requirements for land disposal of radioactive waste.

D. On March 29, 1984, under enabling legislation in UCA 26-1-29, Utah assumed regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material and special nuclear material in quantities not sufficient to form a critical mass. The program audits conducted since that time have resulted in an NRC finding that the Utah radiation control program is compatible with that of the NRC and is adequate to protect public health and safety. In addition to Utah's agreement program, Utah is involved in several environmental radiation issues including monitoring indoor radon, monitoring uranium mill tailings, particularly at the Vitro uranium mill, and monitoring and assessment of the State environmental program. In addition, the Department issued to Envirocare of Utah, Inc., a license to receive, store, and dispose, by shallow land burial, naturally occurring radioactive material (NORM) waste with a radium-226 concentration not to exceed 2,000 picocuries per gram. NORM material is not regulated by the Nuclear Regulatory Commission.

E. The State's proposed programs for low-level radioactive waste disposal are assessed under Criteria numbers 9, "Radioactive Waste Disposal" and 20 "Qualification of Regulatory and Inspection Personnel. Additional criteria relating to prior evaluation of uses of radioactive materials, inspection and administration,[2] are addressed as appropriate to supplement information found in the staff assessment of the original Utah proposed agreement published in the **Federal Register** on December 30, 1983 (48 FR 57674-57684).

[2] Criteria 13, "Prior Evaluation of Hazards and Uses Exceptions, 14, "Evaluation Criteria, 16, "Inspection, Purpose, Frequency," and 27, "Coverage, Amendments reciprocity."

II. NRC Staff Assessment of the Proposed Amendment to Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.[3]

Objectives

9. Radioactive Waste Disposal.

(a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR part 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requiremetns and applicable supporting sections set forth in 10 CFR part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (section 151(a)(2), Pub. L. 97-425).

The Utah regulations contain provisions relating to the disposal of radioactive materials into the air, water ans sewer and burial in soil which are essentially uniform with those of 10 CFR

[3] NRC Statement of Policy published in the **Federal Register** January 23, 1981 (46 FR 7540-7546). A correction was published July 16, 1981 (46 FR 36969) and a revision of Criterion 9 published in the **Federal Register** July 21, 1983 (48 FR 33376).

part 20. Waste transfer and manifest system requirements for transfer of waste for ultimate disposal at a land disposal facility are included in the Utah regulations. The waste disposal requirements include a waste classification scheme and provisions for waste form equivalent to that in 10 CFR part 61.

The Utah regulations provide for land disposal of low-level radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and supporting sections set out in 10 CFR part 61. The Utah regulations include provisions for financial arrangements for decontamination, closure and stabilization. Under the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425), the financial arrangements for long term monitoring and maintenance at specific sites in Utah will be subject to Commission review and approval prior to Utah relieving the site operator of licensed responsibility.

References: URC-R447-15-310, URC-R447-15-302, URC-R447-15-303, URC-R447-304, URC-R447-15-304, URC-R447-15-306, URC-R447-15-307 URC-R447-15-308, URC-R447-15-309, URC-R447-15-311, URC-R447-25; Section 151(a)(2), Pub. L. 97-425.

Prior Evaluation of Uses of Radioactive Materials

13. Prior Evaluation of Hazards and Uses, Exceptions

In the present state of knowledge, it it necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the disposal of radioactive materials, the Utah Bureau of Radiation Control will required the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC-447-25, Utah Program Statement, section III.D "Procedures for Review of a Low-Level Radioactive Waste Disposal License Application."

14. Evaluation Criteria

In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal for disposal of radioactive material, the Utah Bureau of Radiation Control will make the findings required by URC-R447-25-11, including, among other, findings that the issuance of the license will not constitute an unreasonable risk to the health and safety of the public and that the applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property.

Other special requirements for the issiance of specific licenses are contained in the regulations.

References: URC-R447-25, *see*, especially, R447-25-11, Utah Program Statement, Section III.D. "Procedures for Review of a Low-Level Radioactive Waste Disposal License Application."

Inspection

16. Purpose, Frequency

The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah low-level waste disposal icensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent as inspections of similar licensees by NRC. Generally, inspections will be unannounced.

References: Utah Program Statement, section III.E "Compliance Program for a Low-Level Radioactive Waste Disposal Facility.

Personnel

20. Qualifications of Regulatory and Inspection Personnel

The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected. This requires competency to evaluate various potential radiological hazards associated with the many uses of radioactive material and includes concentrations of radioactive materials in air and water, conditions of shielding, the making of radiation measurements, knowledge of radiation instruments—their selection, use, and calibration—laboratory design, contamination control, other general principles and practices of radiation protection, and use of management controls in assuring adherence to safety procedures. In order to evaluate some complex cases, the State regulatory staff may need to be supplemented by consultants or other State agencies with expertise in geology, hydrology, water quality, radiobiology, and engineering disciplines.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. For example, the person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear materials which might come to the

regulatory body should have substantial training and extensive experience in the field of radiation protection. It is desirable that such a person have a bachelor's degree or equivalent in the physical or life sciences, and specific training in radiation protection.

It is recognized that there will also be persons performing a more limited function in evaluation and inspection. These pesons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These persons should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the ratiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or as its command, not only for routine functions, but also for emergency cases.

Licensing and Regulation of Permanent Disposal of Low-Level Radioactive Waste—(a) *Number of Personnel.* There are approximately 230 specific licenses in the State of Utah. The Bureau of Radiation Control has responsibility for the low-level waste (LLW) management regulatory program as a joint function of Radioactive Materials and Machine Licensing Section and Environmental Monitoring and Mill Tailings Management Section. The assessment of the regulatory framework is included under Criterion 9, "Radioactive Waste Disposal. The Bureau of Radiation Control has identified seven staff members who will provide supervision, technical support and administrative assistance during the various phases of regulating a licensed low-level waste disposal facility. These personnel and summaries of their duties are:

Larry F Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs.

Mark S. Day: Environmental Health Engineer. Responsible for the Utah's inactive uranium mill tailings remedial action project.

Dane L. Finerfrock: Environmental Health Manager, Environmental Monitoring and Mill Tailings Management Section. Responsible for radon-in-residences monitoring, statewide environmental radiation monitoring, licensing and inspection of low-level radioactive waste disposal facilities, and inactive uranium mill tailings remedial action programs.

Blaine N. Howard: Health Physicist. Responsible for licensing and inspection in materials program.

John D. Hultquist: Environmental Health Scientist. Responsible for inspection of low-level waste disposal facilities, environmental monitoring and inactive uranium mill tailings remedial action project.

Craig W. Jones: Environmental Health Manager, Radioactive Materials and Machine Licensing Section. Responsible for the Agreement State program including licensing and inspection of low-level disposal facilities.

Raymond G. Nelson: Environmental Health Scientist. Responsible for regulation of low-level waste disposal facilities, environmental monitoring and inactive uranium mill tailings remedial action project.

Cindy Wignall: Environmental Health Technician. Responsible for supporting both sections as a technical assistant in meeting the Bureau's goals.

In addition, Utah has identified staff with expertise in various disciplines within the Department and other State agencies for support during the pre-operational and licensing stage. Expertise in disciplines not provided by Utah personnel either on staff or covered by agreements with other State agencies will be provided by contracts with the State.

(b) *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of low-level radioactive waste disposal facilities is shown below.

Larry F Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards.* October 1972.

NIOSH Course 582, *Sampling and Evaluating Airbourne Asbestos Dust.* April 10–12, 1973.

Utah State Division of Health, *Visible Emission Evaluation Course.* June 19, 1973.

American Industrial Hygiene Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.

OSHA, *Fundamentals of Occupational Injury Investigation.* Short course ending April 1, 1977

U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course.* A 64-hour course ending January 27 1978.

U.S. Environmental Protection Agency, *Grants Administration Seminar.* A 16-hour course ending May 16, 1989.

Safety International Training Center, *Hydrogen Sulfide and EQuipment for Instructors.* A 12-hour course ending June 19, 1979.

Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment.* A 20-hour course ending March 29, 1980.

U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides.* A 40-hour course held in January 1984.

U.S. Nuclear Regulatory Commission, *Industrial Radiography.* A 40-hour course held May 1985.

Harvard School of Public Health, *Biological Effects of Ionizing Radiation.* A 40-hour course held in March 1989.

Mark S. Day—B.S. Civil and Environmental Engineering, Utah State University.
Center for Professional Advancement, *Hydraulic Conveying*. A 1-week course in 1974.
University of California, *Resolution of Construction Claims*. A 1-week course in 1983.
Management Consultants Incorporated, *Federal Procurement of Construction Projects*. A 1-week course in 1985.
Air Force Institute of Technology, *Contingency Engineering*. A 2-week course in 1986.
Air Force Institute of Technology, *Hazardous Waste Management*. A 2-week course in 1986.
Dane L. Finerfrock—*B.S. Meteorology, B.S. Biology, University of Utah.*
Oak Ridge Associated Universities, *Health Physics and Radiation Protection*. A 10-week course ending April 1981.
U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course ending August 8, 1980.
U.S. Nuclear Regulatory Commission, *Safety Aspects of Industrial Radiography*. A 40-hour course held in August 17 1980.
Western Interstate Energy Board, *Workshop on Low-Level Radioactive Waste*. A 16-hour course ending July 16, 1980.
U.S. Department of Health, Education and Welfare, *Basic Course for Investigators: Diagnostic X-Ray Surveillance*. A 80-hour course ending March 14, 1980.
U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures*. A 80-hour course ending in September, 1979.
U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials*. A 40-hour course ending in November 16, 1984.
U.S. Nuclear Regulatory Commission, *License Inspection Procedures*. A 40-hour course ending in June 18, 1985.
U.S. Environmental Protection Agency, *Reducing Radon in Structures*. A 24-hour course ending in March 1989.
Blaine N. Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.
Bureau of Radiological Health, *Medical X-Ray Protection*. Held October 30-November 10, 1972.
U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course held in 1978.
National Legislative Conference, *States Role in Radioactive Material Management*. Held December 9–11, 1974.
U.S. Environmental Protection Agency, *Drinking Water Regulations and Radioanalytical Workshop*. Held January 10–12, 1978.
X-Ray Workshop, Richfield, Utah. March 14–15, 1979
Actinides in Man and Animals Workshop, Snowbird, Utah. October 15–17 1979.
U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides*. A 40-hour course ending September 12, 1980.
NWTS Annual Information Meeting, Columbus, Ohio. December 8–10, 1980.
Waste Management 1981—American Nuclear Society, Tucson, Arizona. February 23–27 1981.
U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures*. A 80-hour course ending in September 1982.
U.S. Nuclear Regulatory Commission, *Inspection Procedures*. A 40-hour course ending in July 30, 1982.
U.S. Nuclear Regulatory Commission, *Radon Monitoring*. A 40-hour course ending in November 1982.
Conference of Radiation control Program Directors, *Radiation Instruments*. A 24-hour course ending September 1983.
U.S. Nuclear Regulatory Commission, *Gas and Oil Well Logging*. A 40-hour course ending in November 1988.
U.S. Nuclear Regulatory Commission, *Safety Aspects of Industrial Radiography*. A 40-hour course ending September 1989.
John D. Hultquist—B.S. Environmental Science/Biology, University of Tennessee.
U.S. Environmental Protection Agency, *Basic Risk and Decision Making*. A 16-hour course ending in March 1988.
Utah Division of Comprehensive Emergency Management, *Fundamental Course for Radiological Monitors*. An 8-hour course ending March 1989.
U.S. Environmental Protection Agency, *Reducing Radon in Structures*. A 24-hour course ending in March 1989.
U.S. Environmental Protection Agency, *RCRA Ground Water Monitoring*. A 24-hour course ending in April 1989.
Oak Ridge Associated Universities, *Health Physics and Radiation Protection*. A 5-week course ending August 1989.
U.S. Department of Energy, *First Responders WIPP Training*. An 8-hour course ending August 1989.
U.S. Environmental Protection Agency, *Hazardous Material Response for First Responders*. A 40-hour course ending in September 1989.
Craig W Jones—B.S. Biology, M.S.P.H. (Industrial Hygiene), University of Utah.
U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course ending August 8, 1980.
Department of Health and Human Services, *Radiopharmaceutical Quality Assurance*. A 16-hour course ending November 1984.
U.S. Nuclear Regulatory Commission, *Inspection Procedures*. A 40-hour course ending in February 1985.
U.S. Environmental Protection Agency, *Air Surveillance for Hazardous Materials*. A 40-hour course ending in April 1985.
U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides*. A 40-hour course ending June 1985.
Oak Ridge Associated Universities, *Health Physics and Radiation Protection*. A 5-week course ending August 1985.
U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures*. A 40-hour course ending in September 1985.
U.S. Nuclear Regulatory Commission, *Radiation Protection Engineering*. A 40-hour course ending in November 1986.
U.S. Nuclear Regulatory Commission, *Gas and Oil Well Logging*. A 40-hour course ending in November 1987
U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials*. A 40-hour course ending in August 1988.
Raymond G. Nelson—Completed 2 years towards B.S. in Geophysics, University of Utah.
U.S. Environmental Protection Agency, *Basic Risk and Decision Making*. A 16-hour course ending in September 1988.
Utah Division of Comprehensive Emergency Management, *Fundamental Course for Radiological Monitors*. An 8-hour course ending March 1989.
U.S. Environmental Protection Agency, *Reducing Radon in Structures*. A 24-hour course ending in March 1989.
U.S. Environmental Protection

Agency, *RCRA Ground Water Monitoring.* A 24-hour course ending in April 1989.

U.S. Nuclear Regulatory Commission, *Inspection Procedures.* A 40-hour course ending in June 1989.

U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials. A 40-hour course ending in August 1989.*

U.S. Department of Energy, *First Responders WIPP Training.* An 8-hour course ending in August 1989.

U.S. Environmental Protection Agency, *Hazardous Material Response for First Responders.* A 40-hour course ending in September 1989.

Reference: Utah Program Statement, section II.D "Low-Level Radioactive Waste Management, section IV "Staffing, Supervision, and Equipment for a Low-Level Waste Program, and Appendix E.

Administration

27 Coverage, Amendments, Reciprocity

The proposed amendment to the Utah agreement provides for the assumption of regulatory authority over land disposal of source, byproduct and special nuclear material received from other persons.

Reference: Proposed Amendment to Agreement, section I.

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states:

The Commission shall enter into an agreement under subsection b of this section with any State if—

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

The staff has concluded that the State of Utah meets the requirements of section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed amendment to the Utah agreement. Since the State is not seeking authority over uranium milling activities, subsection O. is not applicable to the proposed amendment to the Utah amended agreement.

Dated at Rockville, Maryland, this 7th day of November 1989.

For the U.S. Nuclear Regulatory Commission.

Carlton Kammerer,

Director, State, Local and Indian Tribe Programs, Office of Governmental and Public Affairs.

Appendix A

Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of March 29, 1984) with the State of Utah under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on April 1, 1984, and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and Section 161 of the Act with respect to byproduct materials as defined in section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Utah is authorized under Utah Code Annotated 26-1-29 to enter into this amendment to the Agreement of March 29, 1984, between the Commission and the State of Utah; and

Whereas, The Governor of the State of Utah has requested this amendment in accordance with section 274 of the Act by certifying on *(date to be inserted)* that the State of Utah has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the land disposal within the State of source, byproduct and special nuclear material received from other persons and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on *(date to be inserted),* that the program for regulation of materials covered by the amendment is in accordance with the requirements of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that the State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, this amendment to the Agreement of March 29, 1989, is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended.

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of March 29, 1984, is amended by deleting "and" at the end of paragraph B., by adding ";and," after the words "critical mass" in paragraph C., and by inserting the following new paragraph immediately after paragraph C..

D. The land disposal of source, byproduct and special nuclear material received from other persons.

Section 2. Article II of the Agreement of March 29, 1984, is amended by deleting paragraph E. and by redesignating paragraph F. as paragraph E.

This amendment shall become effective on *(date to be inserted),* and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII of the Agreement of March 29, 1984.

Done at Salt Lake City, Utah, in triplicate, this ——— day of ———, 1989.

For the United States Nuclear Regulatory Commission.

Kenneth M. Carr,

Chairman

For the State of Utah.

Norman H. Bangerter,

Governor

[FR Doc. 89-2695 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247]

Consolidated Edison Co. of New York, Inc. Indian Point Nuclear Generating Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-26 issued to Consolidated Edison Company of New York, Inc. (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 2, located in Westchester County, New York.

Environmental Assessment

Identificaton of Proposed Action: This Environmental Assessment is written in connection with the proposed core power level increase for the Indian Point Nuclear Generating Unit No. 2 in response to the licensee's application for a licence amendment dated September 30, 1988, as supplemented January 10, March 30, and April 14, 1989. The

proposed action would increase the rated core power level for Indian Point Unit 2 from the current level of 2758 Megawatts-thermal (MWt) to 3071.4 MWt, and upgrade the Nuclear Steam Supply System (NSSS) thermal power from the current level of 2770 MWt to 3083.4 MWt. This increase would represent an increase of approximately 11.3 percent over the current rated core power and NSSS thermal power.

The Need for the Proposed Action: The proposed action would increase the electrical output by approximately 115 Megawatts-electrical (MWe) and thus provide additional electrical power to the grid which services the commercial and domestic areas in the State of New York.

Environmental Impacts of the Proposed Action: A slight change in environmental impact can be expected for the proposed increase in power. The proposed core uprating is projected to increase the rejected heat by approximately 11.3 percent. However, the NRC-approved Final Environmental Statement (FES) related to operation of Indian Point Nuclear Generating Plant Unit No. 2, September 1972, (Volume I, page I-1, section I.) has already addressed plant operation up to a stretch NSSS power rating of 3228 MWt (core power level of 3216 MWt). Thus, the approximately 11.3 percent increase in rejected heat has already been evaluated and determined to not significantly impact on the quality of the human environment. Also, the proposed increase in the NSSS power involves no significant change in types or significant increase in the amount of any effluents that may be released offsite which have not already been evaluated and approved in the FES for a NSSS power rating of 3228 MWt. Similarly, as enveloped by the FES, there would be no significant increase in individual or cumulative occupational radiation exposure.

Alternatives to the Proposed Action: The principal alternative to the proposed action would be to deny the requested amendment. This alternative would be in contradiction to the fact that the NRC-approved FES has already addressed operation up to a NSSS stretch power rating of 3228 MWt.

Alternative Use of Reosurces: This action does not involve the use of any resources not considered previously in the FES for Indian Point Nuclear Generating Unit No. 2.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated September 30, 1988, as supplemented January 10, March 30, and April 14, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 28th day of November 1989.

For the Nuclear Regulatory Commission.

Robert A. Capra,

Director, Project Directorate I-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-28464 Filed 12-5-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co., Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-21 issued to Northeast Nuclear Energy Company (the licensee), for operation of Millstone Nuclear Power Station, Unit No. 1, located in New London County, Connecticut.

Environmental Assessment

Identification of Proposed Action: The proposed amendment would revise reactor protection system (RPS) trip level settings as specified in Section 2 of the Technical Specifications (TS). Specifically, (1) the turbine stop valve closure scram bypass setpoint would be changed from 45% of rated power as measured by the turbine first stage pressure to 50% of rated reactor thermal power; (2) the turbine control valve fast closure scram bypass setpoint would be changed from 301 MWe to 50% of rated reactor thermal power; and (3) the average power range monitor (APRM) flux scram trip setting would be changed from an initial generator power greater than 307 MWe to 50% of rated reactor thermal power.

The proposed amendment was requested by the licensee in a letter dated August 17 1987

The Need for the Proposed Action: The proposed changes to the TS are needed to help minimize spurious scrams that occur more frequently at low power and to have consistency in the basis for these scram setpoints.

Environmental Impacts of the Proposed Action: The Commission has completed its evaluation of the proposed changes to the TS. The licensee evaluated the proposed setpoint change to 50% of rated thermal power using that change as the basis for the evaluation of bounding transients. The justification of the change in the scram bypass setpoint to 50% power is documented in the General Electric Analysis MDE-276-1285, "Millstone Nuclear Power Station, Unit No. 1 Scram Bypass Setpoint Evaluation, dated December 1985. The proposed action does not involve a significant increase in the probability or consequences of an accident previously analyzed in that they are bounded by and do not affect the current design basis accident analyses. The proposed action does not create the possibility of a new or different kind of accident from any previously analyzed in that there are no new failure modes created and any changes in plant response are bounded by current analyses. In addition, the proposed action does not involve any significant reduction in a margin of safety because the action does not impact any plant safety limits. The proposed changes to the TS would not affect plant effluents during normal or accident conditions. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action involves setpoints of the RPS which is located within the restricted area as defined in 10 CFR part 20. The action does not affect non-radiological plant effluents and has no other environmental impacts. Therefore, the Commission concludes that the proposed action has no significant non-radiological environmental impact.

The Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing was published in the **Federal Register** on March 31, 1988 (53 FR 10451). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action: Since the Commission concluded that there was no significant environmental effects that would result from the proposed action, any alternatives with

equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and might result in additional surplus scrams at low power.

Alternative Use of Resources: These actions do not involve the use of any resources not previously considered in the Final Environmental Statement (FES) for Millstone Nuclear Power Station.

Agencies and Persons Consulted: The staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed actions will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated August 17, 1987, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Dated at Rockville, Maryland, this 27th day of November 1989.

For the Nuclear Regulatory Commission.

John F Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-28465 Filed 12-5-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee), for operation of Palisades Plant, located in Van Buren County, Michigan.

Environmental Assessment

Identification of Proposed Action: The exemption, proposed by letter dated August 25, 1989, provide partial relief from the requirement of Paragraph III.D.2.(b)(ii) to leak test, at or above the calculated design basis accident peak containment pressure (Pa), containment air locks which were opened during a period when containment integrity was not required. The exemption would permit the substitution of a between-the-seals leak test at reduced pressure but not less than 10 psig provided that no maintenance, modification, or other activity has been performed which could affect the sealing capability of the air locks.

The Need for the Proposed Action: Whenever the facility is in cold shutdown, containment integrity is not required. If during this time an air lock door is opened, an overall air lock test at Pa must be performed prior to leaving the cold shutdown condition to comply with Paragraph III.D.2.(b)(ii) of Appendix J to 10 CFR part 50. The air lock door designs are such that a test at Pa of the entire air lock can be performed only with structural bracing (strongbacks) installed on the inner door. These stronglocks are needed because the pressure exerted on the inner door during the test is in the reverse direction to the pressure exerted during accidents. In contrast to the requirements of the referenced paragraph, Paragraph III.D.2.(b)(iii) of Appendix J to 10 CFR part 50 permits testing of containment air locks that have been opened during periods when containment integrity is required by the technical specifications to be tested by the alternate method described above.

There is no reason to expect an air lock to leak excessively merely because a door was opened during cold shutdown or refueling vice during other operating conditions, provided there has been no maintenance, modification, or other activity that could affect the leak-tightness or sealing capability of the air lock. The alternate testing permitted by the proposed exemption will prove air lock integrity following cold shutdown or refueling in the same manner that the air lock is proven during periods when containment integrity is required. The proposed exemption is required to allow the licensee to conduct the alternate air lock testing as described above.

Environmental Impacts of the Proposed Action: The Commission has evaluated the environmental impact of the proposed exemptions and has determined that the probability of accidents has not been increased by the proposed alternative testing, and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the proposed exemption does not affect routine radiological plant effluents or occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impacts. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: Since the Commission concluded that the environmental effects of the proposed action are not significant, any alternative with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impact attributable to this facility and would result in a larger expenditure of licensee resources to comply with the Commission's regulations.

Alternative Use of Resources: This action does not involve use of resources not previously considered in the Final Environmental Statement related to operation of the Palisades Plant dated February 1978.

Agencies and Persons Consulted: The Commission's staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for exemption dated August 25, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland, this 29th day of November 1989.

For the Nuclear Regulatory Commission.

John O. Thoma,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V & Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-28466 Filed 12-5-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Revision

The **Federal Register** notice published Tuesday, November 28, 1989 (54 FR 48957) announcing ACRS Subcommittee on Human Factors scheduled for December 6, 1989 has been rescheduled for December 12, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, December 12, 1989—1 p.m. until the conclusion of business

The Subcommittee will discuss: (1) Proposed changes to 10 CFR 55, Operator Licenses, (2) a letter from R. Stater (public) to R. Fraley, ACRS concerning operator training deficiencies, and (3) access authorization rule.

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 named below as far in advance as is 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 or whether the meeting has been cancelled or rescheduled can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 301/492-7750) 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.

Dated: November 29, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89-28462 Filed 12-5-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-ML, ASLBP No. 83-495-01-ML]

Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility); Hearing

November 29, 1989.

Before Administrative Judges John H Frye III, Chairman Dr. James H. Carpenter; Dr. Jerry R. Kline

Please take notice that a hearing in the matter will take place on December 14 and 15 at the following locations:

December 14: Courtroom 1669, US District Court, 219 South Dearborn Street, Chicago, IL.

December 15: Courtroom 2781, US Court of Appeals, 219 South Dearborn Street, Chicago, IL.

Each day's session will commence at 9:00 am and adjourn at 5:00 pm.

For the Atomic Safety and Licensing Board.

John H Frye III,

Chairman, Administrative Judge.

[FR Doc. 89-28463 Filed 12-5-89; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 632-0728.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on October 31, 1989 (54 FR 43507). Individual authorities established or revoked under Schedule A, B, or C between October 1, 1989, and October 31, 1989, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions were established:

Federal Housing Finance Board

All positions in the Federal Housing Finance Board. No new appointments may be made under this authority after December 31, 1992. Effective October 2, 1989.

Department of Veterans Affairs, Board of Veterans' Appeals

Positions, GS-15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100-687 appointment under this authority shall be for a term of 9 years, and may be renewed. Effective October 23, 1989.

Schedule C

Administrative Conference of the U.S.

One Confidential Assistant to the Chairman. Effective October 18, 1989.

U. S. Arms Control and Disarmament Agency

One Congressional Affairs Specialist to the Director, Congressional Affairs Office. Effective October 2, 1989.

Department of Agriculture

One Congressional Assistant to the Assistant Secretary for Congressional Relations. Effective October 10, 1989.

One Southwest Area Director, to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Effective October 12, 1989.

One Private Secretary to the Deputy Assistant Secretary for Marketing and Inspection Services. Effective October 12, 1989.

One Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service. Effective October 12, 1989.

One Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective October 13, 1989.

One Staff Assistant to the Assistant Secretary for Administration. Effective October 26, 1989.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective October 27 1989.

One Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective October 27 1989.

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective October 27 1989.

Commodity Futures Trading Commission

One Government Affairs Officer to the Chairman. Effective October 2, 1989.

One Economist to the Chairman. Effective October 20, 1989.

Department of Commerce

One Director, Office of Public Affairs, to the Assistant to the Secretary for Economic Development. Effective October 11, 1989.

One Special Assistant to the Assistant Secretary for Oceans and Atmosphere. Effective October 20, 1989.

One Confidential Assistant to the Director, Office of External Affairs. Effective October 20, 1989.

One Confidential Assistant to the Deputy Assistant Secretary for Investigations. Effective October 20, 1989.

One Special Assistant to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration. Effective October 25, 1989.

Consumer Product Safety Commission

One Staff Assistant to the Commissioner. Effective October 27 1989.

Department of Defense

One Private Secretary to the Assistant Secretary of Defense (Special Operations/Low-Intensity Conflict). Effective October 10, 1989.

One Confidential Assistant to the Special Assistant and Deputy Secretary. Effective October 19, 1989.

One Personal and Confidential Assistant to the Assistant Secretary of Defense for International Security Policy. Effective October 19, 1989.

Department of Energy

One Staff Assistant to the Assistant Secretary for Environment, Safety and Health. Effective October 19, 1989.

One Intergovernmental Affairs Specialist to the Deputy Assistant Secretary for Intergovernmental and Public Liaison. Effective October 19, 1989.

One Staff Assistant to the Principal Deputy Assistant Secretary for Fossil Energy. Effective October 27 1989.

Department of Education

One Confidential Assistant to the Director, Private Sector Initiative Staff. Effective October 12, 1989.

One Confidential Assistant to the Deputy Assistant Secretary for Student Financial Assistant Programs. Effective October 19, 1989.

One Confidential Assistant to the Assistant Secretary for the Office of Civil Rights. Effective October 27 1989.

One Confidential Assistant to the Assistant Secretary for the Office of Civil Rights. Effective October 27 1989.

Export-Import Bank of the United States

One Special Assistant to the First Vice President and Vice Chairman. Effective October 27 1989.

General Services Administration

One Staff Assistant for Special Projects to the Acting Administrator. Effective October 2, 1989.

One Special Assistant to the Assistant to the Administrator for Child Care and Development Programs. Effective October 2, 1989.

One Confidential Assistant to the Associate Administrator for Public Affairs. Effective October 11, 1989.

One Staff Assistant to the Deputy Chief of Staff. Effective October 16, 1989.

One Confidential Assistant to the Regional Administrator, Region 2 (New York). Effective October 17 1989.

One Confidential Assistant to the Associate Administrator for Congressional Affairs. Effective October 23, 1989.

Two Legislative Assistants to the Associate Administrator for Congressional Affairs. Effective October 23, 1989.

One Congressional Relations Officer to the Associate Administrator for Congressional Affairs. Effective October 23, 1989.

One Director of Legislation to the Associate Administrator for Congressional Affairs. Effective October 30, 1989.

Department of Health and Human Services

One Special Assistant to the Assistant Secretary for Health. Effective October 10, 1989.

One Confidential Staff Assistant to the Assistant Secretary for Health. Effective October 10, 1989.

One Special Assistant to the Associate Commissioner Office of Public Affairs, Social Security Administration. Effective October 10, 1989.

One Deputy Director, Office of Public Liaison, to the Director. Effective October 12, 1989.

One Confidential Assistant to the Deputy Under Secretary for Intergovernmental Affairs, Boards and Commissions. Effective October 17 1989.

One Special Assistant to the Deputy Commissioner for Programs, Social Security Administration. Effective October 17 1989.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Public Affairs. Effective October 2, 1989.

One Special Assistant to the Assistant Secretary of Policy, Development and Research. Effective October 4, 1989.

One Staff Assistant to the Regional Administrator-Regional Housing Commissioner, Atlanta, Georgia. Effective October 4, 1989.

One Staff Assistant to the Assistant Secretary for Public Affairs. Effective October 20, 1989.

Department of the Interior

One Special Assistant to the Director, Fish and Wildlife Service. Effective October 4, 1989.

One Special Assistant to the Director, National Park Service. Effective October 6, 1989.

One Special Assistant to the Assistant Secretary for Territorial and International Affairs. Effective October 10, 1989.

One Special Assistant to the Assistant to the Secretary and Director, Office of Public Affairs. Effective October 11, 1989.

One Staff Assistant to the Director, U.S. Geological Survey. Effective October 19, 1989.

One Special Assistant to the Director, Bureau of Mines. Effective October 19, 1989.

One Special Assistant to the Director, National Park Service. Effective October 24, 1989.

One Special Assistant to the Director, Bureau of Mines. Effective October 26, 1989.

One Staff Assistant to the Deputy Director, External Affairs. Effective October 26, 1989.

One Staff Assistant to the Director, Bureau of Land Management. Effective October 27 1989.

U.S. International Trade Commission

One Staff Assistant (Economics) to the Commissioner. Effective October 27 1989.

Department of Justice

One Assistant to the Attorney General. Effective October 13, 1989.

One Staff Assistant to the Attorney General. Effective October 13, 1989.

One Special Assistant to the Assistant to the Attorney General. Effective October 20, 1989.

Department of Labor

One Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs. Effective October 20, 1989.

One Staff Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration. Effective October 20, 1989.

One Assistant to the Secretary's Representative. Effective October 20, 1989.

One Staff Assistant to the Assistant Secretary for Policy. Effective October 26, 1989.

One Staff Assistant to the Assistant Secretary for Employment Standards. Effective October 27 1989.

One Special Assistant to the Assistant Secretary for Pension and Welfare Benefits. Effective October 27 1989.

Office of Management and Budget

One Secretary (typing) to the Administrator, Office of Information and Regulatory Affairs. Effective October 10, 1989.

Office of Personnel Management

One Deputy Director of Policy to the Director. Effective October 17 1989.

Pension Benefit Guaranty Corporation

One Confidential Assistant to the Executive Director. Effective October 20, 1989.

Small Business Administration

One Assistant to the Administrator for Public Communications. Effective October 2, 1989.

One Special Assistant to the Regional Administrator. Effective October 2, 1989.

One Director, Private Sector Initiatives, to the Associate Deputy Administrator for Special Programs. Effective October 2, 1989.

One Staff Assistant to the Assistant Administrator for Public Communications. Effective October 20, 1989.

Department of State

One Senior Policy Advisor to the Ambassador-at-Large for Refugee Affairs. Effective October 2, 1989.

One Staff Assistant to the Deputy Secretary. Effective October 10, 1989.

One Secretary to the Assistant Secretary, Bureau of Economic and Business Affairs. Effective October 10, 1989.

One Special Assistant to the Assistant Secretary, Bureau of Inter-American Affairs. Effective October 18, 1989.

One Special Assistant to the Assistant Secretary, Bureau of East Asian and Pacific Affairs. Effective October 18, 1989.

One Secretary to the U.S. Permanent Representative to the Organization of American States. Effective October 18, 1989.

One Secretary (Steno) to the Assistant Secretary, Bureau of East Asian and Pacific Affairs. Effective October 18, 1989.

United States Tax Court

One Secretary (Confidential Assistant) to the Judge. Effective October 17 1989.

Department of Transportation

One Special Assistant to the Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration. Effective October 2, 1989.

One Director of Intergovernmental Affairs to the Administrator, National Highway Traffic Safety Administration. Effective October 2, 1989.

One Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective October 4, 1989.

One Special Assistant for Policy and International Affairs. Effective October 13, 1989.

One Director, Office of Intergovernmental and Industry Affairs, to the Assistant Secretary for Governmental Affairs. Effective October 25, 1989.

United States Information Agency

One Staff Assistant to the Director, Office of Private Sector Programs. Effective October 10, 1989.

One Executive Director, Advisory Board for Radio Broadcasting to Cuba, to the Chairman of the Advisory Board. Effective October 10, 1989.

One Public Affairs Assistant to the Director, Voice of America. Effective October 24, 1989.

Authority: 5 U.S.C. 3301, 3303; E.O. 10555, 3 CFR 1954–1958 Comp., P 218.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 89–28424 Filed 12–5–89; 8:45 am]

BILLING CODE 6325-01-M

Privacy Act of 1974; New Computer Matching Program

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice of new computer matching program—OPM/Department of Labor, Office of Worker's Compensation Programs (OWCP).

SUMMARY: OPM is hereby issuing public notice of its intent to conduct a computer matching program with the OWCP The match will identify individuals receiving prohibited concurrent benefits under the Civil Service Retirement Act (CSRA) or the Federal Employees' Retirement System Act (FERSA) and the Federal Employees' Compensation Act (FECA). Both the CSRA and FERSA, on one hand, and the FECA, on the other, prohibit the receipt of certain concurrent payments covering the same period of time. The match will involve the OPM system of records published as OPM CENTRAL–1, Civil Service Retirement and Insurance Records (OPM/CENTRAL–1) (49 FR 36950, September 20, 1984) and the Department of Labor system of records published as DOL/ESA–13, 47 FR 134, pp. 30382–30393, July 13, 1982, as amended in 50 FR 25, pp. 5141–5145, February 6, 1985. The purpose of the match is to identify and/or prevent erroneous payments under both the CSRA, FERSA and FECA.

DATE: The data exchange will begin at a date mutually agreed upon by the OWCP and OPM after October 1, 1989, unless comments are received which will result in a contrary determination. Subsequent matches will take place semi-annually on a recurring basis until one of the parties advises the other, in writing, of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESS: Send comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John E. Landers, (202) 632–4682.

SUPPLEMENTARY INFORMATION: The computer matching program between OWCP and OPM will involve comparison of beneficiaries under the FECA and the CSRA and FERSA. The match will identify beneficiaries receiving payment of compensation for wage loss or death under the FECA and those receiving retirement or death benefits under the CSRA and FERSA covering the same period of time.

The concurrent receipt of benefits under the FECA based on wage loss and under the CSRA and FERSA for retirement, or under the FECA, CSRA or FERSA based on the death of the Federal employee is prohibited. It is the responsibility of OPM to monitor retirement annuity and survivor benefits paid under the CSRA or FERSA to ensure that its beneficiaries are not receiving benefits under the FECA which are prohibited during receipt of

benefits under the CSRA or FERSA. Similarly, it is the responsibility of the OWCP to ensure that Federal employees or dependents of deceased Federal employees receiving benefits under the FECA are not also receiving benefits under the CSRA which are prohibited.

By comparing the information received through this computer matching program on a recurring basis, the agencies will be able to make at timely and more accurate adjustment in the benefits payable. The match will prevent overpayment, fraud and abuse, thus assuring that benefits payments are proper under the appropriate Act.

Additional information, regarding the matching program, including the authority for the program, a description of the matches, the personal records to be matched, the dates of the program, security safeguards, and plans for disposition following completion of the matches are provided in the text below. Office of Personnel Management.

Constance Berry Newman,

Director.

Matching of Records Between Office of Workers' Compensation Programs and Office of Personnel Management

A. *Authority:* The Civil Service Retirement Act (CSRA), U.S.C. 8331, et seq., the Federal Employees' Retirement System Act (FERSA), 5 U.S.C. 8401, et seq., and the Federal Employees' Compensation Act (FECA), 5 U.S.C., et seq.

B. *Description of Computer Matching Program:* The OPM pays annuities or survivor benefits to individuals who may also receive benefits under the FECA. It is the responsibility of the OPM as the administrator of the CSRA and FERSA to assure that such benefit payments are proper and to prevent fraud and abuse. The computer matching program is an efficient and nonobtrusive method of determining whether these individuals are receiving benefits from the OWCP and the OPM prohibited by the FECA and the CSRA and FERSA. The OWCP will provide OPM with extracts of its payment files containing data (names, social security numbers, dates of birth, claim numbers, payee relationship codes, addresses, zip codes, and payment data) needed to identify the individual and determine if he or she is receiving benefits from both organizations at the same time. OPM will match OWCP's extract of its payment files against its payment records for the same dates to determine if benefit were being paid on the same date by both agencies. OPM will provide OWCP with a listing of valid matches. Both organizations will detect, identify, and follow-up on payment of prohibited dual benefits. An individual identified as receiving prohibited dual benefits will be afforded an opportunity to contest the findings and proposed actions and the opportunity to elect the benefits he or she wishes to receive. The organization responsible for initiating recovery of the overpayment of benefits will afford the individual due process before any payment modifications are made.

C. *Personal Records to be Matched:* The OPM system of records published as OPM CENTRAL-1, Civil Service Retirement and Insurance Records, 49 FR 36950, September 20, 1984, which contains payment data on recipients of CSRA and FERSA benefits disbursed by OPM will be matched to OWCP records published as DOL/ESA-13, 47 FR 134, pp. 30382-30393, July 12, 1982, as amended in 50 FR 25, pp. 5141-5145, February 6, 1985, which contains data pertinent to the payment of Federal employees and their dependents under the FECA.

D. *Dates:* Data exchanges will begin during calendar year 1989 at a mutually agreeable time and will be repeated every six months, until one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

E. *Privacy Safeguards and Security:* The personal privacy of the individuals whose names are included in the tapes is protected by strict adherence to the provisions of the Privacy Act of 1974 and OMB's Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988 (54 FR 25818). Security safeguards include limiting access only to the files agreed to and only to agency personnel having a "need to know. All automated records will be password protected and the data listing will be locked in file areas after normal duty hours. Records matched or created by the match will be stored in an area that is physically safe from access by unauthorized persons during duty hours and nonduty hours or when not in use.

F. *Disposal of Records:* The files will remain the property of the respective source agencies and all records including those not containing matches will be returned to the source agency for destruction. "Hits, the records relating to matched individuals, will be disposed of in accordance with the provisions of the Privacy Act and the Federal Record Schedules after serving their purpose. The data obtained from the hits will be entered in the claims file, subject to release only under the provisions of the Privacy Act.

[FR Doc. 89-28425 Filed 12-5-89; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Certain Actions Affecting the 1989 Annual Review

This publication provides notice that: (a) ABB Capacitores, S.A. has withdrawn its petition (Case Number 89-31) concerning Harmonized Tariff Schedule item 8532.10.00; and (b) that a review concerning the expropriation of certain U.S.-owned properties by the Government of Peru (Case Number 003-CP-89) is being terminated at the request of the petitioner, American International Group, Inc. These cases were being considered in the 1989 Annual Review of the GSP The TPSC had formally initiated the review of these cases in a notice of August 10, 1989 (54 FR 32891). The GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461-2465).

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 89-28452 Filed 12-5-89; 8:45 am]

BILLING CODE 3190-01-M

PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS

Meeting

The Presidential Commission on Catastrophic Nuclear Accidents, pursuant to its authority under Subsection 170 (1), of Public Law 100-408, the Price-Anderson Amendments Act of 1988, will hold a meeting on December 21, 1989, from 10:00 a.m.-5:00 p.m., at the Quality Hotel Capitol Hill, 415 New Jersey Ave, NW., Washington, DC 20001. The Commission was created to conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident and to submit a final report to Congress no later than August 20, 1990.

At this meeting, Harold Peterson and Shlomo S. Yaniv, individual technical experts from the Nuclear Regulatory Commission, will discuss the assessment of health effects of ionizing radiation. There may be additional speakers. The Commission will also

conduct working sessions to begin work on its report to Congress.

The public is permitted to attend this meeting, and there will be time during the session for brief statements. Transcripts or minutes of the meeting will be available at the Commission office, 600 E St., NW., Room 660.

For further information, contact Jerome Saltzman at 600 E St., NW., Room 660, Washington, DC 20004, (202) 272-5695. Members of the public planning to attend the Commission meeting should contact Mr. Saltzman at (202) 272-5695 at least two days before the meeting date.

Dated: December 1, 1989.

Jerome Saltzman,

Executive Director, Presidential Commission on Catastrophic Nuclear Accidents.

[FR Doc. 89-28511 Filed 12-5-89; 8:45 am]

BILLING CODE 6820-SP-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Zotek, Inc.; Order of Suspension of Trading

November 30, 1989.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of Zotek, Inc. and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, Zotek's assets and equity, the identity and background of its officers and affiliates, and other matters. Specifically, questions have been raised concerning an alleged merger between Zotek, Inc. and L'il Partners, Inc., the scope of operations of L'il Partners and the identity of persons in control of both companies. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the Securities of Zotek.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Zotek, over-the-counter or otherwise, is suspended for the period from 12:00 p.m. (EST) on November 30, 1989 through 11:59 a.m. (EST) on December 9, 1989.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-28484 Filed 12-5-89; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted January 5, 1990. If you intend to comment but cannot prepare comments properly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: William Cline, Small Business Administration, 1441 L Street, NW Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: SBDC Quarterly and Financial Report.

Form Nos.. N/A.

Frequency: Quarterly.

Description of respondents: SBDC Directors.

Annual Responses: 216.

Annual Burden Hours: 14,256.

Title: Small Business Development Centers, Onsite Review and Recordkeeping Requirements.

Form Nos.. 1496.

Description of respondents: SBDC's.

Annual Responses: 27

Annual Burden: 3,768.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 89-28508 Filed 12-5-89; 8:45 am]

BILLING CODE 8025-01-M

Assistance to Individuals or Enterprises Eligible Under the Women's Business Ownership Act of 1988

The Program Announcement No. OWBO-90-002 is intended to assist SBA's Office of Women's Business Ownership in providing Financial, Management and Marketing Assistance to individuals and enterprises eligible for assistance under HR 5050 or the "Women's Business Ownership Act of 1988. Eligible Client(s) include women starting their own business, expanding their existing businesses and those who are economically/socially disadvantaged. Applicant must be an established private business and/or organization either for profit or non profit. Organizations submitting applications/proposals must be able to furnish at least 50% of the required services in-house and are allowed to use outside consultants for the remaining 50%. The geographic area(s) of concerns is unlimited. However, Applicant must establish an office (if nonexistent) within the geographic area proposed and absorb the expense of the new office with the applicant's matching funds. A written commitment(s) of cash contributions from private sector source(s) must be obtained by the recipient after application has been approved, but prior to the disbursement of Federal funds. Matching funds must be solely in the form of cash equal to the amount of the Federal share, may not contain contributions of a in-kind or indirect nature, and may not come from a governmental (Federal, State, or Local) source. No partial applicants will be accepted for consideration. Recipients conducting current FY'89 projects under the Women's Business Ownership Act may submit proposals for additional funding. Applicants must submit their application/proposal on or before 12 January 1990, at 4:00 p.m., local time, at the SBA Office specified in the program announcement. For further information Contact Lindsey Johnson, Bill Truitt at 202/653-8000, or Sally Murrell at 202/653-7744, or write SBA, Office of Procurement and Grants Management, 1441 L Street NW., Room 220, Washington, DC 20416, Attention: Sally Murrell, Agreement Officer.

Joe Maas,

Assistant Administrator for Administrator.

[FR Doc. 89-28408 Filed 12-5-89; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0299]

First City, Texas Ventures, Inc., Issuance of a Small Business Investment Company License

On June 7 1989 a notice was published in the **Federal Register** (54 FR 24460) stating that an application has

been filed by First City, Texas Ventures, Inc. with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1989)), for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, July 6, 1989 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06-0299 on October 25, 1989, to First City, Texas Ventures, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 28, 1989.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 89-28407 Filed 12-5-89; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/1330]

Secretary of State's Advisory Committee on Private International Law; Study Group on International Trade Documentation; Meeting

The Study Group on International Trade Documentation will hold its third meeting at 9:30 a.m. on Tuesday, December 19, 1989 in New York City at Brooklyn Law School at 250 Joralemon Street, Brooklyn, New York in the Annex Board Room. The Study Group carries out its functions as part of the Secretary of State's Advisory Committee on Private International Law.

The purpose of the meeting is to review possible United States positions in connection with a project by the United Nations Commission on International Trade Law (UNCITRAL) to develop a model national law on letters of credit and international bank guarantees. The proposed model national law will be the subject of a meeting of the UNCITRAL Working Group on International Contract Practices in January 1990.

The study group may also review the possible relationship between the UNCITRAL project and three other law unification projects: The International Chamber of Commerce (ICC) draft rules on international bank guarantees, ICC consideration of possible revision of Pub. No. 400, Uniform Customs and Practice for Documentary Credits, and the American Law Institute-Uniform Law Commissioners Permanent Editorial Board decision to consider possible revision of Uniform Commercial Code Article 5.

Information on the UNCITRAL project is available in several Reports prepared by the Secretariat on Stand-By Letters of Credit and Bank Guarantees—United Nations Docs. A/CN.9/301, March 21, 1988; A/CN.9/WG.II/WP.63, September 16, 1988; A/CN.9/316, December 12, 1988, and A/CN.9/WG II/WP.65, Nov. 13, 1989. For additional information or for copies of the Reports contact Harold S. Burman of the Office of the Legal Adviser, L/PIL, Room 402, 2100 "K" Street NW., Washington DC 20037-7180, or by FAX at (202) 632-5283 or by calling direct to (202) 653-9852.

Members of the general public may attend the meeting up to the capacity of the meeting room. As access to the meeting room is controlled, the office indicated above should be notified not later than Friday, December 15, 1989 of the name, affiliation, address and phone number of persons wishing to attend.

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. 89-28429 Filed 12-5-89; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 89-100]

Lower Mississippi River Waterway Safety Advisory Committee Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-403; 5 U.S.C. App. I) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, January 9, 1990, in the 29th Floor Boardroom of the World Trade Center, 2 Canal Street, New Orleans, Louisiana at 9:00 a.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Minutes of the 17 October 1989, meeting.
3. Report from the Aids to Navigation Subcommittee.
4. New Business.
5. Adjournment.

The purpose of this Advisory Committee is to provide consultation and advice to the Commander, Eighth Coast Guard District on all areas of maritime safety affecting this waterway.

The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

Additional information may be obtained from Commander G. A. Bird, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District (oan) Room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: November 22, 1989.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 89-28460 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement: Hennepin County, MN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Hennepin County, Minnesota.

FOR FURTHER INFORMATION CONTACT: Stephen Bahler, Area Engineer, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota, 55101, Telephone: (612) 290-3259.

Steve Hay, Project Manager, Minnesota Department of Transportation, 2055 North Lilac Drive, Golden Valley, Minnesota 55422, Telephone: (612) 593-6535.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation (Mn/DOT), will prepare an Environmental Impact Statement (EIS) on a proposal to improve Trunk Highway 101 in the vicinity of the Grays Bay Causeway in Hennepin County, Minnesota. The length of the proposed project is approximately 0.75 miles.

The proposed improvements to the corridor include replacing the existing Grays Bay Bridge, flattening two sharp curves, and the construction of a boat launching facility. Alternatives under consideration include (1) taking no

action; (2) using an alternate channel crossing location; and (3) minor variations in roadway alignment.

A Scoping Document describing the proposed action and soliciting comments has been prepared and sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public informational meeting was held in April 1989 and a scoping meeting was held on November 8, 1989. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing executive order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 22, 1989.

Alan Friesen,

District Engineer, St. Paul, Minnesota.

[FR Doc. 89-28497 Filed 12-5-89; 8:45 am]

BILLING CODE 4910-27-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: November 29, 1989.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: IRS Customer Needs Survey.

Description: The data collected will be used to evaluate the types of services that the IRS now provides to taxpayers, the delivery systems for these services, and ways to improve both.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 18,700.

Estimated Burden Hours Per Response: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,471 hours.

OMB Number: 1545-0199.

Form Number: 5306-SEP

Type of Review: Extension.

Title: Application for Approval of Prototype Simplified Employee Pension—SEP

Description: This form is issued by banks, credit unions, insurance companies, and trade or professional associations to apply for approval of a Simplified Employee Pension Plan to be used by more than one employer. The data collected is used to determine if the prototype plan submitted is an approved plan.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 650.

Frequency of Response: On occasion.

Estimated Burden Hours per Response:

Recordkeeping	8 hrs., 8 mins.
Learning about the law or the form.	52 mins.
Copying, assembling, and sending the form to IRS.	2 hrs., 14 mins.

Estimated Total Reporting Burden: 7,300 hours.

OMB Number: 1545-0798.

Form Number: None.

Type of Review: Extension.

Title: 26 CFR 31.6001-1 Records in General; 26 CFR 31.6001-2 Additional Records Under FICA; 26 CFR 31.6001-3 Additional Records Under Railroad Retirement Act; 26 CFR 31.6001-5 Additional Records in Connection With Collection of Income Tax at Source on Wages; 26 CFR 31.6001-6 Notice by District Director Requiring Returns, Statements, or the Keeping of Records.

Description: Internal Revenue Code section 6001 requires, in part, that every person liable for tax, or for the collection of that tax keep such records and comply with such rules and regulations as the Secretary may from time to time prescribe. 26 CFR 31.6001 has special application to employment taxes. These records are needed to ensure compliance with the Code.

Respondents: Individuals or households; State or local governments, Farms, Businesses or other for-profit; Federal agencies or employees, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 5,676,263.

Frequency of Response: Other.

Estimated Burden Hours per Recordkeeper:

For domestic employers	1 hour, 44 minutes
For agricultural employers	1 hour, 24 minutes
For railroad employers	12 hours, 20 minutes
For all other employers	6 hours, 5 minutes

Estimated Total Reporting Burden: 30,273,950 hours.

Clearance Officer: Garrick Shear, (202) 535-4296, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 89-28470 Filed 12-5-89; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 30, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0081.

Form Number: FFIEC 031-034.

Type of Review: Extension.

Title: Reports of Condition and Income (Interagency Call Report).

Description: Reports are filed pursuant to 12 U.S.C. 161 and 164. Data are used to monitor the financial condition and earnings performance of individual banks as well as the entire banking industry. Data are also used for research, program planning, and OCC publications.

Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 4,400.
Estimated Burden Hours Per Respondent: 33 hours, 24 minutes.
Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 587,840 hours.
Clearance Officer: John Ference (202) 447-1177 Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.
OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 89-28476 Filed 12-5-89; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 30, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2409, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505-0021.
Form Number: TD F 90-22.1.
Type of Review: Extension.
Title: Report of Foreign Bank and Financial Accounts.
Description: This reporting requirement is intended to discourage the use of foreign financial accounts to facilitate illegal activities including tax fraud. A failure to report that is related to other violations of law is a felony. It will also be used for economic analysis. Banks, multi-national corporations, and wealthy individuals are the ones most affected by the requirement.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents: 200,000.
Estimated Burden Hours Per Response: 10 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 34,000 hours.
Clearance Officer: Dale A. Morgan (202) 566-2693, Departmental Offices, Room 2409, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 89-28477 Filed 12-5-89; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 30, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0166.
Form Number: None.
Type of Review: Extension.
Title: Import Sanctions Against Toshiba Machine Company and the Kongsberg Trading Company.
Description: The declaration will be used by importers of products of the Toshiba Machine Company and the Kongsberg Trading Company for requesting an exception to the three year prohibition on the importation of all products which were produced by these companies.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 2.
Estimated Burden Hours Per Response: 17 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 249 hours.
Clearance Officer: Dennis Dore (202) 535-9267 U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 28478 Filed 12-5-89; 8:45 am]
BILLING CODE 4810-25-M

Federal Deposit Insurance System Study

AGENCY: Department of the Treasury.

ACTION: Request for comments.

SUMMARY: The Secretary of the Treasury (Secretary) is conducting a study of the federal deposit insurance system, as directed by section 1001 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law No. 101-73, 103 Stat. 183 (1989). Pursuant to FIRREA, the Secretary intends to complete the study within 18 months from the date of enactment of FIRREA (August 9, 1989) and to submit to the United States Congress a final report containing a detailed statement of findings, conclusions, and recommendations, if any, for administrative and/or legislative action determined by the Secretary to be appropriate.

In recognition and support of the legislation's requirement of consultation with the private sector and to gather the information needed for the study, this notice invites all interested parties to present their views on the topics discussed below and on any other issues relating to the study that they may wish to bring to the attention of the Secretary. The Secretary strongly encourages all interested parties to submit comments for the record.

DATE: Comments must be received by March 9, 1990.

ADDRESS: Interested parties are requested to submit ten (10) copies of written data, views, or arguments regarding any or all of the topics discussed below or otherwise relevant to the study. Copies will be distributed to the numerous participating agencies and will be used to create a public file to be maintained at the Department of the Treasury.

Such copies may be sent to:

Federal Deposit Insurance System Study, Department of the Treasury, Room 3025, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION: For further information, please contact: Gordon Eastburn, Director of the Office of Financial Institutions Policy, at 202-566-5337; Brian S. Tishuk, Financial Analyst,

at 202-566-4212; or Elizabeth Shiry, Study Coordinator, at 202-566-2505.

SUPPLEMENTARY INFORMATION: On August 9, 1989, President George Bush signed into law the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law No. 101-73, 103 Stat. 183 (1989). Section 1001 of FIRREA directed the Secretary of the Treasury to conduct a study of the federal deposit insurance system in consultation with the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Thrift Supervision, the Chairman of the Federal Deposit Insurance Corporation, the Chairman of the National Credit Union Administration, the Director of the Office of Management and Budget, and individuals from the private sector.

Need for Federal Deposit Insurance Study

The federal deposit insurance system was created by the Banking Act of 1933. During the past 56 years, the financial services marketplace has changed dramatically, and individuals and organizations in both the public and private sector have questioned how well the deposit insurance system is working—particularly in light of the failure of the thrift insurance fund—and whether the current system needs major reforms.

Through the deposit insurance system study, the Secretary will, among other things, examine the strengths and weaknesses of the deposit insurance system, consider proposed methods of reducing the risk of loss to the federal deposit insurance funds, and analyze the feasibility and desirability of alternatives to the system itself.

Suggested Format of Comments

Section 1001 of FIRREA lists the topics relating to the deposit insurance system Congress directed the Secretary to study. These topics and other related issues are presented below and have been grouped under broad headings. In preparing comments, please discuss the issues pertaining to deposit insurance, analyze the strengths and weaknesses of the existing programs, and propose any alternative policies or programs.

Federal Deposit Insurance System Issues

Purpose and History of Federal Deposit Insurance

Interested parties are requested to provide the Secretary with their views on the goals of the federal deposit insurance system and the success of the system in meeting these goals. The traditional goals of federal deposit insurance include: Stabilizing the financial system and protecting depositors. Commentators may address these and other goals in a discussion of the purpose and history of the current federal deposit insurance system.

In addition, commentators may address the concerns that the system has engendered, such as the subsidization of certain bank activities, the "too big to fail" problem, and the system's incentive for depository institution operators to take excessive risks because the federal deposit insurance funds will bear most of the ultimate losses.

Interested parties are also requested to review the deposit insurance systems of foreign countries to compare and contrast those systems with our current one.

Monitoring and Measuring Risk

Auditing and On-Site Examination. The Secretary seeks comments on whether a closer relationship between depository institution auditors and regulators would benefit the deposit insurance system.

Interested parties are asked specifically to address the following issues: (1) Requiring the independent auditors and accountants of a federally insured depository institution to report the results of any audit of the institution to the appropriate regulator(s); (2) requiring the appropriate regulator(s) to share reports on a depository institution with the institution's independent auditors and accountants; and (3) requiring the independent auditors and accountants of federally insured depository institutions to participate in conferences between the regulator and the depository institution.

Comments are also requested on the feasibility of adopting regulations that are the same as, or similar to, the audit provisions of England's Banking Act, enacted on May 15, 1987 which affects the Bank of England's relationship with auditors and reporting accountants (including sections 8, 39, 41, 45, 46, 47 82, 83, 85, and 94 of such Act). Comments may explore whether such a law would be necessary if some or all of the three other audit proposals were adopted, or whether the Bank of England provisions show more merit than the other three proposals.

Market Value Accounting. The Secretary seeks comments on the feasibility of implementing market value accounting. Commentators are asked to discuss how such an accounting system could be developed and the impact it would have on depository institutions. Specifically, interested parties could discuss the implications of such an accounting system on capital requirements, especially for depository institutions with long-term assets. Making long-term assets to market on a daily basis may lead to large swings in the assets' value and commensurate swings in the need for capital. Comments may also address the feasibility of exempting long-term assets from any market value accounting proposal.

Risk-Management Techniques. Interested parties are requested to consider the feasibility of developing and administering through the appropriate federal depository institution regulators an examination of the principles and techniques of risk management and the application of such principles and techniques to the management of insured institutions.

Incentives to Control Risk

Scope of Deposit Insurance Coverage. Comments are requested on the scope of deposit insurance coverage and its impact on the liability of the insurance fund, that is, whether to change the level of deposit insurance and/or the types of deposits and accounts eligible for coverage. In addition, interested parties may wish to discuss the implications on, and incentives for, market discipline of providing *de facto* insurance of all accounts in certain circumstances.

In particular, interested parties are requested to discuss: (1) Limiting each depositor to one insured account per institution; (2) reducing the amount insured, or providing for a graduated decrease in the insured percentage of the amount deposited as the amount deposited increases; (3) combining federal with private insurance in order to bring the market discipline of private insurance to bear on the management of the depository institution; and (4) ensuring by law or regulation that when an insured depository institution is closed, the appropriate federal insurance fund will honor only its explicit liabilities and will never make good any losses on deposits not explicitly covered by federal deposit insurance.

Risk-Based Premiums. Comments are also requested on the feasibility of charging risk-based premiums for federal deposit insurance. Commentators should address how risk would be measured and the criteria by which premiums would differ. In particular, comments should discuss how asset quality and interest rate risk would be measured; how management quality would be gauged; how an

institution's profitability and capital level would figure in the risk calculus; and what relationship risk-based premiums would have with risk-based capital requirements. Comments should also address how the cutoff points of the differing levels of premiums would be determined and how large the differences among the premiums would have to be to induce the desired behavior.

Capital Adequacy. Interested parties are requested to consider capital adequacy in a discussion of protecting against a depository institution's level of risk to the insurance fund.

Optimal Fund Reserve Level. Commentators may also address the relationship of the current system's assessment structure to the optimal level of insurance fund reserves.

Closure or Recapitalization of Insolvent, or Nearly Insolvent, Institutions

The Secretary seeks comments on defining the policies to be followed when determining whether to recapitalize or to close federally insured depository institutions that are, or are about to become, insolvent. Commentators should discuss how the appropriate regulator would determine whether to assist or to arrange to close a federally insured depository institution before it becomes insolvent. When certain criteria are defined, should the early intervention be mandatory or discretionary?

The Office of Thrift Supervision plans to issue soon a notice of proposed rulemaking for determining whether to assist or to declare an institution to be in an unsafe and unsound condition when its capital level falls below a certain threshold. The Office of the Comptroller of the Currency is currently finalizing its own regulation, which would require a similar determination to be made when an institution's equity has been depleted. The Federal Deposit Insurance Corporation has the authority to suspend the federal deposit insurance of an insured institution if that institution has insufficient capital or if it is otherwise being operated in an unsafe and unsound manner.

Commentators may wish to discuss these methods of addressing the issue in their analysis and to address the feasibility of applying any of them to all depository institutions. Interested parties may also address what the appropriate threshold (of capital, equity, or some other measure) ought to be and whether only a single regulator should be authorized to make such a determination for all depository institutions. Some may also wish to discuss the legal or economic ramifications of the proposal, including any incentives it may have for depository institution managers as they approach the applicable threshold.

Alternative Federal Deposit Insurance Systems

Comments are requested on the feasibility of alternative deposit insurance system structures, including supplementing or replacing the current system structure with private or state insurance. Interested parties may also discuss the feasibility of structures that do not include the insurance of deposits.

Modifying the Insurance Base

Interested parties are also requested to discuss whether the insurance base should be modified. Specifically, comments are requested on: (1) Adding collateralized borrowings to the insurance base; (2) limiting brokered deposits; and (3) assessing premiums on foreign deposits. Comments are also requested on the desirability of retaining multiple insured accounts.

Comments should address the feasibility of each of these proposals and the effect each would have on the deposit insurance system.

State and Federal Bankruptcy Exemptions

Comments are requested on the feasibility of three proposed methods of addressing the disparate treatment of depository institutions, as the holders of loan assets, under state and federal bankruptcy laws. Some state bankruptcy laws provide more generous exemptions than does the federal law, which affects not only the bankrupt individual, but the ability of the depository institution holding the loan to collect on it.

The three methods of addressing this issue are: (1) Establishing uniform exemptions; (2) placing limits on exemptions when necessary to repay obligations owed to federally insured depository institutions; and (3) requiring a borrower from a federally insured depository institution to post a personal or corporate bond when obtaining a mortgage on real property.

Credit Unions

Capital Adequacy. The Secretary seeks comments on whether insured credit union capital levels are adequate and whether the Credit Union Share Insurance Fund is adequately capitalized. Currently, credit union premium payments are carried as assets by both the Share Insurance Fund and by the paying credit unions. Comments are requested on how this arrangement is likely to work in a crisis affecting a number of credit unions, or the credit union industry as a whole.

Separating the Regulation Function From the Insurance Function. The Secretary also seeks comments on whether the regulatory and insurance functions, currently performed by a single agency, the National Credit Union Administration, should be separated within the credit union regulatory structure.

Federal Home Loan Bank System Housing Subsidies

The Secretary seeks comments on the efficiency of providing credit subsidies for housing through the Federal Home Loan Bank System.

Interrelationships of Regulation, Federal Deposit Insurance, and Financial Activities

This section will draw on the preceding sections to discuss the current interrelationships among deposit insurance, regulation, and financial activities; how that interrelationship has evolved; and the appropriate interrelationship for the future. The Secretary encourages interested parties to submit comments on this issue.

Dated: December 1, 1989.

David W. Mullins, Jr.,

Assistant Secretary (Domestic Finance).

Department of the Treasury.

[FR Doc. 89-28436 Filed 12-5-89; 8:45 am]

BILLING CODE 4810-25-M

Corrections

Federal Register
Vol. 54, No. 233
Wednesday, December 6, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Parts 217 and 252

Department of Defense Federal Acquisition Regulation Supplement; Master Agreements for Repair and Alteration of Vessels

Correction

In proposed rule document 89-26009 beginning on page 46953 in the issue of Wednesday, November 8, 1989, make the following correction:

On page 46953, in the first column, under the **DATE:**, in the fifth line, "January 5, 1989" should read "January 5, 1990"

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

Department of the Air Force

Defense Intelligence Agency Advisory Board; Closed Meeting

Correction

In notice document 89-26555 appearing on page 47259 in the issue of Monday, November 13, 1989, make the following corrections:

1.On page 47259, in the second column, the document heading should read as set forth above.

2.On page 47259, in the second column, in the document text, in the 19th line, between "Secretary" and "or," insert "of the Air Force (SAF/MRC), Washington, DC 20330-1000. Copies of documents"

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-81015; FRL-3634-5]

TSCA Inventory; Notice of Intent to Remove 217 Reported Chemical Substances

Correction

In notice document 89-19825 beginning on page 35241 in the issue of Thursday, August 24, 1989, make the following corrections:

1. On page 35243, in the table, in the entry for CAS Registry No., 66558-73-4, "N,N',N" should be followed by a double prime (") instead of a "greater than" symbol (>).

2. In entry "68025-49-0" " phosphinylidynetris" should be preceded by a double prime (") instead of a "greater than" symbol (>).

3. In entry "68083-43-2" remove the "greater than" symbol (>), and insert a double prime (").

4. On page 35244, the third entry "68227-48-5" "2,2',2" should be followed by a double prime (") instead of a "greater than" symbol.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50692; FRL-3657-1]

Issuance of Experimental Use Permits

Correction

In notice document 89-25738 beginning on page 46115 in the issue of Wednesday, November 1, 1989, make the following corrections:

1. On page 46115, in the first column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the ninth line,"semi-dwarf" should read "semi-dwarf"

2. On the same page, in the second column, in the second complete paragraph, in the first line, "275-EUP-63. should read "275-EUP-65."

3. On the same page, in the same columnn, in the 3rd complete paragraph, in the 11th line, April 12, 1990" should read April 12, 1991"

4. On the same page, in the third column, in the second complete paragraph, in the eighth line, "3-hydroxyl-2" should read "3-hydroxy-2"

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 442 and 452

[Docket No. 89N-0129]

Antibiotic Drugs; Updatings and Technical Changes

Correction

In rule document 89-26580 beginning on page 47349 in the issue of Tuesday, November 14, 1989, make the following corrections:

§ 442.119 [Corrected]

1. On page 47352, in the first column, in § 442.119(b)(1)(iii), in the definitions for the equation, coresponding to P_s, in the third line following "activity", insert "per"

§ 452.510b [Corrected]

2. On the same page in the third column, in § 452.510b(a)(2), in the fifth line, "or" should read "of"

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1020

[Docket No. 82N-0274]

Federal Performance Standard for Diagnostic X-Ray Systems and Their Major Components

Correction

In proposed rule document 89-24366 beginning on page 42674 in the issue of Tuseday, October 17 1989, make the following corrections:

1. On page 42675, in the first column, under *A. Applicability (§ 1020.30(a))*, in the fifth line, "gantry" was misspelled.

2. On the same page, in the same column, under the same heading, in the second paragraph, in the 9th and 10th lines, "(21 CFR 1020.30)" should read "(21 CFR 1020.30(a))"

§ 1020.30 [Corrected]

3. On page 42686, in the second column, in § 1080.30(k), in the last line, before "kilogram" insert coulombs per"

§ 1020.31 [Corrected]

4. On page 42687 in the third column, in § 1080.31(a)(3)(ii), in the 10th line "deliver" was misspelled.

5. On page 42688, in the first column, in § 1080.31(c)(1), in the fifth line, the parenthetical preceding "obtained" should read "(C/kg/mAs (or mR/mAs))"

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89M-0436]

Ocular Technologies, Inc., Premarket Approval of OTI-05 (Polymacon) Soft Contact Lenses and LATHE-40 (Polymacon) Soft Contact Lenses (Clear)

Correction

In notice document 89-26652 beginning on page 47410 in the issue of Tuesday, November 14, 1989, make the following corrections:

1. On page 47410, in the second column, under **DATES:**, in the second line "December 13, 1989" should read "December 14, 1989"

2. On the same page, in the third column, under **Opportunity for Administrative Review**, in the second paragraph, in the second line, "December 13, 1989" should read "December 14, 1989"

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-305]

Investigation

Correction

In notice document 89-26266 beginning on page 46993 in the issue of Wednesday, November 8, 1989, make the following correction:

In the second column, appearing on page 46993, under **Investigation**, in the second and fourth lines "honeycomb" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL-2-89]

American Gas Association Laboratories; Notice of Application

Correction

In notice document 89-27355 beginning on page 48166 in the issue of Tuesday, November 21, 1989, make the following corrections:

1. On page 48166, in the first column, under **DATE:**, in the third line, "January 27 1990" should read "January 22, 1990"

2. On page 48168, in the 2nd column, in the 3rd complete paragraph, in the 10th line, "January 22, 1989" should read "January 22, 1990"

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Meetings; Bangor, ME Terminal Radar Service Area

Correction

In notice document 89-27551 beginning on page 48714 in the issue of Friday, November 24, 1989, make the following correction:

On page 48715, in the first column, under **DATE:**, in the second line "Time: p.m. should read "Time: 7 p.m."

BILLING CODE 1505-01-D

federal register

Wednesday
December 6, 1989

Part II

Department of Education

34 CFR Part 300

Assistance to States for Education of Handicapped Children; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820-AA71

Assistance to States for Education of Handicapped Children

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary amends 34 CFR part 300 to add Office of Management and Budget (OMB) control numbers to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Ms. Lucille Sleger, Division of Assistance to States, Office of Special Education Programs, U.S. Department of Education (Mary E. Switzer Building, Room 3622), 400 Maryland Avenue, SW., Washington, DC 20202-7240, Telephone: (202) 732-1104.

SUPPLEMENTARY INFORMATION: On April 27 1989, final regulations implementing the Amendments to part B of the Education of the Handicapped Act (part B) that are included in the Education of the Handicapped Act Amendments of 1986 (1986 Amendments) and in the Handicapped Programs Technical Amendments of 1988 (1988 Amendments) published in the Federal Register (54 FR 18248-18256). The effective date of certain sections of these regulations was delayed until information collection requirements contained in these sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has now approved the information collection requirements.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest.

List of Subjects

Administative practice and procedures, Education, Education of the handicapped, Grant Programs—education, Privacy, Private schools, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.027· Assistance to States for Education of Handicapped Children)

Dated: November 29, 1989.

Lauro F Cavazos,

Secretary of Education.

The Secretary amends part 300 of title 34 of the Code of Federal Regulations as follows:

PART 300—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

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

Authority: 20 U.S.C. 1411-1420, unless otherwise noted.

300.152, 300.153 and 300.260 [Amended]

2. Sections 300.152, 300.153, and 300.260 are amended by adding "(Approved by the Office of Management and Budget under control number 1820-0030)" following each of those sections.

[FR Doc. 89-28421 Filed 12-5-89; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
December 6, 1989

Part III

Department of Education

34 CFR Part 303

Early Intervention Program for Infants and Toddlers With Handicaps; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 303

RIN 1820-AA49

Early Intervention Program for Infants and Toddlers With Handicaps

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR part 303 to add Office of Management and Budget (OMB) control numbers to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective December 6, 1989.

FOR FURTHER INFORMATION CONTACT: Thomas B. Irwin, Office of Special Education Programs, U.S. Department of Education (Mary E. Switzer Building, Room 4618), 400 Maryland Avenue SW., Washington, DC 20202-7240, Telephone: (202) 732-1114.

SUPPLEMENTARY INFORMATION: On June 22, 1989, final regulations implementing the 1986 Amendments to the Education of the Handicapped Act (EHA) were published in the **Federal Register** (54 FR 26306-26348). The effective date of certain sections of these regulations was delayed until information collection requirements contained in these sections were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has now approved the information collection requirements.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 303

Education, Education of the handicapped, Grant Programs—education, Medical personnel, State educational agencies.

(Catalog of Federal Domestic Assistance Number 84.181; Early Intervention Program for Infants and Toddlers with Handicaps)

Dated: November 29, 1989.

Lauro F Cavazos,

Secretary of Education.

The Secretary amends part 303 of title 34 of the Code of Federal Regulations as follows:

PART 303—EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH HANDICAPS

1. The authority citation for part 303 continues to read as follows:

Authority: 20 U.S.C. 1471-1485 unless otherwise noted.

§ 303.113, §§ 303.141 through 303.146, §§ 303.148 through 303.150, § 303.151, § 303.152, §§ 303.160 through 303.175, § 303.301, § 303.341, § 303.344, § 303.403, § 303.420, § 303.510, § 303.520, and § 303.540 [Amended]

2. Section 303.113, §§ 303.141 through 303.146; §§ 303.148 through 303.150, § 303.151, § 303.152, §§ 303.160 through 303.175, § 303.301, § 303.341; § 303.344, § 303.403; § 303.420; § 303.510; § 303.520; and § 303.540 are amended by adding "(Approved by the Office of Management and Budget under control number 1820-0550)" following each of those sections.

[FR Doc. 89-28422 Filed 12-5-89; 8:45 am]

BILLING CODE 4000-01-M

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