

Journal of Neurophysiology



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Rules and Regulations

Federal Register

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Friday, December 7, 1990

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870 and 890

Federal Employees Health Benefits Program, Federal Employees' Group Life Insurance Program: Benefits for Hostages in Iraq, Kuwait, and Lebanon

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement section 599C of Public Law 101-513 (the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991) enacted November 5, 1990. Section 599C of Public Law 101-513 extends coverage under the Federal Employees' Group Life Insurance (FEGLI) Program and the Federal Employees Health Benefits (FEHB) Program to U.S. hostages in Iraq, Kuwait, and Lebanon while they are in hostage status and for 12 months thereafter. These interim regulations set forth the circumstances of their coverage in the two programs.

DATES: Interim regulations are effective on November 5, 1990. Comments must be received on or before February 5, 1991.

ADDRESSES: Written comments may be sent to Andrea Minniear Farran, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Margaret Sears, (202) 606-0780, extension 207.

SUPPLEMENTARY INFORMATION: Section 599C of Public Law 101-513 provides for

the coverage of certain hostages in Iraq, Kuwait, and Lebanon under the FEGLI and FEHB Programs during the period they are in hostage status and for 12 months thereafter if such benefits are not provided by any other insurer. It also requires that OPM prescribe regulations for the application of the FEGLI and FEHB laws to these hostages. The legislation does not make the hostages Federal employees for any purpose. These interim regulations explain how the provisions of the FEGLI and FEHB laws apply to hostages (and their families) who are covered under these programs by reason of Public Law 101-513.

Public Law 101-513 gives the U.S. Department of State the responsibility for determining the eligibility of individuals for coverage under this legislation. It also provides for a payment for hostages that is the equivalent of GS 9, step 1 pay (\$24,705 in 1990). An allocation of \$10,000,000 is earmarked from the State Department Foreign Assistance appropriations to carry out the provisions of Public Law 101-513.

Under these regulations, the U.S. Department of State determines hostages who are eligible for FEGLI and/or FEHB coverage. The State Department also acts as personnel and payroll office and sets the period of time that will serve as a pay period for the hostages.

These interim regulations permit OPM to accept the advance transfer of funds from the State Department representing premiums (Government and enrollee shares) if necessary to fund the 12-month period of coverage that begins the earlier of: (1) The end of economic sanctions or hostilities or (2) the end of the individual's hostage status. OPM will hold these funds in a special account and disburse them under normal procedures when the appropriate pay period occurs.

Life Insurance

The interim regulations provide that a hostage who is eligible for life insurance coverage has basic life insurance coverage. A covered hostage may cancel the basic insurance coverage, but cannot reacquire it later (unless it would be against equity and good conscience not to allow the individual to be covered). This provision for automatic coverage under basic life insurance is similar to

the requirement for mandatory coverage of Federal employees under basic life insurance (unless they waive coverage).

Under these interim regulations, the basic insurance amount for hostages is the same as for a Federal employee earning an annual salary equal to the amount of the payment provided to hostages under section 599C of Public Law 101-513. The extra life insurance benefit for Federal employees under age 45 also applies to hostages. This extra benefit doubles the amount of life insurance payable for individuals who are age 35 or less at death. Beginning at age 36, the extra benefit decreases by 10 percent each year, until at age 45, there is no extra benefit.

Like Federal employees, hostages may cancel their coverage at any time by a written request. If they cancel their coverage, they cannot reacquire it unless it would be against equity and good conscience not to allow the individual to be covered. Hostages themselves must request cancellations; cancellations by proxy are not acceptable.

If the covered individual does not cancel his or her coverage, coverage under this part terminates 12 months after hostage status ends.

Coverage is effective on August 2, 1990, for hostages in Iraq and Kuwait and on January 1, 1990, for hostages captured in Lebanon, unless the State Department determines that a later date is appropriate. Since premiums are required for every pay period during which an individual is covered, the initial payment must include premiums for coverage from the effective date through the current pay period. These interim regulations also permit OPM to accept the advance transfer of funds from the State Department appropriation representing premiums (Government and enrollee shares) on behalf of the enrollee if necessary to fund the 12-month period of coverage beginning the earlier of: (1) The end of economic sanctions or hostilities or (2) the end of the individual's hostage status. The premiums will be held in a special account and disbursed according to FEGLI law when the appropriate pay period occurs.

Also, unlike FEGLI coverage for employees, the commencement and termination of coverage does not necessarily coincide with the beginning and ending of pay periods. Therefore,

the regulations provide a simple formula for determining a daily premium to use for periods that are not full pay periods.

These interim regulations provide that insurance benefits will be paid according to the order of precedence set forth in the FEGLI law. Designated beneficiaries are first in this order of precedence. Designations of beneficiaries as described in existing regulations will be acceptable under these interim regulations. Under existing regulations, a designation of beneficiary must be in writing, signed, and witnessed by two people (other than a named beneficiary), and received in the employing office (in this case, the State Department) before the death of the covered individual. Additional details regarding designations of beneficiary can be found in 5 CFR 870.902. There is no regulatory requirement for hostages to use the Standard Form 2823, Designation of Beneficiary, for this purpose.

These interim regulations also provide that requests for reconsideration of State Department's initial decisions must be directed to the State Department, since the State Department determines eligibility for coverage under Public Law 101-513.

Health Benefits

The interim regulations provide that a hostage who is eligible for health benefits coverage (based on the determination of the U.S. Department of State) is covered under the Standard Option of the Service Benefit Plan. These regulations provide for automatic enrollment in the Service Benefit Plan for the duration of coverage under this legislation since this plan is open to all enrollees and no membership dues are required. If it is clear that the hostage is not married and has no eligible dependent children, he or she has a self only enrollment. If the hostage is married, or if the marital status is unknown, he or she has a self and family enrollment.

Enrollees may change from self only to self and family enrollment, or vice versa, within the Standard Option of the Service Benefit Plan because of a change in family status (that is, a gain or loss of a family member).

Coverage is effective on August 2, 1990, for hostages in Iraq and Kuwait and on January 1, 1990, for hostages captured in Lebanon, unless the State Department determines that a later date is appropriate. As with FEGLI, FEHB premiums are required for every pay period during which an individual is covered; therefore, the initial payment must include premiums for coverage from the effective date through the

current pay period. The interim regulations also provided a simple formula for determining a daily premium rate for use when a period of coverage is less than a full pay period.

These interim regulations also permit OPM to accept the advance transfer of funds from the State Department appropriation representing premiums if necessary to fund the 12-month period of coverage beginning the earlier of (1) the end of economic sanctions or hostilities or (2) the end of the individual's hostage status. The premiums will be held in a special account and disbursed according to FEHB law when the appropriate pay period occurs.

A hostage may cancel coverage at any time; however, cancellations are irrevocable (unless it would be against equity and good conscience not to allow the individual to be covered). Hostages themselves must request cancellations; cancellations by proxy are not acceptable.

The interim regulations provide that if a covered hostage dies while in hostage status, family members can continue coverage for 12 months thereafter. If a former hostage dies during the 12 months of coverage following the end of hostage status, the family members can continue the coverage for the remainder of the 12-month period after the end of the period of hostage status.

As with life insurance coverage under these interim regulations, requests for reconsideration of State Department's initial coverage decision must be made to the State Department rather than OPM.

Eligibility for both life insurance and health benefits shall be subject to the availability of funds under section 599C of Public Law 101-513.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making the rules effective in less than 30 days. OPM is required under section 599C of Public Law 101-513, enacted November 5, 1990, to prescribe regulations implementing that section of law within 30 days after enactment.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect United

States hostages in Iraq, Kuwait, and Lebanon.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Life insurance.

5 CFR Part 890

Administrative practice and procedure, Health insurance.

U.S. Office of Personnel Management.

Constance Berry Newman,
Director.

Accordingly, OPM is amending 5 CFR parts 870 and 890 as follows:

PART 870—BASIC LIFE INSURANCE

1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; subpart J is also issued under section 599C of Pub. L. 101-513.

2. In part 870, a new subpart J is added to read as follows:

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

Sec.

870.1001 Purpose.

870.1002 Definitions.

870.1003 Coverage and amount of insurance.

870.1004 Effective date of coverage.

870.1005 Cancellation of coverage.

870.1006 Termination of coverage.

870.1007 Premiums.

870.1008 Order of precedence and designation of beneficiary.

870.1009 Responsibilities of the U.S. Department of State.

870.1010 Reconsideration and appeal rights.

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

§ 870.1001 Purpose.

This subpart sets forth the circumstances under which individuals are covered under this part in accordance with the provisions of section 599C of Public Law 101-513.

§ 870.1002 Definitions.

In this subpart—

Hostage and *hostage status* have the meaning set forth in section 599C of Public Law 101-513.

Pay period for individuals covered under this subpart means the pay period established by the U.S. Department of State for paying individuals covered under Public Law 101-513.

Period of eligibility means the period beginning on the effective date set forth in § 870.1004 and ending 12 months after hostage status ends.

§ 870.1003 Coverage and amount of insurance.

(a) An individual is covered under this subpart when the U.S. Department of State determines that the individual is eligible for coverage under section 599C of Public Law 101-513.

(b) Subject to the applicable conditions prescribed in this part, an individual who is covered under this subpart is insured for the amount of basic life insurance specified in § 870.301 of this part.

(c) The basic insurance amount under § 870.301 is deemed to be the amount of the payment specified in section 599C(b)(2) of Public Law 101-513, rounded to the next higher multiple of \$1,000, plus \$2,000.

(d) An individual who is insured under paragraph (b) of this section is also insured for group accidental death and dismemberment insurance in accordance with 5 U.S.C. 8704(b).

(e) An individual covered by this subpart is not considered an employee for the purpose of this part.

(f) Eligibility for coverage under this subpart shall be subject to the availability of funds under section 599C(e) of Public Law 101-513.

§ 870.1004 Effective date of coverage.

Coverage under this subpart was effective on August 2, 1990, for hostages in Iraq and Kuwait and on January 1, 1990, for hostages captured in Lebanon, unless the U.S. Department of State determines that a later date is appropriate.

§ 870.1005 Cancellation of coverage.

(a) An individual who is covered under this subpart may cancel his or her coverage at any time by written request. The cancellation is effective on the 1st day of the pay period after the pay period in which it is received by the U.S. Department of State.

(b) An individual who cancels his or her coverage under this section cannot reacquire coverage unless the U.S. Department of State determines that it would be against equity and good conscience not to allow the individual to be covered.

(c) A cancellation of coverage must be made by the covered individual and cannot be made by a representative acting on the individual's behalf.

§ 870.1006 Termination of coverage.

(a) Coverage of an individual under § 870.1003(a) terminates 12 months after hostage status ends unless the individual cancels the coverage earlier.

(b) Covered individuals whose coverage terminates are eligible for temporary extension of coverage and

conversion as set forth in subpart E of this part unless coverage is terminated by cancellation.

§ 870.1007 Premiums.

(a) Government contributions and employee withholdings (premiums) required under subpart D of this part are paid from the appropriation provided under section 599C(e) of Public Law 101-513.

(b) If the individual is not covered under this subpart for the full pay period, premiums are paid only for the days he or she is actually covered. The daily premium rate is an amount equal to the monthly premium rate multiplied by 12 and divided by 365.

(c) The payments required by this section may be accepted by OPM in advance from a State Department appropriation if necessary to fund the 12-month period of coverage beginning the earlier of:

(1) The day after sanctions or hostilities end; or

(2) The day after the individual's hostage status ends.

(d) OPM will place any funds received under paragraph (c) of this section in an account established for that purpose. OPM will make the disbursement required under 5 U.S.C. 8714 from the account when the appropriate pay period occurs.

§ 870.1008 Order of precedence and designation of beneficiary.

Payment of insurance benefits is made under the order of precedence set forth in 5 U.S.C. 8705 and under the provisions of subpart I of this part.

§ 870.1009 Responsibilities of the U.S. Department of State.

(a) The U.S. Department of State functions as the "employing office" for individuals covered under this subpart.

(b) The U.S. Department of State must determine the eligibility of individuals who qualify under Public Law 101-513 for coverage under this part. This determination includes the determination as to whether the individual is barred from coverage under chapter 87 of title 5 U.S. Code by reason of other life insurance coverage as provided in section 599C of Public Law 101-513.

§ 870.1010 Reconsideration and appeal rights.

(a) Under procedures set forth by the U.S. Department of State, an individual may request the U.S. Department of State to reconsider an initial decision it has made denying coverage under this subpart.

(b) Neither the initial decision nor the reconsideration decision of the U.S. Department of State is subject to reconsideration by OPM.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

3. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p., 22 U.S.C. 4069c, and 4089c-1; subpart L also issued under Pub. L. 101-513.

4. In part 890, a new subpart L is added to read as follows:

Subpart L—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

Sec.	Purpose.
890.1201	Definitions.
890.1202	Coverage.
890.1203	Effective date of coverage.
890.1204	Change in type of enrollment.
890.1205	Cancellation of coverage.
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890.1207	Premiums.
890.1208	Responsibilities of the U.S. Department of State.
890.1209	Reconsideration and appeal rights.

Subpart L—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon**§ 890.1201 Purpose.**

This subpart sets forth the circumstances under which individuals are covered under this part in accordance with the provisions of section 599C of Public Law 101-513.

§ 890.1202 Definitions.

In this subpart—
Covered family members as it applies to individuals covered under this subpart has the same meaning as set forth in § 890.101(a). For eligible survivors of individuals enrolled under this subpart, a family enrollment covers only the survivor or former spouse and unmarried dependent natural or adopted child of both the survivor or former spouse and hostage.

Hostage and hostage status have the meaning set forth in section 599C of Public Law 101-513.

Pay period for individuals enrolled under this subpart means the pay period established by the U.S. Department of State for paying individuals covered under Public Law 101-513.

Period of eligibility means the period

beginning on the effective date set forth in § 890.1204 of this part and ending 12 months after hostage status ends.

§ 890.1203 Coverage.

(a) An individual is covered under this subpart when the U.S. Department of State determines that the individual is eligible for coverage under section 599C of Public Law 101-513.

(b) An individual who is covered under this subpart is covered under the Standard Option of the Service Benefit Plan. The individual has a self and family enrollment unless the U.S. Department of State determines that the individual is unmarried and has no dependent children. Unmarried individuals who have no eligible dependent children have a self only enrollment.

(c) Individuals covered under this subpart are deemed ineligible for enrollment in any FEHB plan or option other than the Standard Option of the Service Benefit Plan.

(d) Eligible surviving family members of an individual covered under this subpart whose hostage status ends because of death or who dies during the 12 months following the end of hostage status are eligible to continue enrollment under this part. The enrollment terminates no later than 12 months after hostage status ended.

(e) An individual covered by this subpart is not considered an employee for the purpose of this part.

(f) Eligibility for coverage under this subpart shall be subject to the availability of funds under section 599C(e) of Public Law 101-513.

§ 890.1204 Effective date of coverage.

Coverage under § 890.1203(b) is effective on August 2, 1990, for hostages in Iraq and Kuwait and on January 1, 1990, for hostages captured in Lebanon, unless the State Department determines a later date is appropriate.

§ 890.1205 Change in type of enrollment.

(a) Individuals covered under this subpart or eligible survivors enrolled under this subpart may change from self only to self and family coverage if they acquire an eligible family member. The change may be made at the written request of the enrollee at any time after the family member is acquired. A change in enrollment under this paragraph becomes effective on the 1st day of the pay period after the pay period during which the request is received by the U.S. Department of State, except that a change based on the birth or addition of a child as a new family member is effective on the 1st day of the pay period during which the

child is born or otherwise becomes a new family member.

(b) Individuals covered under this subpart or eligible survivors enrolled under this subpart may change from a self and family enrollment to a self only when the last eligible family member (other than the enrollee) ceases to be a family member. The change may be made at the written request of the enrollee at any time after the last family member is lost and it becomes effective on the 1st day of the pay period after the pay period during which the request is received by the U.S. Department of State.

(c) A family member may file a request to change the type of enrollment on behalf of a hostage during the period of hostage status or on behalf of an eligible former hostage who cannot file the election on his or her own behalf because of a mental or physical disability.

§ 890.1206 Cancellation of coverage.

(a) An individual who is covered under § 890.1203(b) may cancel his or her enrollment at any time by written request. The cancellation is effective on the 1st day of the pay period after the pay period in which it is received by the U.S. Department of State.

(b) An individual who cancels his or her coverage under this section cannot reacquire coverage unless the U.S. Department of State determines that it would be against equity and good conscience not to allow the individual to be enrolled.

(c) A cancellation of coverage must be made by the enrolled individual and cannot be made by a representative acting on the individual's behalf.

§ 890.1207 Termination of coverage.

(a) Coverage of an individual under § 890.1203(b) terminates 12 months after hostage status ends unless the individual cancels the coverage earlier.

(b) Enrollees and family members are eligible for temporary extension of coverage for conversion as set forth in subpart D of this part unless the covering enrollment is terminated by cancellation.

§ 890.1208 Premiums.

(a) Government and employee contributions (premiums) required under §§ 890.501 and 890.502 of this part are paid from the appropriation provided under section 599C(e) of Public Law 101-513.

(b) If the individual is not covered under this subpart for the full pay period, premiums are paid only for the

days he or she is actually covered. The daily premium rate is an amount equal to the monthly premium rate multiplied by 12 and divided by 365.

(c) The payments required by this section may be accepted by OPM from the State Department appropriation in advance if necessary to fund the 12-month period of coverage beginning on the earlier of:

(1) The day after sanctions or hostilities end; or

(2) The day after the individual's period of hostage status ends.

(d) OPM will place any funds received under paragraph (c) of this section in an account established for this purpose. OPM will make the disbursements specified under § 890.505 from this account when the appropriate pay period occurs.

§ 890.1209 Responsibilities of the U.S. Department of State.

(a) The U.S. Department of State functions as the "employing office" for individuals covered under this subpart.

(b) The U.S. Department of State must determine the eligibility of individuals who qualify under Public Law 101-513 for coverage under this part. This determination includes the determination as to whether the individual is barred from coverage under chapter 89 of title 5 U.S. Code by reason of other health insurance coverage as provided in section 599C of Public Law 101-513.

(c) The U.S. Department of State must determine whether eligible individuals are married or single for the purpose of coverage under a self only or a self and family enrollment as set forth in § 890.1203(b). If the marital status of the individual cannot be determined, the U.S. Department of State must enroll the individual for self and family coverage.

§ 890.1210 Reconsideration and appeal rights.

(a) Under procedures set forth by the U.S. Department of State, an individual may request the U.S. Department of State to reconsider an initial decision it has made denying coverage or a change in the type of enrollment under this subpart.

(b) Neither the initial decision nor the reconsideration decision of the U.S. Department of State is subject to reconsideration by OPM.

[FR Doc. 90-28707 Filed 12-4-90; 2:41 pm]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 989**

[FV-91-212 FR]

1990-91 Expenses and Assessment Rate Under Marketing Order No. 989 Raisins Produced From Grapes Grown in California**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 989 for the 1990-91 fiscal year established under the federal marketing order for raisins produced from grapes grown in California. Authorization of this budget will allow the Raisin Administrative Committee (Committee) to incur reasonable and necessary expenses to administer the marketing order program. Funds for the program are derived from assessments on handlers of California raisins.

EFFECTIVE DATE: August 1, 1990, through July 31, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Department Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the

Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 23 handlers of California raisins subject to regulation under this marketing order and approximately 5,000 producers of California raisins. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The minority of handlers and the majority of producers of raisins may be classified as small entities.

The federal marketing order for California raisins requires that the assessment rate for a particular marketing year shall apply to all assessable raisins handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of regulated raisins. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings, so that all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of assessable raisins. That rate is applied to actual shipments to produce sufficient income to pay the Committee's expected expenses. The budget of expenses and rate of assessment are usually recommended by the Committee shortly after the season starts. Expenses are incurred on a continuous basis; therefore, the budget of annual expenses and assessment rate approval must be expedited so that the Committee will have funds to meet its obligations.

The Committee met on October 4, 1990, as required by the marketing order, and unanimously recommended 1990-91 marketing order expenditures of \$450,550 and an assessment rate of \$1.90 per assessable ton of raisins. In comparison, 1989-90 marketing year budgeted expenditures were \$534,505, and the assessment rate was \$1.50 per ton. Assessment income for 1990-91 is estimated at \$540,550 based on 284,500 tons of assessable raisins.

Major expenditure categories in the 1990-91 budget are \$195,000 for executive salaries, \$101,000 for office personnel salaries, \$50,000 for Committee travel, \$38,000 for compliance staff salaries, and \$35,000 for insurance and bonds. Comparable budgeted expenditures for the 1988-89 fiscal year were \$176,400, \$91,200, \$40,000, \$33,000, and \$35,000, respectively. The increase in the assessment rate is necessary because the estimate of the crop is about 35,000 tons less than last year. Also, the Committee has increased salaries for executive personnel.

While this action will impose some additional costs on handlers of California raisins, including small entities, the costs are in the form of uniform assessments on all handlers. Any costs to handlers are expected to be more than offset by benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new section 989.341 and is based on Committee recommendations and other information. A proposed rule on the establishment of expenses and an assessment rate was published in the November 9, 1990, issue of the *Federal Register* (55 FR 47063). Comments on the proposed rule were invited from interested persons until November 19, 1990. No comments were received.

After consideration of the information and recommendation submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This rule should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action, which was recommended by the Committee at public meetings. Therefore, it is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* (5 U.S.C. 553).

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 989.341 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

§ 989.341 Expenses and assessment rate.

Expenses of \$540,550 by the Raisin Administrative Committee are authorized and an assessment rate payable by each handler in accordance with § 989.80 of \$1.90 per ton of assessable raisins is established for the crop year ending July 31, 1991. Any unexpended funds from that crop year shall be credited or refunded to the handler from whom collected.

Dated: December 3, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-28699 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R-0716]

Reserve Requirements of Depository Institutions, Reserve Requirement Ratios

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY Pursuant to section 19 of the Federal Reserve Act (12 U.S.C. 461) the Board's Regulation D, Reserve Requirements of Depository Institutions (12 CFR part 204), requires depository institutions to maintain reserves of 3 percent on their nonpersonal time deposits with original maturities or notice periods of less than one and one-half years. Such time deposits are sometimes referred to as "short-term nonpersonal time deposits." Also pursuant to section 19 of that Act, the Board's Regulation D requires any depository institution, including a U.S. branch or agency of a foreign bank, to maintain reserves of 3 percent on net balances owed to a directly related foreign office or to foreign offices of nonrelated depository institutions, on loans to U.S. residents made by related foreign offices, and on assets held by related foreign offices acquired from domestic offices. Such reservable liabilities are known as "Eurocurrency

liabilities." The Board is now amending its Regulation D to reduce the reserve requirement on short-term nonpersonal time deposits and Eurocurrency liabilities from the current level of 3 percent to zero percent. These reductions will be phased in over two successive reserve maintenance periods for depository institutions that report their deposits weekly under Regulation D, and will be effective at the beginning of the next quarterly period for quarterly reporters.

Reserve requirements on transaction accounts (generally 12 percent) and nonpersonal time deposits with original maturities or notice periods of one and one-half years or more (zero percent) are not being changed. Reporting requirements and regulatory definitions also are not being changed.

DATES: *Effective date:* December 13, 1990.

*Compliance dates:*¹ Reserves on short-term nonpersonal time deposits and Eurocurrency liabilities for weekly reporting depository institutions will be reduced from 3 percent to 1 and ½ percent effective with the weekly reporter reserve maintenance period that begins on Thursday, December 13, 1990, and will be reduced from 1 and ½ percent to zero percent effective with the weekly reporter reserve maintenance period that begins on Thursday, December 27, 1990. For quarterly reporting institutions, reserves on these liabilities will be reduced to zero percent effective January 17, 1991, the beginning of the next quarterly period.² The Board believes that this time period will be sufficient to provide the desired stimulus promptly while minimizing the disruption to the financial markets resulting from the reduction.

FOR FURTHER INFORMATION CONTACT: John Harry Jorgenson, Senior Attorney (202/452-3778), or Patrick J. McDivitt, Attorney (202/452-3818), Legal Division, or Brian Reid, Economist (202/452-3589), Division of Monetary Affairs; for the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544); Board of Governors of the Federal Reserve System, Washington, DC 20551.

¹ These compliance dates do not affect the compliance dates for amendments to Regulation D concerning the low reserve tranche and the deposit cutoff as announced at 55 FR 49992, December 4, 1990. However, the amendments made by the Board in this action to 12 CFR 204.9(a)(1) supersede the amendments made by the Board to that section on November 28, 1990 and announced at 55 FR 49992, December 4, 1990.

² Required reserves on nonpersonal time deposits and Eurocurrency liabilities for quarterly reporters total on the order of \$450 million.

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act, as amended by Title I of the Monetary Control Act of 1980 (Pub. L. 96-221; March 31, 1980), provides:

(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

* * * * *

(D) * * * Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

Pursuant to this authority, the Board in 1980 amended its Regulation D to carry out provisions of the Monetary Control Act of 1980 (45 FR 56009; August 22, 1980). As part of this revision of Regulation D, the Board set the reserve requirement ratio on nonpersonal time deposits with original maturities or required notice periods of less than four years at 3 percent and the ratio on such deposits with maturities or notice periods of four years or more at zero percent (45 FR at 56027). On three subsequent occasions, the Board reduced reserves on nonpersonal time deposits with certain maturities to zero for monetary policy purposes. In 1982, it reduced the maturity for zero percent reserves on nonpersonal time deposits from four years to three and one-half years. (47 FR 18847; May 3, 1982). In March of 1983, the Board reduced the maturity for zero percent reserves to two and one-half years (48 FR 12083; March 23, 1983), and in October of 1983 reduced the maturity for zero percent reserves to one and one-half years, the current maturity cut-off (48 FR 46005; October 11, 1983).

The Board's Regulation D as revised in 1980 also incorporated a reserve requirement ratio of 3 percent on Eurocurrency liabilities as defined in § 204.2(h) of Regulation D, regardless of maturity. Such reserves are authorized by section 19(b)(5) of the Federal Reserve Act, which provides that these liabilities are subject to reserves in such ratios as the Board may prescribe. The Board has not changed this reserve requirement ratio of 3 percent on Eurocurrency liabilities since its adoption in 1980.

The Board is reducing the 3 percent reserve requirement on short-term nonpersonal time deposits and Eurocurrency liabilities to zero. It is taking this action based on its

determination that reserves on these liabilities are not necessary for the conduct of monetary policy.

The Board took action at this time in response to mounting evidence that commercial banks have been tightening their standards of creditworthiness and the terms and conditions for many types of loans. While much of this tightening has been welcome from a safety and soundness standpoint, it has in recent months begun to exert a contractionary influence on the economy. This has been reflected in slow growth in the broad monetary aggregates and in bank credit. Lower reserve requirements at any given level of money market interest rates will reduce costs to depository institutions, providing added incentive to lend to creditworthy borrowers, thus countering, to some extent, the recent tightening in credit terms.

This reduction in reserve requirements is being phased in over two reserve maintenance periods for weekly reporters so that the change in reserves does not disrupt the money markets. Although the reserve requirement ratios are being reduced to zero, reporting requirements that distinguish between short-term and long-term deposits through the use of the one and one-half year maturity requirement for long-term deposits are being retained as is the distinction between personal and nonpersonal accounts. Reserve requirements on transaction accounts also are being retained.

Regulation D is also being revised to reflect technical changes made necessary by the reduction of the reserve requirements. For example, § 204.9(a)(2) of Regulation D directs that any portion of the zero percent reserve requirement tranche created by the section remaining after the tranche is applied to transaction accounts will be applied to nonpersonal time deposits with maturities of less than one and one-half years (that is, to short-term nonpersonal time deposits) or to Eurocurrency liabilities, both of which are subject to a reserve requirement ratio of three percent. This provision is being changed to delete the reference to nonpersonal time deposits and Eurocurrency liabilities.

Notice and public participation; effective date. The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because the Board for "good cause" finds that notice and public comment on the proposed changes are "impracticable, unnecessary, or contrary to the public interest." The Board finds that it is

impracticable and contrary to the public interest because the economic conditions discussed above warrant providing the prompt stimulus to lending that will result from immediate steps to reduce reserves.³ In order to avoid disruption in the money markets, this change is being phased in over two reserve maintenance periods for weekly reporters beginning December 13, 1990.

The provisions of 5 U.S.C. 553(d) generally prescribing 30 days' prior notice of the effective date of a rule have not been followed in connection with the adoption of these amendments. Section 553(d) also provides that such prior notice is not necessary whenever a rule reduces regulatory burdens or there is good cause for finding that such notice is contrary to the public interest. This rule does reduce such a burden, and, as noted, the Board has determined that delaying the effectiveness of that relief is contrary to the public interest.

Regulatory Flexibility Act Analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 et seq.), the Board certifies that the proposed amendments will not have a significant adverse economic impact on a substantial number of small entities. The proposed amendments reduce certain regulatory burdens for all depository institutions, reduce certain burdens for small depository institutions, and have no particular adverse effect on other small entities.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

Pursuant to the Board's authority under section 19 of the Federal Reserve Act, 12 U.S.C. 461 et seq., the Board is amending 12 CFR Part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

1. The authority citation for Part 204 continues to read as follows:

Authority: Sections 11(a), 11(c), 19, 25, 25(a) of the Federal Reserve Act (12 U.S.C. 248(a), 248(c), 371a, 371b, 461, 601, 611); section 7 of the International Banking Act of 1978 (12 U.S.C. 3105); and section 411 of the Garn St. Germain Depository Institutions Act of 1982 (12 U.S.C. 461).

2. In § 204.2, footnote 2 in paragraph (c)(1)(i) introductory text is revised to read:² A nonpersonal time deposit with

³ The Board's Rules of Procedure provide that advance notice and deferred effective date will ordinarily be omitted in the public interest for changes in general requirements regarding reserves. 12 CFR 262.2(e).

a stated maturity of one and one-half years or more may be treated as having an original maturity of one and one-half years or more only if it is subject to the minimum penalty described in § 204.2(f)(3)."

3. In § 204.3, the word "and" is added after the semicolon in paragraph (a)(3)(i)(A); the colon and the word "and" are removed at the end of paragraph (a)(3)(i)(B) and a period is added; and paragraph (a)(3)(i)(C) is removed.

4. In § 204.3, paragraph (C)(2) is revised to read as follows:

§ 204.3 Computation and maintenance.

(c) *Computation of required reserves for institutions that report on a weekly basis.*

(2) A reserve balance shall be maintained during a given maintenance period based on the daily average net transaction accounts held by the depository institution during the computation period that began immediately prior to the beginning of the maintenance period.

5. Section 204.9(a)(1), as revised in a final rule document published on December 4, 1990 (55 FR 49992), is hereby withdrawn. Section 204.9(a) is now revised to read as follows:

§ 204.9 Reserve requirement ratios.

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement Corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts ¹	
\$0 to \$41.1 million...	3 percent of amount.
Over \$41.1 million...	\$1,233,000 plus 12 percent of amount over \$41.1 million.
Nonpersonal time deposits.	0 percent.
Eurocurrency liabilities...	0 percent.

¹ Dollar amounts do not reflect the adjustment to be made by the next paragraph.

(2) *Exemption from reserve requirements.* Each depository institution, Edge or agreement corporation, and U.S. branch or agency of a foreign bank is subject to a zero percent reserve requirement on an amount of its transaction accounts subject to the low reserve tranche in paragraph (a)(1) of this section not in excess of \$3.4 million determined in

accordance with § 204.3(a)(3) of this part.

By order of the Board of Governors of the Federal Reserve System, December 4, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-28705 Filed 12-6-90; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 265

[Docket No. R-0715]

Delegation of Authority to General Counsel

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending paragraph (13) of § 265.2(b), to delegate to the General Counsel, after consultation with the Staff Director of the Division of Banking Supervision and Regulation, the authority to grant requests for temporary director interlocks under the Board's Regulation L: (1) When depository organizations experience conditions endangering safety or soundness, (2) for organizations sponsoring a credit union, and (3) for organizations that lose thirty percent or more of their directors or management officials due to changes in circumstances.

This delegation of authority will relieve the Board from having to act on matters that are more efficiently and effectively handled by Board staff.

EFFECTIVE DATE: December 4, 1990.

FOR FURTHER INFORMATION CONTACT:

Thomas M. Corsi, Attorney, Legal Division (202) 452-3275, or Anne R. Wolfson, Attorney, Legal Division (202) 452-2246. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the amendment will not have a significant economic impact on a substantial number of small entities. The amendment does not have particular effect on small entities.

Public Comment

The provisions of section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective date have not been followed in

connection with the adoption of this amendment because the change to be effected is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rule making procedures have not been followed for the same reason.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, Banking, Federal Reserve System.

For the reasons set forth above, 12 CFR part 265 is amended as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

The authority citation for part 265 continues to read as follows:

1. Authority: Sec. 11(k), 38 Stat. 261 and 80 Stat. 1314 (12 U.S.C. 248(k)).

2. In § 265.2, paragraph (b)(13) is revised to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(b) * * *

(13) Under the provisions of § 212.4(b)(1)—(b)(5) of this chapter, after consultation with the Staff Director of the Division of Banking Supervision and Regulation, to grant requests for temporary director interlocks under Regulation L for newly-chartered banking organizations in low-income areas or minority or women's banks, organizations experiencing conditions endangering their safety or soundness, organizations sponsoring a credit union, and organizations that lose thirty percent or more of their directors or management officials due to changes in circumstances.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 4, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-28706 Filed 12-6-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

RIN 3064-AA38

Management Official Interlocks

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC is amending part 348 of its regulations governing management official interlocks to conform those regulations to changes made in the Depository Institution Management Interlocks Act which is implemented by part 348. The changes implement statutorily mandated exceptions to the prohibitions on management interlocks. These exceptions relate to advisory directors, certain types of savings associations and savings and loan holding companies, emergency acquisitions of savings associations, interlocks involving diversified savings and loan holding companies, and the extension of the grandfather period under the statute.

EFFECTIVE DATE: December 7, 1990.

FOR FURTHER INFORMATION CONTACT:

Pamela E. F. LeCren, Counsel, Legal Division, (202) 898-3730, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Discussion

Part 348 of the FDIC's regulations (12 CFR part 348) implements the provisions of the Depository Institution Management Interlocks Act ("Interlocks Act", 12 U.S.C. 3201 *et seq.*). The Interlocks Act, which generally prohibits unaffiliated depository institutions and depository institution holding companies from sharing management officials depending upon their size and location, was amended in 1988 with the passage of the Management Interlocks Revision Act of 1988 ("Revision Act", Pub. L. 100-650, 102 Stat. 3819) and again on August 9, 1989 with the passage of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA", Pub. L. 101-73 103 Stat. 183). An exception to the prohibitions of the Interlocks Act was also created by FIRREA through an amendment to the Federal Deposit Insurance Act ("FDI Act"). As a result of the above enactments it is necessary to amend the FDIC's regulations to conform to the statutory changes.

The Revision Act amended the Interlocks Act in several ways:

(1) Changed the definition of affiliation by common ownership to allow for an affiliation where 25% of the voting stock of a depository institution or depository holding company is beneficially owned by the same person or group of persons;

(2) Provided that the prohibitions of the Interlocks Act would not apply for the five year period beginning on the date of the acquisition of an interlock that results from the acquisition of a depository institution or a depository

holding company that is closed or in danger of closing;

(3) Extended the grandfather period for management interlocks in existence prior to November 10, 1978 (which was set to expire on November 10, 1988) for an additional five years;

(4) Provided that, notwithstanding the prohibitions of the Interlocks Act, a management official of a depository institution or depository holding company could become a director of an unaffiliated diversified savings and loan holding company or a nondepository subsidiary thereof (and visa versa) if the appropriate regulatory agencies are given 60 days advance notice and the proposed dual service is not disapproved on one of the three grounds for disapproval set forth in the statute. (The dual service can be disapproved any time after the 60 days if a change of circumstances occurs that would have provided a basis for disapproval.); and

(5) Excluded advisory and honorary directors of depository institutions with total assets of less than \$100 million from the definition of the term "management official".

FIRREA amended both the Interlocks Act and the FDI Act to provide for additional exceptions to prohibited dual service. The Interlocks Act was itself amended to provide that the prohibitions thereof would not apply to an interlock involving a single management official of any savings association or any savings and loan holding company, or any subsidiary thereof, that has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owner's Loan Act ("HOLA", 12 U.S.C. 1467a(q)) if the Director of the Office of Thrift Supervision determines that such service as a management official is consistent with the purposes of the Interlocks Act and HOLA. ("Purchase of Minority Interest in Undercapitalized Savings Associations by Holding Companies Allowed", section 604 of FIRREA, 103 Stat. 410). Section 13 of the FDI Act was amended to provide that the dual service of a management official that would otherwise be prohibited under the Interlocks Act after, or as the result of, an emergency acquisition of a savings association authorized by the FDIC or the Resolution Trust Corporation ("RTC") pursuant to the language of section 13(K) as amended may, with the FDIC's or RTC's approval, continue for up to ten years. Section 217 of FIRREA, 103 Stat. 259).

The FDIC is amending part 348 in order to conform the regulation to the statutory changes described above. The amendment to the regulation revises the

definition of the term "management official" to exclude advisory and honorary directors of depository institutions with total assets of less than \$100,000,000; adds a new definition for the phrase "appropriate Federal depository institutions regulatory agency"; adds two new categories of "exempt organizations" to § 348.4(a) of the regulation setting forth permitted interlocks without board approval; adds a new exception to the list of permitted interlocks with board approval; amends § 348.4(c) to allow director interlocks between a diversified savings and loan holding company or its nondepository organization subsidiaries and any unaffiliated depository organization with 60 days prior notice to the appropriate Federal depository institutions regulatory agency provided that the agencies do not disapprove of the interlock; and amends § 348.5 "Grandfathered interlocking relationships" to reflect the extension of the grandfather period to November 10, 1993. In addition, the cross reference in the regulation to what had been the definition of the term "diversified savings and loan holding company" as found in the National Housing Act has been changed to refer to section 10 of the Home Owners' Loan Act. This change was necessary as the relevant definition was moved from the National Housing Act and placed into the Home Owners' Loan Act by FIRREA.

Notices filed with the FDIC pursuant to § 348.4(c)(2)(i) of FDIC's regulations as added hereby should be sent to the regional director for the Division of Supervision for the FDIC region in which the insured nonmember bank is located. This is presently the agency's practice with respect to all requests for exemptions to the prohibitions of part 348 pursuant to Board order under § 348.(b).

The amendments are being adopted in final form without opportunity for public comment pursuant to the authority in section 553 of the Administrative Procedure Act ("APA", 5 U.S.C. 553) to dispense with opportunity for public comment when an agency finds for good cause that public comment is unnecessary. The FDIC's Board of Directors has found opportunity for public comment to be unnecessary inasmuch as the amendments merely conform the regulation to changes made in the relevant statutes. As the amendments provide for exceptions to a number of regulatory prohibitions, they are being made immediately effective upon publication in the **Federal Register** pursuant to the authority of section 553(d)(3) of the APA.

Regulatory Flexibility Analysis

As no notice of proposed rulemaking is required under section 553 of the Administrative Procedure Act, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply. In addition, pursuant to the FDIC's statement of policy on the drafting of regulations, it has been determined that a cost-benefit analysis, including a small bank impact statement, is not required.

List of Subjects in 12 CFR Part 348

Antitrust; Banks and banking; Holding companies.

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

1. The authority citation for part 348 is revised to read as follows:

Authority: 12 U.S.C. 3207, 12 U.S.C. 1823(k).

§§ 348.2, 348.4 [Amended]

2. Part 348 is amended in §§ 348.2(l) and 348.4(c) by removing the phrase "section 408(a)(1)(F) of the National Housing Act (12 U.S.C. 1730a(a)(1)(F))" and substituting therefor "section 10(a)(1)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(1)(F))".

3. Section 348.2 is amended by revising paragraph (h)(1) and adding paragraph (o) to read as follows:

§ 348.2 Definitions.

- * * * * *
- (h)(1) *Management official* means:
- (i) An employee or officer with management functions (including a branch manager);
 - (ii) A director (including an advisory or honorary director, except in the case of a depository institution with total assets of less than \$100,000,000);
 - (iii) A trustee of a business organization under the control of trustees (e.g., a mutual savings bank); or
 - (iv) Any person who has a representative or nominee serving in any such capacity.
- * * * * *

(o) *Appropriate federal depository institutions regulatory agency* means, with respect to any depository institution or depository holding company, the agency referred to in section 209 of the Interlocks Act in connection with such institution or company.

4. Section 348.4 is amended by removing the word "or" at the end of paragraph (a)(5), and removing the period at the end of paragraph (a)(6) and replacing it with a semicolon; adding new paragraphs (a) (7) and (8); removing the phrase "in paragraph (b)" from the first sentence in the introductory text of

paragraph (b) and inserting in lieu thereof "in paragraphs (b)(1) through (b)(5)", and removing the word "below" from the second sentence of the introductory text and inserting in lieu thereof "in paragraphs (b)(1) through (b)(5)", and adding a new paragraph (b)(6); designating the text of paragraph (c) following the heading as paragraph (c)(1) and adding a new paragraph (c)(2) to read as follows:

§ 348.4 Permitted interlocking relationships.

(a) * * *

(7) A depository organization which is closed, or is in danger of closing as determined by the appropriate federal depository institutions regulatory agency in accordance with its regulations, and which is acquired by another depository organization for the 5 year period beginning on the date of the acquisition; or

(8) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act, 12 U.S.C. 1467a(1)(A)) or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act, 12 U.S.C. 1467a(1)(F)) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act (12 U.S.C. 1467a(q)) with respect to the service as a single management official of such savings association or savings and loan holding company, or any subsidiary thereof, by a single management official of the savings association or savings and loan holding company which purchased the stock, provided that the Director of the Office of Thrift Supervision determines that such dual service is consistent with the purposes of the Interlocks Act and the Home Owners' Loan Act.

(b) * * *

(6) Emergency acquisition of savings association. Dual service by a management official that would otherwise be prohibited under the Interlocks Act as a result of an emergency acquisition of a savings association authorized in accordance with section 13(k) of the Federal Deposit Insurance Act may continue for up to ten years from the date of the acquisition provided that the FDIC or the Resolution Trust Corporation has given its approval for the continuation of such service.

(c) *Diversified savings and loan holding company.*

(1) * * *

(2)(i) A director of an unaffiliated depository organization may serve as a director of a diversified savings and loan holding company (as defined in

section 10(a)(1)(F) of the Home Owners' Loan Act, 12 U.S.C. 1467a(1)(F)) or any subsidiary of such holding company that is not a depository organization provided that:

(A) Notice of the proposed dual service is given to the appropriate Federal depository institutions regulatory agency for such company, and for the unaffiliated depository organization for which the individual will also serve as a management official, not less than 60 days before the dual service begins, and;

(B) Neither agency disapproves of the dual service prior to the expiration of the 60-day period.

(ii) The FDIC may disapprove the proposed dual service of a management official at a diversified savings and loan holding company of which the FDIC has been given notice as required by paragraph (c)(2)(i) of this section if the FDIC finds that:

(A) The dual service cannot be structured or limited so as to preclude the service from resulting in a monopoly or the substantial lessening of competition in financial services in any part of the United States;

(B) The dual service would lead to substantial conflicts of interest or unsafe or unsound practices; or

(C) The diversified savings and loan holding company has neglected, failed, or refused to furnish all the information requested by the FDIC in connection with the notice.

(iii) The FDIC may require that any dual service which was not disapproved prior to the expiration of the 60-day notice period be terminated if a change in circumstances occurs which would have provided a basis for disapproval of the dual service during the prior notice period.

§ 348.5 [Amended]

5. Section 348.5 is amended by removing "November 10, 1988" and inserting in lieu thereof "November 10, 1993".

By Order of the Board of Directors. Dated at Washington, DC this 29th day of November, 1990.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 90-28562 Filed 12-6-90; 8:45 am]

BILLING CODE 6714-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052-AA94

**Loan Policies and Operations;
Correction**

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA) is correcting an error that appeared in the final rule that amended the regulation setting forth lending authorities and lending requirements for Farm Credit banks and associations, reconciling, where necessary the authorities of institutions created under the restructuring provisions of the Agricultural Credit Act of 1987. The final rule appeared in the *Federal Register* on June 19, 1990 (55 FR 24861).

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT: Cindy R. Nicholson, Paralegal Specialist, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 833-4444.

SUPPLEMENTARY INFORMATION: In preparing the final rule for publication in the *Federal Register*, the word "term" was omitted from the introductory paragraph of § 614.4233.

PART 614—LOAN POLICIES AND OPERATIONS

Subpart E—Loan Terms and Conditions

1. On page 24885, third column, in the introductory paragraph of § 614.4233, the word "term" was inadvertently omitted. Section 614.4233, introductory text is corrected to read as follows:

§ 614.4233 International loans.

Term loans by banks for cooperatives and agricultural credit banks under the authority of section 3.7(b) of the Act to foreign or domestic parties to finance export or import transactions with a voting stockholder of the bank and loans to a foreign or domestic party in which a voting stockholder of the bank has at least a minimum ownership interest to facilitate such transactions shall be subject to the conditions of paragraphs (a), (b), and (c) of this section.

* * * * *

Dated: December 3, 1990.

Curtis M. Anderson,
Secretary, Farm Credit Administration Board.

[FR Doc. 90-28753 Filed 12-6-90; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL HOUSING FINANCE BOARD**12 CFR Part 934****[No. 90-129.5]****Procedures for Federal Home Loan Bank Access to Nonpublic Information of Federal Financial Regulatory Agencies****AGENCY:** Federal Housing Finance Board.**ACTION:** Interim final rule.

SUMMARY: The Federal Housing Finance Board ("FHFB") is adopting a procedure for the Federal Home Loan Banks ("Bank" or "Banks") to request and receive financial reports, records and other information from various federal regulatory agencies regarding financial institutions which are current or potential members of the Banks, or with which the Banks have had or may engage in transactions under the Federal Home Loan Bank Act (12 U.S.C. 1421, *et seq.*) ("Bank Act") as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No. 101-73, 103 Stat. 422 ("FIRREA"). This regulation establishes procedures by which the Banks will maintain the security and confidentiality of records, reports or other information containing sensitive financial regulatory information. This regulation will require the Federal Home Loan Bank System ("Bank System") to maintain such information in confidence.

DATES: *Effective date:* December 7, 1990. *Comment date:* Comments must be received on or before February 5, 1991.

ADDRESSES: Comments may be submitted in writing to: Executive Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Amy Maxwell, Acting Director, Office of Bank Operations, (202) 408-2882; Charles Szlenker, Attorney, Office of General Counsel, (202) 408-2554; Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:**A. General**

Section 719 of FIRREA amended section 22 of the Bank Act (12 U.S.C. 1422) to provide that upon request by any Bank the Department of the Treasury, including the Office of the Comptroller of the Currency and the Office of Thrift Supervision; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; and the National Credit Union Administration must make

available in confidence various financial records, reports and other information concerning any member of a Bank or any institution with which a Bank has had or contemplates having transactions under the Bank Act, as amended. FIRREA section 719 mandates that the Banks keep confidential any such information received. The requirement to keep such information confidential includes maintaining its physical security as well as preventing unauthorized use. This regulation establishes procedures to maintain the confidentiality of the records, reports and other information supplied to a Bank by any of the above named financial regulatory agencies.

Section 22, as amended, applies to information concerning member institutions of the Bank System or institutions with which the Banks have had or contemplate having transactions under the Bank Act. However, the referenced regulatory agencies have executed an interagency agreement with each of the Banks by which the agencies will release financial information, in confidence, to the Banks on financial institutions that are applicants for Bank System membership. Accordingly, these regulations will apply to any transfer of financial information between a financial regulatory agency and a Bank pursuant to any interagency agreement or Bank Act section 22, as amended.

Generally, this regulation provides that a Bank will disclose confidential information when required pursuant to a subpoena from a federal or state court or agency after giving timely notice to the regulatory agency which gave the information to the Bank, and after either receiving permission from such agency to release the information or after a final and binding court or administrative order to release the information.

The regulation excuses a Bank from notifying a regulatory agency about a subpoena if notice is prohibited by law, as in the case of some grand jury subpoenas. In such cases, a Bank should refer the subpoena issuing party to the appropriate regulatory agency that gave the information to the Bank.

B. Administrative Procedure Act

The FHFB is adopting these regulations set forth below as an interim final rule effective on December 7, 1990. The FHFB finds the procedure for notice and comment mandated by the Administrative Procedure Act (5 U.S.C. 553 (1988)) may be suspended pursuant to 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The FHFB finds that good cause exists to suspend the notice and comment period before issuing this rule and that

the public interest requires that this rule become effective December 7, 1990.

Such good cause consists of the fact that the information described in Bank Act section 22, as amended, is highly sensitive financial information concerning thrifts, credit unions or depository institutions that is not available to the general public, and the Bank Act mandates that the Banks hold this information in confidence. As the primary regulator of the Bank System, the FHFB has the duty to ensure that this information remains confidential after it comes into the possession of the Bank System. This regulation serves to implement that statutory duty.

However, the FHFB is also soliciting comments on this regulation from the general public with a view towards possible revision when the FHFB adopts a final rule.

C. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 12 CFR Part 934

Federal home loan banks, Privacy, Securities, Surety bonds.

Accordingly, the Federal Housing Finance Board hereby amends part 934, subchapter B, chapter IX, title 12, Code of Federal Regulations, as set forth below.

PART 934—[AMENDED]

1. The authority citation for part 934 is revised to read as follows:

Authority: Sec. 2B, 103 Stat. 414, as amended (12 U.S.C. 1422b); sec. 22, 103 Stat. 422, as amended (12 U.S.C. 1442).

2. Part 934 is amended by adding § 934.15 to read as follows:

§ 934.15 Bank requests for information.

This section governs the procedure by which a Federal Home Loan Bank will request and receive Confidential Information, as defined in paragraph (a)(4) of this section, pursuant to section 22 of the Federal Home Loan Bank Act.

(a) *Definitions.* As used in this section:

(1) *Board* means the Federal Housing Finance Board.

(2) *Bank* means a Federal Home Loan Bank, including its directors, officers, employees or agents.

(3) *Financial Regulatory Agency* means any of the following:

(i) The Department of the Treasury, including either the Office of the

Comptroller of the Currency or the Office of Thrift Supervision;

(ii) The Board of Governors of the Federal Reserve System;

(iii) The National Credit Union Administration; or

(iv) The Federal Deposit Insurance Corporation.

(4) *Confidential Information* means any record, data, or report, including but not limited to examination reports, or any part thereof, that is non-public, privileged or otherwise not intended for public disclosure which is in the possession or control of a Financial Regulatory Agency and which contains information regarding members of a Bank or financial institutions with which a Bank has had or contemplates having transactions under the Bank Act.

(5) *Third party* means any person or entity except a director, officer, employee or agent of either:

(i) A Bank in possession of any particular confidential information; or

(ii) The Financial Regulatory Agency that supplied the particular confidential information to such Bank.

(b) *Request for confidential information.* A bank shall make all requests for confidential information to a Financial Regulatory Agency, or to a regional office of such Agency if mutually agreeable, in accordance with the procedures contained in this section as well as any procedures of general applicability for requesting information promulgated by such Financial Regulatory Agency. This section and its procedures may be supplemented by a confidentiality agreement between a Bank and a Financial Regulatory Agency.

(c) *Form of Request.* A request by a Bank to a Financial Regulatory Agency for confidential information shall be made in writing or by such other means as may be agreed upon between the Bank and the Financial Regulatory Agency. The request shall reference section 22 of the Bank Act, as amended, and this regulation, and shall describe the confidential information requested and identify its intended use pursuant to the Bank Act. The request shall be signed or otherwise made by any duly authorized Bank officer or employee.

(d) *Storage of Confidential Information.* Each Bank will store all identified confidential information in secure storage areas or filing cabinets or other secured facilities generally used by such Bank and limit access thereto in the same manner as it maintains the confidentiality of its own members' privileged or non-public information. Each Bank shall have in place a written set of procedures and policies designed to insure the confidentiality of

confidential information in its possession, and shall establish an internal review of its procedures for storing confidential information and maintaining its confidentiality, as a part of its internal audit process.

(e) *Access to Confidential Information.* A Bank will insure that access to the Confidential Information stored at its facility is limited to those with a need to know such information and that employees with access maintain the confidentiality of the confidential information in accordance with the Bank's own procedures for maintaining the confidentiality of its members' privileged or non-public information.

(f) *Third party requests for Confidential Information—(1) In general.* In the event a Bank receives a request for confidential information in its possession from any third party, the Bank shall forward such requests to the Financial Regulatory Agency from which the confidential information was obtained.

(2) *By subpoena.* In the event a Bank receives a subpoena for confidential information issued by a Federal, state or local government department, agency, court or bureau, the Bank shall give timely written notice of such subpoena to the Financial Regulatory Agency from which the confidential information was obtained, unless such notice is prohibited by applicable law.

Except as limited herein, the Bank may disclose confidential information pursuant to the subpoena, after giving timely written notice, when:

(i) The Financial Regulatory Agency gives written approval to the disclosure; or

(ii) A binding order to produce the confidential information has become final with all rights of appeal either exhausted or lapsed.

(3) *Nondisclosure to third parties.* Except as provided in paragraph (f)(2) of this section, a Bank shall not disclose confidential information to any third party. A Bank shall refer all third party requests for such confidential information to the Financial Regulatory Agency that released the confidential information to the Bank.

(4) *Disclosure to Board.* (i) Neither this section nor any confidentiality agreement executed between a Bank and a Financial Regulatory Agency shall prevent a Bank from disclosing confidential information in its possession to the Board whenever disclosure is necessary to accomplish the Board's supervision of Bank membership applications or Bank director eligibility issues, or disclosing any confidential information in its

possession if such disclosure is made pursuant to an audit conducted pursuant to paragraph (d) of this section or section 20 of the Bank Act.

(ii) The Board shall keep all confidential information received under paragraph (f)(4) of this section in strict confidence.

(g) *Computer data.* This section shall not preclude a bank from arranging with any Financial Regulatory Agency to transmit or allow access to confidential information with the consent of such agency by means of an electronic computer system. Any such arrangement shall insure the security of the computerized data stored in a bank's computer and restrict access to such data in order to preserve confidentiality in a manner agreed upon by the bank and the Financial Regulatory Agency.

By the Federal Housing Finance Board.

Dated: November 26, 1990.

Jack Kemp,

Chairman.

[FR Doc. 90-28732 Filed 12-6-90; 8:45 am]

BILLING CODE 6725-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-45-AD; Amendment 39-6807]

Airworthiness Directives; SOCATA Groupe AEROSPATIALE Models TB9, TB10, TB20, and TB21 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to SOCATA Groupe AEROSPATIALE Models TB9, TB10, TB20, and TB21 airplanes. This action requires a one-time visual inspection of the oil cooler inlet and outlet elbow mounting bases for cracks or distortion and replacement if found damaged. There have been two reports of oil loss because of oil cooler damage to these airplanes. This action will prevent the uncontrolled release of flammable fluids into the engine compartment, engine damage and malfunction, and the forced landings that could result from engine oil loss from a crack in the oil cooler.

EFFECTIVE DATE: January 3, 1991.

ADDRESSES: SOCATA Groupe AEROSPATIALE TB Aircraft Mandatory Service Bulletin (SB) Number 50/1, updated, that is applicable to this

AD may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; Telephone 62.41.74.26; Facsimile 62.41.74.32; or the Product Support Manager, U.S.; AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; Facsimile (214) 641-3527. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond Stoer, Aerospace Engineer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 15 Rue de la Loi, B-1040, Brussels, Belgium; Telephone (322) 513.38.30, extension 2710; Facsimile (322) 230.68.99; or Mr. Richard Yotter, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION:

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on SOCATA Groupe AEROSPATIALE Models TB9, TB10, TB20, and TB21 airplanes. The DGAC reports that oil leaks have occurred in the oil cooler inlet and outlet elbow mounting bases and the sponsons located near the outlet fittings on these airplanes. These oil leaks are believed to be the result of fatigue crack growth originating at the site of damage incurred during installation of the oil cooler. This damage is identified by a one-time visual inspection of these oil coolers. SOCATA Groupe AEROSPATIALE has issued TB Aircraft Mandatory Service Bulletin (SB) No. 50/1, updated, which requires removal of the engine cowling, a visual inspection of oil cooler mounting bases adjacent to the inlet and outlet elbows and the sponsons located near the outlet fitting elbows for oil leakage and distortion, and replacement of the cooler with applicable serviceable parts if bends or cracks are found. The DGAC classified this SB as mandatory and issued Consigne de Navigabilite (DGAC AD) No. 90-143(A), dated August 22, 1990, to assure the continued airworthiness of these airplanes in France. Under a bilateral airworthiness agreement, the DGAC has shared this information with the FAA.

The FAA has examined the findings of the DGAC, reviewed all other available information, and determined that AD

action is necessary for products of this type design that are certificated for operation in the United States. The FAA has determined that an emergency unsafe condition exists in which the uncontrolled release of flammable fluids into the engine compartment could occur if oil coolers on these airplanes were damaged at installation. Therefore, AD action is required for a one-time visual inspection of the oil cooler for leakage or distortion, and replacement of any leaking oil coolers on SOCATA Groupe AEROSPATIALE Models TB9, TB10, TB20, and TB21 airplanes.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

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 determined further 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 otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, 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 AD:

SOCATA Groupe AEROSPATIALE:

Amendment 39-6807; Docket No. 90-CE-45-AD. Applicability: Models TB9, TB10, TB20, and TB21 airplanes (all serial numbers), certificated in any category. Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent possible uncontrolled release of flammable fluids into the engine compartment and engine malfunction because of loss of oil, accomplish the following:

(a) Visually inspect the mounting bases of the oil cooler inlet and outlet elbows and the sponsons located near the outlet fittings for cracks or distortions.

(1) If no cracks or distortions are found, return the airplane to service.

(2) If cracks or distortions are found, prior to further flight remove the damaged cooler and install a new engine oilcooler as specified below in accordance with SOCATA Groupe AEROSPATIALE TB Aircraft Mandatory Service Bulletin No. 50/1, undated:

Model	Oil cooler part No.
TB9-TB10.....	Z00.12258.64
TB20.....	Z00.12258.513
TB21.....	Z00.12258.518

(b) Airplanes may be flown in accordance to FAR 21.197 and 21.199 to a location where the AD can be accomplished.

(c) An alternate method of compliance or adjustment to the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 15 Rue de la Loi, B-1040, Brussels, Belgium.

Note 1: The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification staff.

Note 2: All persons affected by this directive may obtain copies of the document referred to herein upon request to SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, BP 930, 65009 Tarbes Cedex, France; Telephone 62.41.74.26; Facsimile 62.41.74.32; or the Product Support Manager, U.S.; AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; Facsimile (214) 641-3527; or may examine these documents at the FAA,

Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on January 3, 1991.

Issued in Kansas City, Missouri, on November 27, 1990.

Barry D. Clements;

Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 90-28734 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AEA-10]

Alteration of Transition Area; Sidney, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice modifies the 700 foot Transition Area established at Sidney, NY, for the Sidney Municipal Airport due to the closure of the Harmony Crest Airpark, the updating of the actual geographic position of the Sidney Municipal Airport, and a review of air traffic control procedures in the area. This action reduces that amount of controlled airspace to that which is actually required by the FAA to separate aircraft operating under instrument flight rules from those operating under visual flight rules in controlled airspace.

EFFECTIVE DATE: 0901 u.t.c. February 7, 1991.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On August 23, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the 700 foot Transition Area at Sidney, NY, due to the closure of the Harmony Crest Airpark, the updating of the geographic position of the Sidney Municipal Airport, and a review of air traffic control procedures in the area. (55 FR 36810). The proposed action would return that amount of controlled airspace, not needed by the FAA, back to the public.

Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6G, September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revises the 700 foot Transition Area at Sidney, NY, due to the closure of the Harmony Crest Airpark, the updating of the actual geographic position of the Sidney Municipal Airport, and a review of air traffic control procedures in the area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Sidney, NY [Revised]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 42°18'09"N., long. 75°24'59"W., of Sidney Municipal Airport,

Sidney, NY; within 5 miles either side of the Rockdale VORTAC 218°(T) 229°(M) radial, extending from the Rockdale VORTAC to the 8.5-mile radius area; within 3 miles either side of the Hancock VORTAC 343°(T) 354°(M) radial, extending from the 8.5-mile radius area to 11 miles southeast of the airport.

Issued in Jamaica, New York, on November 20, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90-28735 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-ASW-40]

Revision of Transition Area; Huntsville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the transition area located at Huntsville, TX. The relocation of the Huntsville Nondirectional Radio Beacon (NDB), requiring the revision of the NDB RWY 18 standard instrument approach procedure (SIAP), makes this action necessary. This action provides adequate controlled airspace for aircraft executing this revised SIAP.

EFFECTIVE DATE: 0901 u.t.c., February 7, 1991.

FOR FURTHER INFORMATION CONTACT:

Mark F. Kennedy, System Management Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On August 6, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the transition area located at Huntsville, TX (55 FR 34026).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F, dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations will revise

the transition area located at Huntsville, TX. The revised location of the Huntsville NDB and subsequent revision of the NDB RWY 18 SIAP to the Huntsville Municipal Airport have necessitated this action. This action will expand the 700-foot transition area around the Huntsville Municipal Airport to 6.5 miles and revise the arrival extension to the north to 11 miles long and 4 miles from the Huntsville Municipal Airport. The arrival extension to the northwest will remain unchanged.

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

List of Subjects in 14 CFR Part 71

Aviation safety, transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Huntsville, TX [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Huntsville Municipal Airport (latitude 30°44'48"N., longitude 95°35'13"W.), within 3 miles each side of the Leona VORTAC (latitude 31°07'26"N., longitude 95°58'04"W.) 139° radial extending from the 6.5-mile radius to 27.5 miles southeast of the Leona VORTAC, and within 2 miles each

side of the 001 bearing of the Huntsville NDB, (latitude 30°44'26"N., longitude 95°35'26"W.), extending from the 6.5-mile radius to 11 miles north of the Huntsville Municipal Airport.

Issued in Fort Worth, TX, on November 20, 1990.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 90-28737 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AEA-16]

Revise Control Zone and Transition Area; Newport News, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice updates the name of the Patrick Henry International Airport, Newport News, VA, to the Newport News/Williamsburg International Airport, Newport News, VA, due to a name change enacted by the Peninsula Airport Commission. Additionally, the geographic position of the airport incorporated in the 700 foot Transition Area description established for the airport (Norfolk, VA, Transition Area) and the associated Control Zone has been updated. This action does not alter the physical dimensions or the amount of controlled airspace in the area.

EFFECTIVE DATE: 0901 U.T.C. February 7, 1991.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to §§ 71.171 and 71.181 of part 71 of the Federal Aviation Regulations updates the name of the Patrick Henry International Airport, Newport News, VA, to the Newport News/Williamsburg International Airport, Newport News, VA. Additionally, the geographic position of the airport is being updated to reflect the actual location of the airport. Sections 71.171 and 71.181 of part 71 of the Federal Aviation Regulations were republished in FAA Handbook 7400.6F, January 2, 1990. Because this action does not alter the dimensions on the amount of controlled airspace and does not

involve a matter in which the public would be interested in commenting, the FAA finds that notice and public procedure under 5 U.S.C. 553(b) are unnecessary and contrary to the public interest.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this 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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Newport News, VA [Amended]

Change "lat. 37°07'51" N., long. 76°29'35" W." to read "lat. 37°07'54" N., long. 76°29'36" W.".

Change "Patrick Henry International Airport" to read "Newport News/Williamsburg International Airport".

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Norfolk, VA [Amended]

Change "lat. 37°07'51" N., long. 76°29'35" W." to read "lat. 37°07'54" N., long. 76°29'36" W.".

Change all occurrences of "Patrick Henry International Airport" to read "Newport News/Williamsburg International Airport".

Issued in Jamaica, New York, on November 19, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90-28736 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AD02

Federal Old-Age, Survivors, and Disability Insurance Benefits; Elimination of the Carryover Reduction in Old-Age and Disability Insurance Benefits Due to the Receipt of Widow's or Widower's Insurance Benefits Prior to Age 62

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final rules amend our regulations on the carryover reduction in old-age and disability insurance benefits due to the receipt of widow's and widower's insurance benefits prior to age 62, to reflect section 10203 of Public Law 101-239, the Omnibus Budget Reconciliation Act of 1989, enacted December 19, 1989. Section 10203 eliminated the carryover reduction of old-age insurance benefits and disability insurance benefits caused by the receipt of reduced widow's or widower's insurance benefits prior to the attainment of age 62. The statutory change applies to old-age benefits of individuals who attain age 62 on or after January 1, 1990 and to disability insurance benefits of individuals who both attain age 62 and become disabled on or after January 1, 1990.

EFFECTIVE DATE: These rules are effective on December 7, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-1769.

SUPPLEMENTARY INFORMATION:

Background

In certain situations an individual's old-age insurance benefit, disability insurance benefit, or widow's or widower's insurance benefit may be reduced under the Social Security Act (Act) if he or she is entitled to the benefit prior to retirement age.

Generally, the amount of the reduction is determined by the number of months the individual is entitled to benefits prior to retirement age and by various percentages contained in the Act depending on the type of benefit. Sections 404.410 and 404.413 of our regulations describe in detail when and how benefits are reduced pursuant to these statutory provisions.

These regulations are concerned only with the elimination of the carryover reduction which is applicable in situations where the individual has received reduced widow's or widower's insurance benefits prior to age 62 and subsequently becomes entitled to old-age insurance benefits or disability insurance benefits. These regulations explain how the amount of old-age insurance benefits or disability benefits is determined under the amended law.

Statutory Provision

Section 10203 of Public Law 101-239 amended section 202(q)(3) of the Act to eliminate the carryover reduction of old-age insurance benefits and disability insurance benefits due to the receipt of reduced widow's or widower's benefits prior to the attainment of age 62. The new provision applies only to recipients of old-age insurance benefits who attain age 62 on or after January 1, 1990 (i.e., those whose date of birth is January 2, 1928 or later) and to recipients of disability insurance benefits who attain age 62 on or after January 1, 1990, and whose disability began after December 31, 1989. This provision allows a widow, widower or surviving divorced spouse who meets these conditions and was entitled to reduced widow's or widower's benefits prior to the attainment of age 62 to become entitled to old-age insurance benefits and disability insurance benefits without the benefits being reduced due to the receipt of the widow's or widower's benefits. This change is designed to eliminate a complex computation and make the provision easier for the public to understand.

New Regulatory Provisions

We are amending § 404.411 to provide for the computation of old-age insurance benefits and disability insurance without regard to entitlement to widow's or widower's insurance benefits before age 62. This change applies to old-age benefits of individuals who attain age 62 on or after January 1, 1990 and to disability insurance benefits of individuals who both attain age 62 and become disabled on or after January 1, 1990. Old-age insurance benefits will continue to be computed taking into consideration the reduction for

entitlement to widow's or widower's insurance benefits prior to the attainment of age 62 for those individuals who attained age 62 before January 1, 1990 (i.e., those whose date of birth is January 1, 1928 or earlier). Disability insurance benefits will continue to reflect this reduction for individuals who either attained age 62 or became disabled before January 1, 1990.

Regulatory Procedures

The Department generally follows the Notice of Proposed Rulemaking and public comment procedures specified in the Administrative Procedure Act, 5 U.S.C. 553, in the development of its regulations. That Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for waiver of proposed rulemaking and public comment procedures in these regulations because we are only reflecting statutory changes which are not discretionary and do not involve the setting of policy. Therefore, opportunity for prior public comment is unnecessary and these amendments are being issued as final rules.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the issuance of these regulations is not expected to result in significant administrative or program costs. Any increase in program or administrative costs is attributable to the legislation and not the regulations. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These final regulations impose no reporting/recordkeeping requirements requiring the Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security—Disability Insurance; 13.803, Social Security—

Retirement Insurance; 13.804, Social Security—Survivor's Insurance.)

List of Subjects in 20 CFR Part 404

Administrative Practice and Procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability.

Dated: October 1, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: October 29, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 404 of chapter III of title 20, Code of Federal Regulations, is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

1. The authority citation for part 404, subpart E continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205(a), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405(a), 422(b), 423(e), 424, 427, and 1302.

2. Section 404.411 is amended by revising paragraph (a) to read as follows:

§ 404.411 Special reduction in benefits for age involving entitlement to two or more benefits.

(a) *General.* (1) Except as specifically provided in this section, benefits of an individual entitled to more than one benefit will be reduced for months of entitlement before retirement age according to the provisions of § 404.410. Such age reductions are made before any reduction under the provisions of § 404.407.

(2) If an individual was born after January 1, 1928 and becomes disabled after December 31, 1989, his or her disability insurance benefits are reduced in accordance with paragraph (b)(1) of this section. In other situations involving prior receipt of widow's or widower's insurance benefits, disability insurance benefits are reduced in accordance with paragraph (b)(2) of this section.

(3) If an individual was born after January 1, 1928, his or her old-age insurance benefits are reduced in accordance with § 404.410(a). In other situations involving prior receipt of widow's or widower's insurance benefits, old-age insurance benefits are reduced in accordance with paragraph (c) of this section.

[FR Doc. 90-28688 Filed 12-6-90; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Ivermectin Pour-on

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 Merck Sharp & Dohme Research Laboratories. The NADA provides for use of IVOMEK® (ivermectin) Pour-On for the treatment and control of infections caused by certain species of gastrointestinal roundworms, lungworms, grubs, lice, mites, and flies in cattle.

EFFECTIVE DATE: December 7, 1990.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, WB D-360, Rahway, NJ 07065-0914, filed NADA 140-841 which provides for topical use of IVOMEK® (ivermectin) Pour-On for treatment and control of infections caused by certain gastrointestinal roundworms (including brown stomach worm), lungworms, grubs, horn flies, sucking and biting lice, and mange mites in cattle.

The NADA was approved by letter dated December 4, 1990, and 21 CFR 524.1193 is added to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning December 4, 1990, because new clinical or field investigations and human food safety studies were required for its approval.

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, Room 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 in 21 CFR Part 524

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 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 524 continues to read as follows:

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

2. New § 524.1193 is added to read as follows:

§ 524.1193 Ivermectin pour-on.

(a) *Specifications.* Each milliliter of solution contains 5 milligrams of ivermectin.

(b) *Sponsor.* See No. 000006 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.344 of this chapter.

(d) *Conditions of use—(1) Amount.* One milliliter per 22 pounds of body weight.

(2) *Indications for use.* It is used in cattle for the treatment and control of gastrointestinal roundworms (adults and fourth-stage larvae) *Ostertagia ostertagi* (including inhibited stage), *Haemonchus placei*, *Trichostrongylus axei*, *T. colubriformis*, *Cooperia* spp., *Oesophagostomum radiatum*, *O. venulosum* (adults), *Strongyloides papillosus* (adults), *Trichuris* spp. (adults), lungworms (adults and fourth-stage larvae) (*Dictyocaulus viviparus*); cattle grubs (parasitic stages) (*Hypoderma bovis*, *H. lineatum*); lice (*Linognathus vituli*, *Haematopinus eurysternus*, *Damalinea bovis*, *Solenopotes capillatus*); mites (*Chorioptes bovis*, *Sarcoptes scabiei* var. *bovis*); horn flies (*Haematobia irritans*).

(3) *Limitations.* For use on skin surface only. Do not treat cattle within

48 days of slaughter. Because a withdrawal time in milk has not been established, do not use in female dairy cattle of breeding age. Drug has been associated with severe adverse reactions in sensitive dogs; therefore drug is not recommended for use in animals other than cattle. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Dated: December 3, 1990.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 90-28770 Filed 12-6-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8321]

RIN 1545-AM50

Withholding Upon Proceeds of Dispositions of U.S. Real Property Interests by Publicly Traded Partnerships, Publicly Traded Trusts and Real Estate Investment Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the withholding that is required upon the disposition of a U.S. real property interest by publicly traded partnerships, publicly traded trusts, and real estate investment trusts. These final regulations enable publicly traded partnerships, publicly traded trusts and real estate investment trusts, by meeting certain notice requirements, to shift the responsibility for withholding on proceeds from the disposition of U.S. real property interests to a nominee where such an entity does not make a payment directly to a foreign person.

DATES: This document is effective with respect to distributions after March 7, 1991. However, at the option of any person who would be treated by these final regulations as a withholding agent, that person may apply these regulations to any distributions occurring on an earlier date which is after December 7, 1990, as long as no other person also acts as a withholding agent with respect to the same distribution.

FOR FURTHER INFORMATION CONTACT: John F. Dean of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution

Avenue, NW., Washington, DC 20224 (Attention: CC:CORP:T:R (INTL-088-86) 202-377-9493, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504 (h)) under control number 1545-0096. The estimated annual burden per respondent/recordkeeper varies from 3 minutes to 9 minutes, depending on individual circumstances, with an estimated average of 6 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attention: IRS Reports Clearance Officer, TR:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (RIN 1545-AM50), Washington, DC 20503.

Background

On December 24, 1986, the *Federal Register* published proposed and temporary amendments (51 FR 46651) to the *Income Tax Regulations* (26 CFR part 1) under section 1445, which was added to the Internal Revenue Code (98 Stat. 494) by section 129(a) of the Tax Reform Act of 1984. Written comments responding to this notice were received. A public hearing was not requested or held. After consideration of the comments regarding the proposed and temporary amendments, one recommendation has been adopted as an amendment in this Treasury Decision. The comments and revision are discussed below.

Public Comments

The proposed and temporary regulations establish a mechanism whereby the withholding obligation on FIRPTA distributions by publicly traded partnerships, publicly traded trusts and REITs is, under certain conditions, shifted to those who are in a position to know the foreign status of an interest holder. Section 1.1445-8T(c) provides rules governing the amount to be withheld with respect to such

distributions by such entities. Due to the unique rules of section 857 governing the taxation of REITs, a distinction was drawn between them and publicly traded partnerships and trusts. Proposed and temporary regulation § 1.1445-8T(c)(2)(ii) provides that, in the case of a REIT, the amount subject to withholding under section 1445 is the amount of any distribution, determined with respect to each share or certificate of beneficial interest, which the REIT designates as a capital gain dividend (as defined in section 857(b)(3)(C)) multiplied by the number of shares or certificates of beneficial interest held by the foreign person.

The language of the proposed and temporary regulation is largely adopted except for some clarifying changes. The final regulations clarify that, in the case of a publicly traded partnership, compliance with the withholding requirements of § 1446 satisfies the partnership's withholding requirements under § 1445-8. Also, the repeal, for taxable years beginning after 1986, of the former preferential rates of taxation for long term capital gains (subject to certain transition rules) made it necessary to adjust the withholding rules with respect to REITs, which are based on capital gain dividend designations. The new rules are reflected in § 1.1445-8(c)(2)(ii) and § 1.1445-8(h).

The elimination of the preferential rate for net capital gains may remove an incentive for REITs to designate capital gain dividends. In this context it should be observed that, under the rules of the proposed and temporary regulations, FIRPTA withholding would be avoided if no portion of a dividend were designated as a capital gain dividend.

A commentator suggested that this potential concern could be avoided by amending regulation § 1.1445-8T(c)(2)(ii) to require deemed capital gain dividend treatment for distributions that could be, but are not, designated as a capital gain dividend by a REIT. The suggestion has been adopted. Therefore, the largest amount of any distribution occurring after March 7, 1991 that could be designated as a capital gain dividend will be deemed to have been designated by the publicly traded REIT as a capital gain dividend for purposes of § 1.1445-8, thereby making it automatically subject to withholding under this § 1.1445-8. However, the liability for withholding on a distribution will shift to a nominee under the rules of § 1.1445-8(b)(3) if and only to the extent the REIT makes an actual designation of a capital gain distribution. If the REIT does not make an actual designation, it remains liable

for withholding on all distributions deemed designated under this final regulation as capital gain dividends.

If, subsequent to these regulations, a provision for preferential treatment is enacted for net capital gains, the deemed capital gain dividend provision in § 1.1445-8(c)(2)(ii) will be amended in accordance with and to reflect the enactment of such preferential treatment.

The final regulations reserve on the issue of whether and how to impose withholding pursuant to § 1.1445-8 with respect to a dividend distributed by a REIT, which is not a capital gain dividend but is attributable to net short-term capital gain realized from the disposition of U.S. real property interests by the REIT. The Internal Revenue Service invites comments on this issue.

Special Analyses

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

Drafting Information

The principal author of these regulations is John F. Dean of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects

26 CFR 1.144-1 through 1.1464-1

Income taxes, Aliens, Foreign corporations.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for part 1 is amended by removing the authorities for § 1.1445-8T and adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.1445-8 also issued under 26 U.S.C. 1445(e)(6).

Par. 2. Section 1.1445-5(c)(3) is amended as follows:

1. By revising paragraph (c)(3)(i) to read as follows,
2. By removing paragraph (c)(3)(v), and
3. By redesignating paragraph (c)(3)(vi) as paragraph (c)(3)(v).

§ 1.1445-5 Special rules concerning distributions and other transactions by corporations, partnerships, trusts, and estates.

* * * * *

(c) *Dispositions of U.S. real property interests by domestic partnerships, trusts, and estates.*

* * * * *

(3) *Large partnerships or trusts—(i) In general.* If a partnership or trust has more than 100 partners or beneficiaries, then the partnership or fiduciary of the trust may elect to withhold in accordance with the provisions of this § 1.1445-5(c)(3) in lieu of withholding in the manner required by § 1.1445-5(c)(1). However, the rules of this § 1.1445-5(c)(3) shall not apply to any partnership or trust interests in which are regularly traded on an established securities market except as described in § 1.1445-8(c)(1). The rules of this § 1.1445-5(c)(3) shall not apply to any real estate investment trust. See § 1445-8.

* * * * *

§ 1.1455-8T [Removed]

Par 3. Section 1.1445-8T is removed.

Part 4. New § 1.1445-8 is added in the appropriate place to read as follows:

§ 1.1445-8 Special rules regarding publicly traded partnerships, publicly traded trusts and real estate investment trusts (REITs).

(a) *Entities to which this section applies.* The rules of this section apply to—

- (1) Any partnership or trust, interests in which are regularly traded on an established securities market (regardless of the number of its partners or beneficiaries), and
- (2) Any REIT (regardless of the form of its organization).

For purposes of paragraph (a)(1) of this section, the rules of section 1445 (e)(1) and this section shall not apply to a publicly traded partnership (as defined in section 7704) which is treated as a corporation under section 7704(a), or to those entities that are classified as "associations" and taxed as corporations. See § 301.7701-2.

(b) *Obligation to withhold—(1) In general.* An entity described in paragraph (a) of this section is not

required to withhold under the provisions of § 1.1445-5(c), which states the withholding requirements of domestic partnerships, trusts and estates upon the disposition of U.S. real property interests. Except as otherwise provided in this paragraph (b), an entity described in paragraph (a) of this section shall be liable to withhold tax upon the distribution of any amount attributable to the disposition of a U.S. real property interest, with respect to each holder of an interest in the entity that is a foreign person. The amount to be withheld is described in paragraph (c) of this section.

(2) *Publicly traded partnerships.* Publicly traded partnerships which comply with the withholding procedures under section 1446 will be deemed to have satisfied their withholding obligations under this paragraph (b).

(3) *Special rule for certain distributions to nominees.* In the case of a person that—

- (i) Is a nominee (as defined in paragraph (e) of this section),
- (ii) Receives a distribution attributable to the disposition of a U.S. real property interest directly from an entity described in paragraph (a) of this section or indirectly from such entity through a nominee,
- (iii) Receives the distribution for payment to any foreign person, or the account of any foreign person, and
- (iv) Receives a qualified notice pursuant to paragraph (f) of this section,

then the obligation to withhold in accordance with the general rules of section 1445(e)(1) and this paragraph (b) shall be imposed solely on that person to the extent of the amount specified by the qualified notice. A person obligated to withhold by reason of this paragraph (b)(3) is referred to as a withholding agent.

(4) *Person designated to act for withholding agent.* The rules stated in § 1.1441-7(b) (1) and (2) regarding a person designated to act for a withholding agent shall apply for purposes of this section.

(5) *Effect of withholding exemption granted under § 1.1441-4(f).* A letter issued by a district director under the provisions of § 1.1441-4(f), which exempts a person from withholding under section 1441 or section 1442, shall also exempt that person from withholding under this paragraph (b), if—

- (i) The letter identifies another person as the withholding agent for purposes of section 1441 or 1442, and
- (ii) Such other person enters into a written agreement, with the district director who issued the letter, to be the

withholding agent for purposes of this paragraph (b).

The exemption granted, and the corresponding withholding obligation imposed, by this paragraph (b)(5) shall apply with respect to the first distribution made after execution of the agreement described in the preceding sentence and shall continue to apply to all distributions made during the period in which the exemption granted under § 1.1441-4(f) is in effect.

(6) *Payment other than in money.* The rule stated in § 1.1441-7(c) regarding payment other than in money shall apply for purposes of this section.

(c) *Amount to be withheld—(1) Distribution from a publicly traded partnership or publicly traded trust.* The amount to be withheld under this section with respect to a distribution by a publicly traded partnership or publicly traded trust shall be computed in the manner described in § 1.1445-5(c)(3) (ii) and (iii), subject to the rules of this section.

(2) *REITs—(i) In general.* The amount to be withheld with respect to a distribution by a REIT, under this section shall be equal to 34 percent (28 percent in the case of a distribution occurring before January 1, 1987) of the amount described in paragraph (c)(2)(ii) of this section.

(ii) *Amount subject to withholding—(A) In general.* Except as otherwise provided in paragraph (c)(2)(ii)(C) of this section, the amount subject to withholding is the amount of any distribution, determined with respect to each share or certificate of beneficial interest, designated by a REIT as a capital gain dividend, multiplied by the number of shares or certificates of beneficial interest owned by the foreign person. Solely for purposes of this paragraph, the largest amount of any distribution occurring after March 7, 1991 that could be designated as a capital gain dividend under section 857(b)(3)(C) shall be deemed to have been designated by a REIT as a capital gain dividend regardless of the amount actually designated.

(B) *Distribution attributable to net short-term capital gain from the disposition of a U.S. real property interest.* [Reserved]

(C) *Designation of prior distribution as capital gain dividend.* If a REIT makes an actual designation of a prior distribution, in whole or in part, as a capital gain dividend, such prior distribution shall not be subject to withholding under this section. Rather, a REIT must characterize and treat as a capital gain dividend distribution (solely for purposes of section 1445(e)(1)) each

distribution, determined with respect to each share or certificate of beneficial interest, made on the day of, or any time subsequent to, such designation as a capital gain dividend until such characterized amounts equal the amount of the prior distribution designated as a capital gain dividend. The provisions of this paragraph shall not be applicable in any taxable year in which the REIT adopts a formal or informal resolution or plan of complete liquidation.

(iii) *Example.* The following example illustrates the rules of paragraph (c)(2)(ii)(C) of this section.

In the first quarter of 1988, XYZ REIT makes a dividend distribution of \$2X. In the second quarter of 1988, XYZ sells real property, recognizing a long term capital gain of \$15X, and makes a dividend distribution of \$5X. In the third quarter of 1988, XYZ makes a distribution of \$3X. In the fourth quarter of 1988, XYZ sells real property recognizing a long term capital loss of \$2X. Within 30 days after the close of the taxable year, XYZ designates a capital gain dividend for the year of \$13X. It subsequently makes a fourth quarter distribution of \$7X. Since XYZ has made an actual designation of prior distributions during the taxable year as capital gain dividends, withholding on those prior distributions will not be required. However, the REIT must characterize, solely for purposes of section 1445(e)(1), a total amount of \$13X of dividend distributions as capital gain dividends. Therefore, the fourth quarter dividend distribution of \$7X must be characterized as a capital gain dividend subject to withholding under this section. In addition, XYZ will be required to characterize an additional \$6X of subsequent dividend distributions as capital gain dividends.

(d) *Definition of nominee.* For purposes of this section, the term "nominee" means a domestic person that holds an interest in an entity described in paragraph (a) of this section on behalf of another domestic or foreign person.

(e) *Determination of non-foreign status by withholding agent.* A withholding agent may rely on a certificate of non-foreign status pursuant to § 1.1445-2(b) or on the statements and address provided to it on Form W-9 or a form that is substantially similar to such form, to determine whether an interest holder is a domestic person. Reliance on these documents will excuse the withholding agent from liability imposed under section 1445(e)(1) in the absence of actual knowledge that the interest holder is a foreign person. A withholding agent may also employ other means to determine the status of an interest holder, but, if the agent relies on such other means and the interest holder proves, in fact, to be a foreign person, then the withholding agent is subject to any liability imposed

pursuant to section 1445 and the regulations thereunder for failure to withhold.

(f) *Qualified notice.* A qualified notice for purposes of paragraph (b)(3)(iv) of this section is a notice given by a partnership, trust or REIT regarding a distribution that is attributable to the disposition of a U.S. real property interest in accordance with the notice requirements with respect to dividends described in 17 CFR 240.10b-17(b) (1) or (3) issued pursuant to the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* In the case of a REIT, a qualified notice is only a notice of a distribution, all or any portion of which the REIT actually designates, or characterizes in accordance with paragraph (c)(2)(ii)(C) of this section, as a capital gain dividend in accordance with 17 CFR 240.10b-17(b) (1) or (3), with respect to each share or certificate of beneficial interest. A deemed designation under paragraph (c)(2)(ii)(A) of this section may not be the subject of a qualified notice under this paragraph (f). A person described in paragraph (b)(3) of this section shall be treated as receiving a qualified notice at the time such notice is published in accordance with 17 CFR 240.10b-17(b) (1) or (3).

(g) *Reporting and paying over withheld amounts.* With respect to an amount withheld under this section, a withholding agent is not required to conform to the requirements of § 1.1445-5(b)(5) but is required to report and pay over to the Internal Revenue Service any amount required to be withheld pursuant to the rules and procedures of section 1461, the regulations thereunder and § 1.6302-2. Forms 1042 and 1042S are to be used for this purpose.

(h) *Early refund procedure not available.* The early refund procedure set forth in § 1.1445-6(g) shall not apply to amounts withheld under the rules of this section. For adjustment of over-withheld amounts, see § 1.1461.4.

(i) *Liability upon failure to withhold.* For rules regarding liability upon failure to withhold under § 1445(e) and this section, see § 1.1445-1(e).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by removing in the table "§ 1.1445-8T . . . 1545-0096" and by adding in the

appropriate place in the table "§ 1.1445-8. . . 1545-0096".

Dated: November 14, 1990.

Approved:

Fred T. Goldberg Jr.,

Commissioner of Internal Revenue.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90-28771 Filed 12-6-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Virginia Regulatory Program; Coal Surface Mining Reclamation Fund Special Assessment

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

ACTION: Final rule, approval of amendment.

SUMMARY: OSM is announcing approval of an amendment to the Virginia Regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to changes in Virginia's Coal Surface Mining Reclamation Fund (hereinafter, Pool Bond Fund). The amendment is intended to strengthen the Pool Bond Fund's assets by assessing each participating permittee a one-time fee of \$500 per permit.

EFFECTIVE DATE: December 7, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Drawer 1216, Powell Valley Square Shopping Center, room 220, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523-4303.

SUPPLEMENTARY INFORMATION:

- I. Background on the Virginia Program.
- II. Submission of Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Virginia Program

The Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the Virginia program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 Federal

Register (46 FR 61088-61115).

Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15 and 946.16.

II. Submission of Amendment

By letter dated August 31, 1990 (Administrative Record No. VA-760), Virginia submitted a proposed amendment consisting of the addition of a section to the Code of Virginia numbered 45.1-270.4:1.

OSM announced receipt of the proposed amendment in the September 24, 1990 Federal Register (55 FR 39012-39013), and in the same notice opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17 is the Director's finding concerning the proposed amendment to the Virginia program submitted on August 31, 1990.

1. 45.1-270.4:1 Special Assessment

Virginia is proposing to add a new section to the Code of Virginia to allow the Commissioner of the Division of Mined Land Reclamation to require each permittee to pay a special assessment to assure the Coal Surface Mining Reclamation Fund's solvency. The Commissioner would assess each permit in the Pool Bond Fund on and after July 1, 1990, the amount of \$500. The assessment would be made only one time and all revenues collected would be applied to the balance of the Fund. The permittee would be responsible for payment of the assessment. Failure to tender moneys assessed pursuant to this statute within 30 calendar days of assessment would constitute a violation of the Virginia Coal Surface Mining Control and Reclamation Act.

This proposal would not alter the basis for the Director's findings approving the original alternative bonding system, which was approved September 21, 1982 (45 FR 41556), as it only provides for additional moneys and does not affect existing sources of revenue for the Fund. Therefore, the Director finds the proposal to be no less effective than 30 CFR 800.11(e).

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the September 24, 1990 Federal Register ended October 24, 1990. No public comments were received and

the scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations of 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Virginia program. The Environmental Protection Agency, Soil Conservation Service and Forest Service all generally supported the amendment.

V. Director's Decision

Based on the above finding, the Director is approving the program amendment as submitted on August 31, 1990. The Federal regulations at 30 CFR 946 codifying decisions concerning the Virginia program are being amended to implement this decision. This final rule is being made effective on publication in the Federal Register to expedite the State program amendment process.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subject in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 27, 1990.
Alfred E. Whitehouse,
Acting Assistant Director, Eastern Support
Center.

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

PART 946—VIRGINIA

- 1. The authority citation for part 946 continues to read as follows:
Authority: 30 U.S.C. 1201 *et seq.*
- 2. In § 946.15, a new paragraph (bb) is added to read as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *
(bb) The following amendments were approved December 7, 1990.

(1) Added section 45.1-270.4:1 to the Virginia Coal Surface Mining Control and Reclamation Act submitted on August 31, 1990, concerning a change to Virginia's Coal Surface Mining Reclamation Fund.

[FR Doc. 90-28488 Filed 12-6-90; 8:45 am]
BILLING CODE 4310-05-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 90-1]

Registration of Claims to Copyright: Group Registration of Serials

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: The Copyright Office of the Library of Congress is adopting a new regulation that permits group registration of certain serial publications. Issues of serials published at intervals of a week or longer within a three-month period during the same calendar year can be grouped and registered on a single application and fee. The group registration privilege is contingent upon automatic regular submission of two complimentary subscription copies of each issue for the Library of Congress, and upon meeting the other conditions specified in the regulation. The regulation implements a portion of section 408(c)(1) of the Copyright Act of 1976, title 17 of the U.S. Code, relating to the deposit requirements for copyright registration.

EFFECTIVE DATE: January 7, 1991.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 707-8380.

SUPPLEMENTARY INFORMATION: Under section 407 of the Copyright Act of 1976, title 17 of the U.S. Code, the owner of copyright, or of the exclusive right of publication, in a work published in the United States is required to deposit two copies of the work in the Copyright Office for the use or disposition of the Library of Congress. The deposit is to be made within three months after such publication. Failure to make the required deposit does not affect the copyright in the work, but may subject the copyright owner to fines and other monetary liability if the failure is continued after a demand for deposit is made by the Register of Copyrights.

Section 408 of title 17 requires deposit of material in connection with applications for registration of claims to copyright in unpublished and published works. Subsection 408(c)(1) authorizes the Register of Copyrights to establish by regulation the nature of the deposit that is required. These regulations may require or permit "a single registration for a group of related works."

In 1978 when the Copyright Office issued the original deposit regulations, publishers of serials urged that the Copyright Office permit group registration of serial issues. Until this time, the Copyright Office has declined to establish such procedures due to concerns about the administrative burden associated with processing several works on a single application.

The 101st Congress, enacted Public Law No. 101-318, which raises the copyright service fees set by section 708 of the copyright law, effective January 3, 1991.

In the legislative consideration of the Copyright Office's need for a fees increase, representatives of serial publishers renewed the request for establishing a serials group registration procedure. According to the publishers, their administrative costs in making separate registrations for each issue constitute a significant burden. Some serial publishers elect not to register for this reason; however, they remain subject to the mandatory deposit requirement of section 407. The publishers contended that one application covering several issues would greatly reduce the impediments to registration, and they would not object to supplying the Library with complimentary subscription copies of

copyrighted serials, nor to paying the reasonable administrative costs of the Copyright Office in processing serial group registration applications.

Accordingly, the Copyright Office has decided to adopt appropriate procedures for registering a group of related serials published at intervals of a week or longer within a three-month period during the same calendar year, provided that the publishers of these publications on a regular, automatic basis submit two complimentary subscription copies of each issue to the Library of Congress and later, when registration is applied for, also deposit one copy of each issue of the works covered by the group registration application.

The two complimentary subscription copies will satisfy the mandatory deposit requirement of section 407 and assure that the Library of Congress receives each issue as published on a regular basis, even though registration may be deferred several months in order to apply for registration on a group basis. The regulation provides that the privilege of group registration of serials will be revoked for any publisher who fails to submit the required complimentary subscription copies on a regular, automatic basis promptly after publication of each issue of the serial.

The copy of each work that must accompany the group registration application will enable the Copyright Office to examine the work to determine that it is copyrightable subject matter and that the other legal and formal requirements of the statute have been satisfied, pursuant to section 410(a) of the Copyright Act.

Group registration of related works is entirely discretionary with the Copyright Office. Based on the Office's experience with statutory group registration of contributions to periodicals, the Office finds that, unless appropriate restrictions limit the availability of group registration, the administrative costs and burden on the Office escalate. In the case of group registration of serials, the Copyright Office has determined that only the possibility of regular, automatic submission of complimentary subscription copies for the benefit of the Library of Congress, which satisfies the mandatory deposit requirement, outweighs the administrative burden of group registration. Therefore, publishers who do not enter complimentary subscriptions for the Library are not entitled to group registration, and the privilege of group registration of serials.

will be revoked for publishers who fail to forward the complimentary subscription copies on a regular, automatic basis.

The fee for group registration is set at \$10 per issue to reflect the administrative cost of processing multiple works on a single application. In addition, it has been necessary to impose several restrictions on the availability of group registration to minimize processing costs. Group registration will be restricted to those serials that are eligible for a new simplified application form SE/Group. The issues must be published within a given calendar year.

The collective work authorship must be essentially new, but publishers may use Form SE/Group to register claims in individual contributions published for the first time in the serial, if the publisher has obtained ownership of the copyright.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is a part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (Title 5, chapter 5 of the U.S. Code, Subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.¹

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 202

Registration of claims to copyright, Claims to copyright, Copyright registration.

¹ The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act [i.e. "all actions taken by the Register of Copyrights under this title [17], except with respect to the making of copies of copyright deposits"]. [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

Final Regulations

In consideration of the foregoing, the Copyright Office is amending part 202 of 37 CFR, chapter II in the manner set forth below.

PART 202—[AMENDED]

1. The authority citation for part 202 continues to read as follows:

Authority: Sec. 702, 90 Stat. 2541, 17 U.S.C. 702; §§ 202.3 and 202.20 are also issued under 17 U.S.C. 407 and 408.

§ 202.3 [Amended]

2. Sections 202.3(b)(5) and (6) are redesignated as 202.3(b)(6) and (7) respectively.

3. Section 202.3(b)(5) is added to read as follows:

§ 202.3 Registration of copyright.

(b) * * *

(5) *Group registration of related serials.* (i) Pursuant to the authority granted by section 408(c)(1) of title 17 of the United States Code, the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for a group of serials published at intervals of a week or longer if all the following conditions are met:

(A) The Library of Congress receives two complimentary copies promptly after publication of each issue of the serial.

(B) The single application covers no more than the issues published in a given three month period.

(C) The claim to copyright for which registration is sought is in the collective work.

(D) The collective work authorship is essentially new material that is being published for the first time.

(E) The collective work is a work made for hire.

(F) The author(s) and claimant(s) of the collective work are the same person(s) or organization(s).

(G) Each issue must have been created no more than one year prior to publication and all issues included in the group registration must have been published in the same calendar year.

(ii) To be eligible for group registration of serials, publishers must submit a letter affirming that two complimentary subscriptions to the particular serial have been entered for the Library of Congress. The letter should be sent to: Office of the General Counsel, Copyright Office, Library of Congress, Department 17, Washington, DC 20540.

(iii) The complimentary subscription copies must be addressed to: Group

Periodicals Registration Library of Congress, Washington, DC 20540.

(iv) The Register of Copyrights may revoke the privilege of group registration of serials for any publisher who fails to submit the required complimentary subscription copies promptly after publication of each issue. Notice of revocation of the group registration of serials privilege shall be given in writing and shall be sent to the individual person or organization applying for group registration of serials, at the last address shown in the records of the Copyright Office. A notice of revocation may be given at any time if the requirements of the regulation are not satisfied, but it shall state a specific date of revocation that is at least 30 days later than the date the notice is mailed.

(v) To apply for group registration of serials under section 408(c)(1) of title 17 and this subsection, the following items must be sent together in the same package:

(A) A completed Form SE/Group giving the requested information.

(B) A filing fee of \$10 for each issue covered by the group registration.

(C) A deposit consisting of one complete copy of the best edition of each issue included in the group registration.

4. Section 202.20(c)(2)(xvii) is added to read as follows:

§ 202.20. Deposit of copies and phono records for copyright registration.

(c) Nature of required deposit. * * *

(2) * * *

(xvii) *Group registration of serials.* For group registration of related serials, as specified in § 202.3(b)(5), the deposit must consist of one complete copy of the best edition of each issue included in the group registration. In addition, two complimentary subscriptions to any serial for which group registration is sought must be entered and maintained in the name of the Library of Congress, and the copies must be submitted regularly and promptly after publication.

Dated: November 13, 1990.

Ralph Oman,
Register of Copyrights.

Approved by:

James H. Billington,
The Librarian of Congress.

[FR Doc. 90-28697 Filed 12-6-90; 8:45 am]

BILLING CODE 1410-07-M

**FEDERAL COMMUNICATIONS
COMMISSION**
47 CFR Parts 61 and 69
[CC Docket No. 87-313, DA 90-1543]
**Policy and Rules Concerning Rates for
Dominant Carriers**
AGENCY: Federal Communications
Commission [FCC].

ACTION: Final rule; correction.

SUMMARY: Pursuant to delegated authority, the Chief of the FCC Common Carrier Bureau corrects certain errors in the summary and final rules which appeared in the Federal Register on October 19, 1990 (55 FR 42375), FR Doc. 90-24698.

FOR FURTHER INFORMATION CONTACT: Allen A. Barna, Common Carrier Bureau, (202) 632-6917.

SUPPLEMENTARY INFORMATION: With regard to the Second Report and Order and final rules adopted in Policy and Rules Concerning Rates for Dominant Carriers, Common Carrier Docket No. 87-313, FCC 90-314, on September 19, 1990, and released on October 4, 1990, the following corrections are made to the summary of that Second Report and Order and to the text of those rules published in the Federal Register on October 19, 1990 (55 FR 42375), FR Doc. 90-24698.

1. In paragraph 1, on page 42375, third column, the third and fourth sentences are corrected to read as follows: "By our action today, the 'cost-plus' system of regulation will be replaced for the largest of the LECs on January 1, 1991, with an incentive-based system of regulation similar to the system we now use to regulate AT&T. Incentive regulation will reward companies that become more productive and efficient, while ensuring that productivity and efficiency gains are shared with ratepayers."

2. In paragraph 26, on page 42378, second column, the fifteenth line, "(d)" is corrected to read "(e)," in the seventeenth line, "(e)" is corrected to read "(f)," and in the twentieth line, "(f)" is corrected to read "(g)."

3. In paragraph 35, on page 42379, third column, the first sentence is corrected to read as follows: "We recognize that in launching an entirely new system of regulating local exchange carriers, we have a responsibility to monitor its application and results to guard against unintended, unanticipated effects or problems." In that same paragraph, the third sentence is corrected to read as follows: "We also must consider the information that will

be necessary for us to conduct the performance review of the price cap program which we expect to begin after no more than three years and to complete by the fourth year of the plan."

4. In paragraph 40, on page 42380, second column, the first sentence is corrected to read as follows: "In view of our earlier finding that we have legal authority to adopt a price cap plan for AT&T, the primary basis for our conclusion that we also have legal authority to adopt our LEC price cap plan lies in the fact that the LEC plan was derived from the AT&T plan and accordingly shares a number of common elements."

5. In paragraph 45, on page 42381, beginning in the first column, the eighth and ninth sentences are removed.

§ 61.41 [Corrected]

6. a. On page 42382, third column, § 61.41(c)(3) is correctly revised to read as follows: "Notwithstanding the provisions of § 61.41(c)(2) above, when a telephone company subject to price cap regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a telephone company that qualifies as an 'average schedule' company, the latter company may retain its 'average schedule' status or become subject to price cap regulation in accordance with § 69.3(i)(3) and the requirements referenced in that section."

§ 61.42 [Corrected]

b. Also, on that same page, in the third column, § 61.42(d)(4) is correctly added to read as follows: "To the extent that a local exchange carrier specified in § 61.41(a)(2) or (3) offers interstate interexchange services that are not classified as access services for the purpose of part 69 of this chapter, such exchange carrier shall establish a fourth basket for such services."

§ 61.45 [Corrected]

7. a. On page 42383, second column, the thirtieth line of § 61.45(c) is corrected to read "PCI_i = The new PCI value, and".

b. On the same page in the third column, § 61.45(d)(4) is correctly added to read as follows: "Exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Exogenous cost changes thus attributed to price cap services shall be further apportioned on a cost-causative basis among the price cap baskets."

§ 61.46 [Corrected]

c. In addition, on the same page beginning in the third column, in § 61.46, the introductory text of paragraph (d), the definition of "CL_{MOU}" and the definition of "EUCL_{MOU}" are correctly added to read as follows:

(d) In connection with any price cap tariff proposing changes to rates for services in the basket designated in § 61.42(d)(1), the maximum allowable carrier common line (CCL) charges shall be computed pursuant to the following methodology:

CL_{MOU} = The sum of each of the existing maximum allowable Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use plus each existing End User Common Line (EUCL) rate multiplied by its corresponding base period lines, divided by the sum of all types of base period Carrier Common Line minutes of use,

EUCL_{MOU} = Proposed End User Line rates multiplied by base period lines and divided by the sum of all types of base period Carrier Common Line minutes of use, and

§ 69.3 [Corrected]

8. On page 42386, first column, in § 69.3, the introductory text to paragraph (i), and paragraphs (i)(1), (i)(2), and (i)(3) are correctly added to read as follows:

(i) The following rules apply to the withdrawal from Association tariffs under the provisions of paragraphs (e)(6) or (e)(9) of this section or both by telephone companies electing to file price cap tariffs pursuant to § 69.3(h).

(1) In addition to the withdrawal provisions of § 69.3(e)(6) and (9), a telephone company that participates in one or more Association tariffs during one tariff year and that elects to file price cap tariffs effective July 1 of the following tariff year, shall provide the Association with at least 6 months' notice that it is withdrawing from all Association tariffs, subject to the terms of this Rule, to participate in price cap regulation.

(2) The Association shall maintain records of such withdrawals sufficient to discharge its obligations under these Rules and to detect efforts by such companies or their affiliates to rejoin any Association tariffs in violation of the provisions of paragraph (i)(4) of this section.

(3) Notwithstanding the provisions of § 69.3(e) (6) and (9), in the event a telephone company withdraws from all Association tariffs for the purpose of filing price cap tariffs, such company shall exclude from such withdrawal all "average schedule" affiliates and all affiliates so excluded shall be specified in the withdrawal. However, such company may include one or more "average schedule" affiliates in price cap regulation provided that each price cap affiliate relinquishes "average schedule" status and withdraws from all Association tariffs and any tariff filed pursuant to § 61.39(b)(2). See generally §§ 69.605(c), 61.39(b) of this chapter;

MTS and WATS Market Structure: Average Schedule Companies, Report and Order, 103 FCC 2D 1026-1027 (1986).¹

§ 69.113 [Amended]

b. Also, on page 42386, third column, in § 69.113, the last sentence of paragraph (c) is correctly revised to read as follows: "Through June 30, 1993, the non-premium charge shall be computed by multiplying the LS2 charge for such element by .45."

¹ The FCC 2d is available in the Publications Branch, room 224, Federal Communications Commission, 1919 M St., NW., DC 20554.

§ 69.205 [Amended]

9. On page 42387, first column, in § 69.205, the last sentence of paragraph (c) is correctly revised to read as follows: "For telephone companies that are not subject to price cap regulation, as that term is defined in § 61.3(v) of this chapter, the premium Local Switching revenue requirement shall be computed by subtracting the projected revenues from non-premium charges attributable to the Local Switching element from the revenue requirement for each element."

Richard M. Firestone,

Chief, Common Carrier Bureau.

[FR Doc. 90-27856 Filed 12-6-90; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 55, No. 236

Friday, December 7, 1990

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service—Schedule A Authority for Employment of Students

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise the Schedule A excepted service appointing authority used by agencies to hire student assistants. An agency has suggested that the grade level limit be raised to GS-9. These regulations would permit agencies to make appointments under the authority at grades up to GS-9, or equivalent. Currently, the authority permits appointments only up to grade GS-7, or equivalent.

DATES: Comments must be received on or before February 5, 1990.

ADDRESSES: Send or deliver written comments to Leonard R. Klein, Associate Director for Career Entry, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 606-0960.

SUPPLEMENTARY INFORMATION: The Schedule A authority for appointment of student assistance was established in 1949. Originally, it contained a monetary limit on the compensation that an appointee could receive during a year. Subsequent amendments replaced the monetary limit with limits on the grade levels at which student assistants may be hired and on the amount of time they may work during a year. Currently, the authority permits employment at grades GS-7 or equivalent, and below for up to 1,040 hours in a service year. An agency has suggested that the grade level limit be raised to GS-9. OPM believes that this change would not dilute the basis for Schedule A exception.

OPM has authority to except positions under Schedule A when examining for the positions is impracticable. The work performed by student assistants is often similar to that for which OPM conducts competitive examinations. Students may compete in those examinations along with other candidates. However, examinations geared toward career employment may not produce candidates interested in part-time temporary employment or may do so only at excessive cost. The grade and service limits in the Schedule A authority represent a break-even point above which examining would be appropriate and cost-effective.

When the GS-7 limit was established, OPM maintained standing registers of eligibles for many occupations and grade levels. That is no longer true. Many jobs above entry levels are now filled under case examining procedures in which announcements are issued and registers established only when agencies have specific vacancies. These procedures would not be cost-effective for jobs that are both temporary and part-time. Thus, increasing the grade level limit to GS-9 would be within the spirit of the Schedule A authority.

The Schedule A authority requires agencies to apply experience and training requirements comparable to those imposed by OPM in the competitive service. This requirement would not change. Since positions at grade GS-9 require substantial graduate education, a master's degree, or specialized professional experience, relatively few candidates would qualify for appointments at that level. However, those candidates may represent a valuable recruiting source. Federal agencies can expect increasing competition from other employers for a decreasing supply of college-educated candidates. Raising the grade level limit of the student assistant authority may increase the candidate pool for some part-time and project work.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures

used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

PART 213—[AMENDED]

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954-1948 Comp., p. 218; Section 213.101 also issued under 5 U.S.C. 2103; Section 213.102 also issued under 5 U.S.C. 1104, Pub. L. 95-454, sec. 3(5); Section 213.3102 also issued under 5 U.S.C. 3301, 3302 [E.O. 12364, 47 FR 22931], 3307, 8337(h), and 8457.

2. In § 213.310(q), the first sentence is revised to read as follows:

§ 213.3102 Entire Executive Civil Service.

* * * * *

(q) Positions at grade GS-9, or equivalent, and below when appointees are to assist scientific, professional, or technical employees.* * *

[FR Doc. 90-28708 Filed 12-6-90; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[AMS-FV-90-208PR]

Almonds Grown in California; Proposed Minimum Prices for 1990-91 Crop Year Reserve Almonds Disposed of by Handlers in Specified Outlets

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action gives notice of a proposal to establish minimum prices for 1990-91 crop year reserve almonds disposed of by handlers in several specified outlets. These outlets are almond butter, natural almond paste, foil packets for sales to airlines, and sales to government agencies, including federal and state school lunch programs. The action is needed to help ensure that

1990-91 crop year almonds which handlers dispose of in reserve outlets are sold at prices which will not be detrimental to producers' returns. This action is based on a recommendation of the Almond Board of California (Board), which is responsible for local administration of the order, and other available information.

DATES: Comments must be received by December 24, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the *Federal Register* and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Order Administration Branch, F&V AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3923.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, hereinafter referred to as the order, regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with U.S. Department of Agriculture (USDA) Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 100 handlers of almonds who are subject to regulation under the marketing order

and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

The proposed rule invites comments on a change to the administrative rules and regulations of the order. The proposed change would establish minimum prices for 1990-91 crop year reserve almonds disposed of by handlers in several specified outlets. This action is intended to help ensure that reserve almonds are sold at prices which will not be detrimental to producers' returns and is not expected to impose any additional burden or costs on handlers.

This action propose to revise § 981.467 of Subpart—Administrative Rules and regulations and is based on a recommendation of the Board, passed on a 7 to 1 vote, and other available information.

Section 981.67 of the order provides that upon request of a handler, the Board shall authorize such handler to act as agent of the Board for the disposition of that handler's reserve almonds upon such reasonable terms and conditions as the Board may specify. A final rule was published in the *Federal Register* on September 21, 1990 (55 FR 38797), which established a reserve percentage of 35 percent for marketable California almonds received by handlers during the 1990-91 crop year, which began on July 1, 1990. That rule became effective on October 22, 1990.

Section 981.467(a) of the rules and regulations established under the order provides that a handler may become an agent of the Board pursuant to § 981.67 for the purpose of disposing of reserve almonds of a particular crop year in authorized outlets. Section 981.66(c) of the order provides that those authorized outlets shall be sales to governmental agencies or to charitable institutions for charitable purposes and for diversion into almond oil, almond butter, poultry or animal feed, and other channels which the Board finds are noncompetitive with existing normal markets for almonds. The Board has designated two additional outlets for the disposition of 1990-91 crop year reserve outlets—natural almond paste and foil packets for sales to airlines.

This action proposes to add a new paragraph (c) to section 981.467 of the administrative rules and regulations to

establish minimum prices for 1990-91 crop year almonds disposed of by handlers in several specified outlets. These outlets are almond butter, natural almond paste, foil packets for sales to airlines, and sales to government agencies, including federal and state school lunch programs. Different minimum prices are proposed for different grades and other categories of shelled almonds. The grades used are those contained in the "United States Standards for Grades of Shelled Almonds" (7 CFR 51.2105-51.2132). The recommended prices are ranked according to the quality of the grade, with the highest quality grade receiving the highest recommended price. Minimum prices for almonds to be used for almond butter manufactured in the 48 contiguous states and shipped to European Economic Community (EEC) nations are set lower than the corresponding prices for domestic shipments or for shipments to foreign countries other than EEC countries, however, to counter a 12 percent duty imposed by the EEC on finished products such as almond butter going to EEC countries.

The recommended minimum prices would be established on a F.O.B. basis from the handler's plant. Thus, transportation costs to the buyer's facilities would not be included in the minimum prices. To include such costs in the minimum prices would require an unduly complicated minimum price system, as the transportation costs to ship almonds to various destinations vary widely. A maximum two percent brokerage commission would be allowed to be included in the minimum prices. Brokers customarily are employed in the industry to negotiate sales between handlers and buyers and the standard industry commission for this service is two percent. No cash discounts would be allowed, as the Board believes that to devise a method for cash discounts would unduly complicate the proposed system.

The minimum prices proposed by this rule would apply to the disposition of the 35 percent reserve established by a final rule published in the *Federal Register* on September 21, 1990 (55 FR 38797). The 35 percent reserve is estimated to represent 220 million kernel-weight pounds of almonds. However, at a later date, the Board or two or more handlers who handled at least 15 percent of all almonds handled during the 1989-90 crop year could request that all or a portion of this reserve be released to the salable category. Pursuant to § 981.48 of the order, this recommendation would have

to be made prior to May 15, 1991. At its July 25, 1990, meeting, however, the Board passed a resolution that it does not intend to recommend that the salable percentage for the 1990-91 crop year be increased to more than 93 percent of marketable production. The Board believes that, while additional almonds may need to be released to the salable category at a future date if it is found that the current 65 percent salable percentage is insufficient to satisfy 1990-91 trade demand needs or for desirable carryover requirements for use during the 1991-92 crop year, at least 7 percent of marketable production is not likely to be needed for this purpose.

The minimum prices recommended by the Board are in the range of 60 cents to 95 cents per kernelweight pound. These prices are expected to be approximately one half of what comparable grades of almonds are expected to sell for in salable markets. By contrast, almonds disposed of in low-value outlets, such as almond oil and animal feed, for which no minimum prices would be established, are expected to sell for less than 10 cents per kernelweight pound.

In making its recommendation for minimum prices, the Board considered different price levels for the various grades and categories for which minimum prices were at levels that are competitive with other nuts, particularly peanuts, used for similar products such as peanut butter and foil packets of peanuts:

The Board hopes to develop new markets for almonds by supplying those markets with reserve almonds, which are generally sold at prices lower than those for salable almonds. However, the Board would also like sales to those markets to cover the costs of processing the almonds and provide at least some returns to growers. Thus, the minimum prices recommended by the Board are intended to ensure the highest return possible to growers within the constraint of providing buyers of reserve almonds a price which is attractive enough to encourage the development of new markets, which in future years may utilize substantial quantities of salable almonds at competitive prices.

The Department understands that some members of the almond industry would like the minimum prices proposed herein to apply to dispositions since July 1, 1990, the beginning of the crop year. Under this scenario, handlers would receive reserve credit for any dispositions made during the crop year, which compiled with the proposed minimum price requirements, even though these requirements were not

established until the crop year was well under way. It is the position of the USDA, however, that applying such minimum prices in this manner would discourage handlers from disposing of reserve almonds until the rulemaking process on this issue is completed, due to uncertainty as to what minimum prices, if any, would be established. Section 981.67 of the order provides that the Board shall authorize a handler to act as an agent of the Board for the purpose of disposing of reserve almonds upon request of the handler. It is the position of the USDA that handlers should be allowed to dispose of reserve almonds in a timely manner without concern as to minimum prices established after dispositions have been made. Therefore, the minimum prices will apply only to dispositions made after the effective date of the rule.

The Board also recommended surcharges for various finished products, such as almond butter or foil packets of almonds, manufactured by handlers themselves. These recommended surcharges would require handlers to sell these finished products at a specified minimum price above the minimum price for the almonds themselves. Establishing such surcharges would unduly complicate the proposed system, without necessarily benefiting producer returns. In addition, the recommendation failed to indicate how such a proposal is within the ambit of the order provisions. Therefore, these surcharges are not included in this rule.

In the past years, minimum prices have been set in the agency agreement between handlers and the Board. Despite the fact that the Board is representative of the entire industry and seeks public input in forming its recommendations, a few handlers have desired that notice and comment rulemaking be used to establish the minimum prices. In order to provide even further opportunity for public participation, the Department is issuing this proposal.

Based on the above, the Administrator of the AMS has determined that the issuance of this proposed rule would not have a significant economic effect on a substantial number of small entities.

Interested persons are invited to submit their views and comments on this proposal. A 15-day comment period is considered appropriate because handlers are currently disposing of reserve almonds. Accordingly, handlers, buyers, and producers should know as soon as possible what minimum prices, if any, will be put into effect.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 981.467 is amended by adding a new paragraph (c) to read as follows:

§ 981.467 Disposition in reserve outlets by handlers.

(c) *Minimum prices.* Minimum prices shall apply to 1990-91 crop year reserve almonds diverted to almond butter, natural almond paste, foil packets for sales to airlines, and sales to government agencies, including federal and state school lunch programs. Prices are F.O.B. handlers plant. The prices may contain a maximum of two percent brokerage commission. No cash discounts are allowed. The prices are as follows for various grades or categories of almonds:

Grade or category	Price per pound (in cents)
U.S. Select Sheller Run or better, unblanched.....	75
U.S. Standard Sheller Run, unblanched.....	74
U.S. No. 1 Whole and Broken, unblanched.....	73
U.S. No. 1 Pieces, unblanched.....	73
U.S. No. 1 Pieces or better, unblanched, to be used for almond butter manufactured in the 48 contiguous states and shipped to EEC countries.....	60
Blanched made from U.S. No. 1 Pieces or better.....	95
Blanched made from U.S. No. 1 Pieces or better to be used for almond butter manufactured in the 48 contiguous states and shipped to EEC countries.....	82

Dated: December 3, 1990.

Robert C. Kenney,
Deputy Director, Fruit and Vegetable
Division.

[FR Doc. 90-28700 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39****[Docket No. 90-NM-257-AD]****Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 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 British Aerospace Model BAC 1-11 200 and 400 series airplanes, which would require various modifications to the rear pressure bulkhead door. This proposal is prompted by reports of recent incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. These conditions, if not corrected, could result in reduced structural integrity of the rear pressure bulkhead door. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe rather than repetitive inspections.

DATES: Comments must be received no later than January 30, 1991.

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. 90-NM-257-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 Rules 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 90-NM-257-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

In April 1988, a high-cycle Boeing Model 737 suffered major structural damage in flight. Investigation revealed that the airplane had numerous fatigue cracks and a great deal of corrosion. Subsequent inspections conducted by the operator on the high-cycle airplanes in its fleet revealed that two other airplanes had extensive fatigue cracking and corrosion. These airplanes were taken out of service.

In June 1988, the FAA sponsored a conference on aging airplanes. It became obvious that, because of the increase in air travel, the relatively slow production rate for new airplanes, and the apparent economic feasibility of operating older technology airplanes, older airplanes will continue to be operated rather than be retired. Because of the problems revealed by the accident described above, it was determined that increased attention needed to be focused on this aging fleet to maintain operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America are committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in

August 1988. The objective of the Task Force was to sponsor "Working Groups" to (1) select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes, (2) develop corrosion-directed inspections and prevention programs, (3) review the adequacy of each operator's structural maintenance program, (4) review and update the Supplemental Structural Inspection Documents (SSID), and (5) assess repair quality.

The working group assigned to review the Model BAC 1-11, the BAC 1 Structures Task Unit (STU), included personnel from British Aerospace, the United Kingdom Civil Aviation Authority (CAA), the FAA, and various U.S. and foreign operators of Model BAC 1-11 series airplanes. The STU completed its work on Item (1) above, in December 1989; its proposal is contained in British Aerospace Alert Service Bulletin 5-A-PM5995, Issue No. 2, dated July 1, 1990. (The FAA previously issued AD 90-23-09, Amendment 39-6795 (5 FR 33129, August 14, 1990), which requires incorporation of numerous structural modifications described in that service bulletin. Certain other modifications described in that service bulletin were not mandated by AD 90-23-09 because their applicable related service information had not been finalized at the time the AD was initiated.)

British Aerospace has recently issued Service Bulletin 52-PM-5970, dated August 16, 1990, which describes procedures for various modifications to the rear pressure bulkhead door. These modifications include the installation of new horizontal members that have increased thickness and are made of improved material. This service bulletin also describes procedures for installing various angle bracket assemblies, throat strips, cleats, furnishing bracket assemblies, furnishing angles, stiffeners, and a detachable door panel, which must be accomplished during this modification. The United Kingdom Civil Aviation Authority (CAA) has classified this service bulletin as mandatory by including it in Table 1 of British Aerospace Alert Service Bulletin 5-A-PM5995, Issue No. 2, dated July 1, 1990 (which is classified as mandatory).

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since fatigue cracking 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 various modifications to the rear pressure bulkhead door in accordance with Service Bulletin 52-PM-5970, previously described.

The proposed compliance time for implementation of these structural modifications is upon reaching a certain "not exceed time," as specified in British Aerospace Service Bulletin 5-A-PM5995, Issue No. 2, dated July 1, 1990, or within 15 months, whichever occurs later. This time interval is based upon the ability of the manufacturer to provide the parts necessary for modification, and the time necessary to incorporate the modifications.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 240 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. The estimated cost for the required parts and modification kit is estimated to be \$8,415 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1,261,050.

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 Rules 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:

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes, as listed in British Aerospace Service Bulletin 52-PM-5970, dated August 16, 1990, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the rear pressure bulkhead door, accomplish the following:

A. Prior to the accumulation of 55,000 landings or within 15 months after the effective date of this AD, whichever occurs later, install horizontal members, various angle bracket assemblies, throat strips, cleats, furnishing bracket assemblies, furnishing angles, stiffeners, and a detachable door panel, in accordance with British Aerospace Service Bulletin 52-PM-5970, dated August 16, 1990.

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, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence 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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on November 27, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-28740 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-260-AD]

Airworthiness Directives; Fokker Model F-28 Mark 0100 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 Fokker Model F-28 Mark 0100 series airplanes, which would require a one-time visual inspection for incorrectly installed insulation sleeves and washers in the Electrical Power Center (EPC) and battery rely panel, and repair, if necessary. This proposal is prompted by reports of smoke in the flight deck due to loose contactors in the EPC. This condition, if not corrected, could result in a temperature increase in the contractor studs, smoke in the cockpit, and a potential electrical fire.

DATES: Comments must be received no later than January 30, 1991.

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. 90-NM-260-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 Rules 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 90-NM-260-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F-28 Mark 0100 series airplanes. There has been a recent report of smoke in the flight deck due to loose contactors in the Electrical Power Center (EPC). There was also one report of a missing washer and an incorrect installation of the insulation sleeves. This condition, if not corrected, could result in a temperature increase in the contactor studs, smoke in the cockpit, and a potential electrical fire.

Fokker has issued Service Bulletin F100-24-012, dated September 3, 1990, which describes procedures for a one-time visual inspection for incorrectly installed insulation sleeves and washers in the EPC and battery relay panel, and repair, if necessary. The RLD has classified this service bulletin as mandatory, and has issued Airworthiness Directive BLA No. 90-103 addressing this subject.

This airplane model is manufactured in the Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since 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 a one-time visual inspection for incorrectly installed insulation sleeves and washers in the EPC and battery relay panel, and repair, if necessary, in accordance with the service bulletin previously described.

It is estimated that 7 airplanes of U.S. registry would be affected by this AD, that it would take approximately 4 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 \$1,120.

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 Rules 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:

Fokker: Applies to certain Model F-28 Mark 0100 series airplanes; Serial Numbers 11244 through 11256, 11259, 11260, 11263, 11268 through 11278, 11280 through 11283, and 11286; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent temperature increase in the contactor studs, smoke in the cockpit, and a

potential electrical fire, accomplish the following:

A. Within 45 days after the effective date of this AD, perform an inspection of the Electrical Power Center (EPC), the Battery Relay Panel (BRP), contactors, and terminal blocks for insulation sleeve length and washer installation, in accordance with part 1 and part 2, as applicable, of the Accomplishment Instructions of Fokker Service Bulletin F100-24-012, dated September 3, 1990.

1. If defects are found, prior to further flight, correct the sleeve length and the washer installation in accordance with part 3 of the Accomplishment Instructions of the service bulletin.

2. If no defects are found, or if the corrections required by paragraph A.1. of this AD have been accomplished, accomplish the work completion procedures and perform the operational checks in accordance with part 4 of the Accomplishment Instructions of the service bulletin before returning the airplane to service.

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, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence 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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on November 27, 1990.

Darrell M. Pederson,
Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.
[FR Doc. 90-28741 Filed 12-6-90; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-ANE-20]

Airworthiness Directives; Pratt & Whitney (PW) JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to PW JT9D series turbofan engines, that requires modification of certain fuel nozzles from a two piece knife-edge seal design to a one piece welded configuration. This proposal is prompted by fuel nozzle failures which have resulted in uncontained engine failures. The proposed AD is needed to prevent fuel nozzle distress which could result in an uncontained lenticular seal failure, and inflight engine shutdown.

DATES: Comments must be received no later than February 5, 1991.

ADDRESSES: Send comments on the proposal in duplicate to the FAA, New England Region, Office of the Assistant Chief Counsel, Attn: Rules Docket No. 90-ANE-20, 12 New England Executive Park, Burlington, Massachusetts 01803, or deliver in duplicate to Room 311, at the above address.

Comments may be inspected at the above location in Room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service bulletin may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Daniel Kerman, Engine Certification Branch, ANE-141, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 270-2410.

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 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 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 No. 90-ANE-20." The postcard will be date/time stamped and returned to the commenter.

Discussion

The FAA has determined that there have been a total of 41 fuel nozzle failures, of which 9 are associated with uncontained engine failures. These uncontained engine failures were initiated by leaking nozzle seals. It has been determined that fuel can leak beyond the secondary knife-edge seal where the fuel burns and destroys the integrity of the fuel nozzle assembly. In some instances, fuel leaked past the seal, due to improper nozzle seal surface preparation, and burned the securing nut and nozzle heat shield; in others, the nozzle cup was liberated into the gas path. This damage to the nozzle alters the fuel distribution in the combustor. This condition, if not corrected, could result in an uncontained lenticular seal failure, and an inflight engine shutdown.

The FAA has reviewed and approved PW Service Bulletin (SB) 5566, Revision 4, dated June 23, 1988, which describes new design modifications for certain fuel nozzles.

Since this condition is likely to exist or develop on other engines of the same type design, an AD is proposed which would require modification of certain fuel nozzles in accordance with the SB previously described.

There are approximately 586 engines of the affected design in the worldwide fleet. It is estimated that 120 engines of U.S. registry would be affected by this AD, that it would take approximately 91.5 manhours per engine to accomplish the required action, 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 \$439,200.

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) 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 Rules 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 (FAA) proposes to amend 14 CFR part 39 of the Federal Aviation Regulations (FAR) 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 airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-59A, -70A, -7Q, and -7Q3 turbofan engines installed on, but not limited to, Boeing 747, Airbus A300, and McDonnell Douglas DC10 aircraft.

Compliance is required prior to December 31, 1991, unless previously accomplished.

To prevent fuel nozzle distress which can result in an uncontained lenticular seal failure, and an inflight engine shutdown, accomplish the following:

(a) Modify the fuel nozzle and support assembly, part numbers 795094, 5004189-01, 795090, and 5003981-01, in accordance with part 1 and part 2 of the Accomplishment Instructions contained in PW Service Bulletin (SB) 5566, Revision 4, dated June 23, 1988.

(b) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(c) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate,

Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. These documents may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on November 28, 1990.

Ronald L. Vavruska,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-28742 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-185-AD]

Airworthiness Directives; SAAB-Scania Models SF-340A and SAAB 340B 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 SAAB-Scania Models SF-340A and SAAB 340B series airplanes, which would require replacement of certain life-limited components associated with the main landing gear (MLG) and nose landing gear (NLG) in accordance with revised life limits. This proposal is prompted by an analysis in which the landing gear component life limits have been recalculated in order to compensate for operations of the SAAB-Scania Model SF 340 series airplanes at higher weights than the projected weights used to establish the life limits during airplane certification. Failure to replace the landing gear components at these new life limits could result in reduced structural capability of the MLG and NLG.

DATES: Comments must be received no later than January 30, 1991.

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. 90-NM-185-AD, 1601 Lind Avenue SW., Renton, Washington, 98055-4056. The applicable

service information may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linköping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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 Rules 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 90-NM-185-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority of Sweden, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain SAAB-Scania Model SF-340A and SAAB 340B series airplanes. The design weights for these models have been increased subsequent to the initial certification. These airplanes are also being operated at higher weights than the project weights used to establish the landing gear component life limits during airplane certification. SAAB-

Scania has recalculated and revised (reduced) the landing gear life limits to compensate for operations at the higher weights. Failure to replace landing gear components at the revised (reduced) the landing gear life limits to compensate for operations at the higher weights. Failure to replace landing gear components at the revised life limits, could result in reduced structural integrity of the NLG and MLG.

SAAB-Scania has issued Service Bulletin SAAB 340-32-066, Revision 1, dated October 17, 1990, to inform the operators of the revised landing gear component fatigue life limits. The LFW has approved this service bulletin.

This airplane model is manufactured in Sweden 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 the removal and replacement of certain components associated with the NLG and MLG at specified intervals, in accordance with the service bulletin previously described.

It is estimated that 108 airplanes of U.S. registry would be affected by this AD, that it would take approximately 48 manhours per airplane to accomplish the required actions, and that average labor cost would be \$40 per manhour. The estimated cost for required parts is \$4,700. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$714,960.

The regulation 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 Rules

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 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:

SAAB-Scania: Applies to Model SF-340A series airplanes, Serial Numbers 004 through 159; and SAAB 340B series airplanes, Serial Numbers 160 and subsequent; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To ensure proper operation of the nose landing gear (NLG) and main landing gear (MLG), accomplish the following:

A. Remove the NLG and MLG components identified in Attachments 1 through 6 of SAAB Service Bulletin 340-32-066, Revision 1, dated October 17, 1990, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue-Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after the effective date of this AD, whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue-Life Flights" column of the applicable "Life Limited Parts List."

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, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence 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 SAAB-Scania AB, S-581-88, Linköping, Sweden.

These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

Issued in Renton, Washington, on November 27, 1990.

Darrell M. Pederson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-28739 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO-76-90]

RIN 1545-AP19

Proposed Regulations Under Section 108 of the Internal Revenue Code; Discharge of Indebtedness

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 108(e)(8)(A) of the Internal Revenue Code of 1986 ("the Code"). Section 108(e)(8)(A) was added by the Bankruptcy Tax Act of 1980 and amended by section 11325 of the Revenue Reconciliation Act of 1990. The proposed regulations provide rules for determining whether stock issued in exchange for indebtedness is nominal or token under section 108(e)(8)(A) of the Code.

DATES: Written comments and requests for a public hearing must be received by February 4, 1991.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, CC: CORP:T:R [CO-76-90], room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Lori J. Jones of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, or telephone (202) 566-3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document concerns section 108(e)(8)(A) of the Code and adds proposed regulations § 1.108-1. Section 108(e)(8)(A) was added by section 2(a) of the Bankruptcy Tax Act of 1980 (Pub. L. No. 96-589, 94 Stat. 3389) and amended by section 11325 of the

Revenue Reconciliation Act of 1990 (Pub. L. No. 101-508, 104 Stat. 1388).

The regulations are proposed to be effective on December 6, 1990 and are proposed to apply to exchanges on or after December 6, 1990. Although the regulations are not proposed to apply to exchanges occurring before December 6, 1990, no inference is intended concerning the interpretation of section 108(e)(8)(A) prior to the effective date of these regulations. The Internal Revenue Service will apply the principles underlying the rules of the proposed regulations to exchanges occurring before December 6, 1990 in testing whether the stock transferred is "nominal or token" within the meaning of section 108(e)(8)(A).

Explanation of Provisions

(a) Overview of Section 108

Under section 61(a)(12) of the Code, gross income includes income from the discharge of indebtedness. Discharge of indebtedness income to a debtor generally arises when a creditor accepts less than full payment for an amount of indebtedness. Section 108 provides certain rules with respect to discharge of indebtedness income occurring in a title 11 case or when the debtor is insolvent. In general, insolvent debtors exclude discharge of indebtedness income from gross income to the extent of their insolvency (defined in section 108(d)(3)) while title 11 debtors exclude all income arising from a discharge of indebtedness pursuant to a plan approved by the bankruptcy court (section 108(d)(2)). Under section 108(b), title 11 and insolvent debtors must reduce certain tax attributes in an amount equal to the excluded amount of discharge of indebtedness income. If the amount of discharge of indebtedness income exceeds the amount of tax attributes, the excess is disregarded. S. Rep. No. 1035, 96th Cong., 2d Sess. 2 (1980), 1980-2 C.B. 626.

Section 108(e)(10)(A) of the Code provides that a debtor corporation that transfers stock to a creditor in satisfaction of indebtedness is treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock. As a result, debtor corporations subject to section 108(e)(10)(A) realize discharge of indebtedness income to the extent the amount of the indebtedness exceeds the fair market value of the stock issued in exchange for the indebtedness. Under section 108(e)(10)(B)(i), section 108(e)(10)(A) does not apply to any transfer of stock (other than disqualified stock) by a debtor corporation in a title

11 case or to the extent the debtor is insolvent. Disqualified stock, as defined in section 108(e)(10)(B)(ii), is stock with a stated redemption price if (a) the stock has a fixed redemption date, (b) the issuer of such stock has the right to redeem such stock at one or more times, or (c) the holder of such stock has the right to require its redemption at one or more times.

As a consequence of the exclusion in section 108(e)(10)(B)(i) of the Code, title 11 and insolvent debtors remain eligible for the common law exception to the realization of discharge of indebtedness income where a debtor corporation issues stock, other than disqualified stock, to its creditors in exchange for debt ("the stock-for-debt exception"). If the stock-for-debt exception applies, gross income does not arise from the exchange, the exclusion under section 108(a) of the Code does not apply since there is no gross income to exclude and, therefore, no reduction of tax attributes occurs under sections 108(b) and 1017.

Section 108(e)(8) of the Code prevents the application of the stock-for-debt exception in certain "*de minimis*" cases. Section 108(e)(8)(A) provides that the stock-for-debt exception does not apply to the issuance of nominal or token shares. The flush language of section 108(e)(8), which was added by the Revenue Reconciliation Act of 1990 (Pub. L. No. 101-508), provides that disqualified stock is not treated as stock in determining whether shares are nominal or token. Section 108(e)(8)(B) provides that the stock-for-debt exception does not apply with respect to an unsecured creditor, where the ratio of the value of the stock received by the unsecured creditor to the amount of its indebtedness canceled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

Thus, the stock-for-debt exception is available in the case of an insolvent or title 11 debtor only if the exchange of stock for debt satisfies the *de minimis* rules of section 108(e)(8) of the Code. If, for example, stock is considered nominal or token under section 108(e)(8)(A), the debtor is treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock. Any resulting discharge of indebtedness income is excluded from gross income to the extent provided under section 108(a), but attribute reduction is required under section 108(b).

(b) Overview of proposed regulations

The legislative history of section 108(e)(8)(A) of the Code indicates that a

facts and circumstances inquiry must be made to ensure that the stock-for-debt exception is not circumvented by the issuance of nominal or token shares to a creditor who has no real equity interest in the corporation. S. Rep. No. 1035, 96th Cong., 2d Sess. 17, 1980-2 C.B. 628. The proposed regulations provide a nonexclusive list of facts and circumstances to be taken into account in determining if stock is nominal or token. The factors are generally taken into account with respect to the issuance of stock to a creditor in exchange for indebtedness held by that creditor.

For purposes of making the nominal or token analysis, § 1.108-1(a)(2) of the Proposed Regulations adopted the flush language in section 108(e)(8) of the Code which provides that "disqualified stock" under section 108(e)(10)(B)(ii) will not be considered to be stock for purposes of section 108(e)(8). H. Rep. No. 964, 101st Cong., 2d Sess. 1099. Section 1.108-1(a)(2) does not apply to stock that is not disqualified stock under the effective date provisions of section 11325(c) of the Revenue Reconciliation Act of 1990. Accordingly, such stock is treated as stock for purposes of the Proposed Regulations.

In applying the facts and circumstances test, Prop. Reg. § 1.108-1(b)(1)(i) provides that the most important factor is the ratio of the fair market value of the stock issued to the creditor to the allocable indebtedness treated as exchanged for the stock ("Stock to Debt Ratio"). The transfer to a creditor of stock with a fair market value that is low relative to the allocable indebtedness that is discharged is evidence that the shares are nominal or token. The second factor, described in Prop. Reg. § 1.108-1(b)(1)(ii), is a comparison of the fair market value of stock received by a creditor to the fair market value of the total consideration received by the creditor in the exchange ("Stock to Total Consideration Ratio"). If the fair market value of the stock is low compared to the fair market value of the total consideration received by the creditor, that is evidence that the shares are nominal or token. The third factor, described in Prop. Reg. § 1.108-1(b)(1)(iii), is a comparison of the fair market value of the stock issued to the creditors as a group and the total fair market value of the outstanding stock after the bankruptcy reorganization or insolvency workout ("Stock to Total Stock Ratio"). The fact that the fair market value of the stock issued to the creditors as a group is low in comparison to the fair market value of all of the debtor corporation's

outstanding stock is evidence that the shares are nominal or token. Whether a ratio described in Prop. Reg. § 1.108-1(b)(1) is low depends upon the particular ratio and whether other facts and circumstances, including the other ratios, indicate that the stock transferred is nominal or token.

The proposed regulations provide special rules for calculating the Stock to Debt Ratio where a debtor issues preferred stock in exchange for outstanding debt. (These rules do not apply to stock that is "disqualified stock" under § 1.108-1(a)(2) of the Proposed Regulations.) "Preferred stock," as described in Prop. Reg. § 1.108-1(b)(2)(i), is stock that has a limited or fixed redemption price or liquidation preference and does not have a meaningful right to participate in corporate growth. For this purpose, a liquidation preference exists if the stock's right to share in liquidation proceeds is limited and preferred. In addition, a meaningful right to participate in corporate growth is not established by (i) a right to convert preferred stock into a class of stock other than preferred stock or (ii) the fact that the redemption price or liquidation preference exceeds the fair market value of the preferred stock. A meaningful right to participate in corporate growth generally denotes a higher degree of participation than a right to participate in corporate growth to any significant extent as used in other provisions of the Code.

The Stock to Debt Ratio is determined separately for each class of preferred stock; other classes of stock ("other stock") are aggregated in determining the Stock to Debt Ratio. Preferred stock is tested separately from other stock because preferred stock, unlike other stock, qualifies for the stock-for-debt exception only to the extent of the lesser of its redemption price or liquidation preference.

The proposed regulations provide that, in determining the Stock to Debt Ratio with respect to preferred stock, the fair market value of each class of preferred stock issued to the creditor is compared to the portion of the discharged indebtedness that is allocable to the preferred stock. In general, the amount of indebtedness allocable to a class of preferred stock is the lesser of the redemption price or liquidation preference of the preferred stock. The indebtedness that is allocable to a class of preferred stock may not be less than the fair market value of the preferred stock nor greater than the total amount of the indebtedness discharged. The determination of redemption price

and liquidation preference is made with reference to the lowest redemption price or liquidation preference of the preferred stock for any period after its issuance established at the time of its issuance. Based on this comparison and other relevant factors, such as the Stock to Total Consideration Ratio and the Stock to Total Stock Ratio, a determination is made as to whether the issuance of the preferred stock to a given creditor is nominal or token.

If both common stock and preferred stock are issued by a debtor to a creditor, the Stock to Debt Ratio is determined separately for stock other than preferred stock. In determining the ratio with respect to other stock, the fair market value of all classes of other stock issued to a creditor is compared to the portion of the discharged indebtedness that is allocable to the other stock. The amount of the indebtedness allocable to the other stock is the adjusted issue price of the indebtedness discharged by the creditor, reduced by the amount of other consideration, if any, transferred to the creditor in exchange for the indebtedness. Accordingly, the adjusted issue price of the indebtedness discharged by a creditor is reduced by the sum of (i) the amount of money paid to the creditor, (ii) the issue price of new indebtedness issued to the creditor, (iii) the amount of indebtedness properly allocable to preferred stock issued to the creditor, and (iv) the fair market value of other property, including disqualified stock under section 108(e)(10)(B)(ii), transferred to the creditor in exchange for the indebtedness. The amount of indebtedness allocable to preferred stock is generally determined in accordance with the rules described in the preceding paragraph. If preferred stock is determined to be nominal or token, however, the amount of allocable indebtedness is limited to the stock's fair market value. Based on a comparison of the fair market value of the other stock to the allocable indebtedness and other relevant factors, such as the Stock to Consideration Ratio and the Stock to Total Stock Ratio, a determination is made as to whether the other stock is nominal or token.

(c) Proposed Standards

The Service is also considering issuing a revenue procedure or other appropriate guidance setting forth specific circumstances in which shares issued to discharge indebtedness will not be considered nominal or token. The Service requests comments on the proposed standards set forth in the following paragraphs.

Under the proposed standards, stock (within the meaning of section 108(e)(8) of the Code) that is issued in exchange for indebtedness would not be nominal or token if:

(1) The fair market value of stock transferred to the creditor is at least 10% of the amount of the allocable indebtedness discharged (i.e., Stock to Debt Ratio is at least 10% for each class of stock for which a separate ratio is calculated) and the fair market value of the stock transferred to the creditor is at least 25% of the total fair market value of all consideration transferred in exchange for the debt (i.e., Stock to Total Consideration Ratio for that creditor is at least 25%);

(2) The fair market value of the stock transferred to the creditor is at least 25% of the total fair market value of all consideration transferred in exchange for the debt (i.e., Stock to Total Consideration Ratio for that creditor is at least 25%), and the fair market value of the stock transferred to the creditor is at least 25% of the total fair market value of all outstanding stock of the debtor after the bankruptcy reorganization or insolvency workout (i.e., Stock to Total Stock Ratio for that creditor is at least 25%); or

(3) The only consideration transferred in exchange for debt held by unsecured creditors is stock (i.e., Stock to Total Consideration Ratio for unsecured creditors as a group is 100%), and the stock transferred to the unsecured creditors as a group is 90% of the outstanding stock of the corporation after the bankruptcy reorganization or insolvency workout (i.e., Stock to Total Stock Ratio is 90%).

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. A Regulatory Flexibility Analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. In particular,

the Service invites comments on the proposed standards for determining when stock is more than nominal or token under section 108(e)(8)(A) of the Code. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the *Federal Register*.

Drafting Information

The principal author of these proposed regulations is Lori J. Jones, Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Service and the Treasury Department participated in developing the regulations, in matters of both substance and style.

List of Subjects in 26 CFR 1.61 through 1.281-4

Deductions, Exemptions, Income tax, Taxable income.

Proposed Amendments to the Regulations

Accordingly, title 26, chapter I, part 1 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 1—[AMENDED]

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

Authority: 26 U.S.C. 7805; * * * Section 1.108-1 also issued under 26 U.S.C. 108(e)(8) and 108(e)(10)(B).

Par. 2. New § 1.108-1 is added to read as set forth below.

§ 1.108-1 Nominal or token shares issued to discharge indebtedness.

(a) *Overview*—(1) *In general.* Under section 108(e)(10)(A), if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, the corporation generally is treated as satisfying the indebtedness with an amount of money equal to the fair market value of the stock. Section 108(e)(10)(B) provides that this rule does not apply to any transfer of stock (other than disqualified stock) by a debtor corporation in a title 11 case or by any other debtor but only to the extent the debtor is insolvent. A title 11 or insolvent debtor does not realize discharge of indebtedness income to the extent the common law stock-for-debt exception applies. Section 108(e)(8), as added by the Bankruptcy Tax Act of 1980 and amended by the Revenue Reconciliation Act of 1990, prevents the application of the stock-for-debt exception in certain "*de minimis*" cases.

Section 108(e)(8)(A) provides that the stock-for-debt exception does not apply if the shares of stock issued in exchange for the indebtedness are nominal or token.

(2) *Disqualified stock.* The flush language of section 108(e)(8) provides that "disqualified stock" (as defined in section 108(e)(10)(B)(ii)) is not treated as stock for purposes of section 108(e)(8). Section 108(e)(10)(B)(ii) defines disqualified stock as stock with a stated redemption price if the stock has a fixed redemption date, the issuer of such stock has the right to redeem such stock at one or more times, or the holder of such stock has the right to require its redemption at one or more times. Accordingly, disqualified stock is not considered stock for purposes of this section. This paragraph (a)(2) applies generally to stock, to which section 108(e)(10)(B)(ii) applies, that is transferred after October 9, 1990, in satisfaction of any indebtedness.

(b) *Facts and circumstances to be considered in determining nominal or token shares.—(1) In general.* All relevant facts and circumstances must be considered in determining whether shares of stock issued to a creditor are nominal or token. Set forth below is a nonexclusive list of relevant factors to be taken into account in making this determination.

(i) *Stock to debt ratio.* A comparison of the fair market value of stock transferred to a creditor to the amount of discharged indebtedness allocable to that stock ("Stock to Debt Ratio") is relevant to the determination of whether shares of stock issued to the creditor are nominal or token. A low Stock to Debt Ratio is evidence that the shares issued in exchange for the discharged indebtedness are nominal or token. The Stock to Debt Ratio is the most important factor in making the determination of whether shares are nominal or token.

(ii) *Stock to total consideration ratio.* A comparison of the fair market value of stock transferred to a creditor to the fair market value of the total consideration received by the creditor in the exchange ("Stock to Total Consideration Ratio") is relevant to the determination of whether shares of stock are nominal or token. A low Stock to Total Consideration Ratio is evidence that the shares issued in exchange for the discharged indebtedness are nominal or token.

(iii) *Stock to total stock ratio.* A comparison of the fair market value of the stock transferred to the creditors as a group to the total fair market value of all of the outstanding stock of the corporation after the bankruptcy reorganization or insolvency workout

("Stock to Total Stock Ratio") is relevant to the determination of whether shares of stock are nominal or token. A low Stock to Total Stock Ratio is evidence that the shares issued in exchange for the discharged indebtedness are nominal or token.

(2) *Special rules.—(i) Preferred stock.* For purposes of applying paragraph (b)(1)(i) of this section, the allocable indebtedness of each creditor that is discharged by each class of preferred stock issued to the creditor is equal to the lesser of the redemption price or liquidation preference of the respective class of preferred stock. This determination is made with reference to the lowest redemption price or liquidation preference of the preferred stock for any period after its issuance as established at the time of issuance. However, the allocable indebtedness may not be less than the fair market value of the preferred stock nor greater than the total amount of the indebtedness discharged. "Preferred stock" is stock that has a limited or fixed redemption price or liquidation preference, and does not have a meaningful right to participate in corporate growth. For this purpose, a liquidation preference exists if the stock's right to share in liquidation proceeds is limited and preferred. In addition, solely for purposes of applying the tests of this section, a meaningful right to participate in corporate growth is not established by a right to convert preferred stock into stock other than preferred stock or the fact that the redemption price or liquidation preference exceeds the fair market value of the preferred stock.

(ii) *Other stock.* For purposes of paragraph (b)(1)(i) of this section, the allocable indebtedness of each creditor discharged by all stock other than preferred stock ("other stock") issued to the creditor is the adjusted issue price of the indebtedness discharged by the creditor, reduced by the amount of other consideration, if any, transferred to the creditor in exchange for the indebtedness, including:

- (A) The amount of any money,
- (B) The issue price of any new indebtedness,
- (C) The amount of any indebtedness allocable to preferred stock under paragraph (b)(2)(i) of this section, and
- (D) The fair market value of any other property, including any disqualified stock described in section 108(e)(10)(B)(ii).

For purposes of this section, the amount of indebtedness allocable to preferred stock is limited to the fair market value of the preferred stock if the preferred

stock is determined to be nominal or token.

(iii) *Analysis of ratios.* Whether a ratio described in paragraph (b)(1) of this section is low depends upon the particular ratio and whether other facts and circumstances, including the other ratios, indicate that the stock transferred is nominal or token.

(iv) *Example.*

(a) Z Corporation is under the jurisdiction of a court in a case under title 11 of the United States Code. Creditor holds debt of Z with an adjusted issue price of \$100x. Pursuant to a plan approved by the court, Z issues preferred stock with a redemption price and liquidation preference of \$37x and a fair market value of \$35x, common stock with a fair market value of \$30x and \$3x of cash to Creditor in discharge of the indebtedness of \$100x. The preferred stock is first redeemable more than five years after its issuance and is not disqualified stock under section 108(e)(10)(B)(ii).

(b) Under paragraph (b)(2)(i) of this section, the fair market value of the preferred stock, \$35x, is compared to the amount of allocable indebtedness. Allocable indebtedness is equal to the redemption price and liquidation preference of \$37x.

(c) Under paragraph (b)(2)(ii) of this section, the fair market value of the other stock, \$30x, is compared to the allocable portion of the indebtedness. Assuming the preferred stock is not nominal or token, the allocable indebtedness is the adjusted issue price of the indebtedness, \$100x, less the sum of the amount of indebtedness allocated to the preferred stock under paragraph (b)(1)(i) of this section, \$37x, and \$3x, the amount of cash paid. Thus, the allocable indebtedness for determining whether the common stock is nominal or token is \$60x (\$100x - \$37x - \$3x).

(c) *Effective date.* The proposed regulations apply to exchanges that occur on or after December 6, 1990.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 90-28683 Filed 12-6-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 252

Department of Defense Federal Acquisition Regulation Supplement; Antifriction Bearings

AGENCY: Department of Defense.

ACTION: Request for comments.

SUMMARY: The Department of Defense (DoD) has regulations restricting defense procurements of imported bearings (48 CFR subpart 208.79 and section 252.208-7006). The regulations were deemed necessary to strengthen an industry vital to national defense. The restriction is scheduled to remain in effect for

contracts awarded through September 30, 1991 but may be extended for an additional two years if conditions warrant. DoD wishes to consider the opinions of interested parties and is, therefore, soliciting comments on whether the restriction should be extended for an additional two years. Respondents are urged to include a rationale for positions advocated.

DATES: Comments should be received on or before March 31, 1991.

ADDRESSES: Comments should be submitted to: Office of Industrial Base Assessment, ATTN: Richard Mirsky, 5203 Leesburg Pike, Suite 1406, Falls Church, VA 22041-3466.

FOR FURTHER INFORMATION CONTACT: Richard Mirsky, Office of Industrial Base Assessment, 5203 Leesburg Pike, Suite 1406, Falls Church, VA 22041-3466. Tel. 703-756-2310.

David M. Hickman,
Deputy Director, Office of Industrial Base Assessment.

[FR Doc. 90-28687 Filed 12-6-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Northeast Multispecies Fishery

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the New England Fishery Management Council (Council) has submitted Amendment 4 (amendment) to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) for review by the Secretary of Commerce. Comments are invited from the public on the Amendment and associated documents.

DATES: Comments will be accepted until January 23, 1991.

ADDRESSES: Send comments to Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930. Clearly mark the outside of the envelope "Comments on Multispecies Amendment 4". Copies of the amendment, Environmental Assessment, Minority Report, and Regulatory Impact Review/Initial Regulatory Flexibility Analysis are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01960.

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

SUPPLEMENTARY INFORMATION: This amendment was prepared under the provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) This amendment proposes measures for managing the multispecies finfish fisheries in the Northwest Atlantic and establishes definitions of overfishing for Atlantic cod, haddock, winter flounder, yellowtail flounder, American plaice, witch flounder, redfish, silver hake, red hake, and ocean pout.

Amendment 4 contains the following proposed changes and additions to the management system: (1) Modifications to the Exempted Fisheries Program; (2) addition of a framework mechanism to modify shrimp gear requirement; (3) inclusion of silver hake (whiting), red hake and ocean pout in the multispecies finfish management unit; (4) establishment of a 2½ inch minimum codend mesh size for the mixed trawl fishery in the multispecies fishery; (5) allowance of fishing for silver hake (whiting) in the Cultivator Shoal area within set boundaries and time periods; (6) a framework measure designed to protect small yellowtail flounder in the Southern New England area; (7) a framework measure designed to protect small Atlantic cod on Stellwagen Bank and Jeffreys Ledge; (8) a modification of the language that allows nets or smaller mesh than the regulated mesh aboard, but not in use, in the Regulated Mesh Area, and (9) additional measures for the Southern New England yellowtail flounder closure area.

The receipt date for this amendment is November 24, 1990. Proposed regulations to implement this amendment are scheduled to be published within 15 days.

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

List of Subjects in 50 CFR Part 651

Fish, Fisheries, Reporting and recordkeeping requirements, Vessel permits and fees.

Dated: December 3, 1990.

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

[FR Doc. 90-28701 Filed 12-3-90; 4:45 pm]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 55, No. 236

Friday, December 7, 1990

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

Forest Service

[EIS No. 900070]

Allegheny National Forest; Warren County, Pennsylvania; Motel/Restaurant Complex Site Selection

AGENCY: Forest Service, USDA.

ACTION: Notice; cancellation of decision.

SUMMARY: On March 2, 1990, a notice of availability of the final environmental impact statement and accompanying Record of Decision to select a site for the possible development of a motel/restaurant complex adjacent to the Allegheny Reservoir, Allegheny National Forest, was published in the *Federal Register* (55 FR 7585). A correction to that notice was published March 30, 1990 (55 FR 12006).

In the Record of Decision, the Forest Supervisor adopted Alternative A, which selects Kinzua Beach as the preferred site. The Forest Service now gives notice that the Forest Supervisor is vacating that decision.

The need for considering the selection of a site for the potential development of a motel/restaurant complex inside the proclamation boundary of the Allegheny National Forest may be reconsidered when the Forest Plan for the Allegheny National Forest is revised.

Legal notice of this determination will be published in the *Warren Times Observer*, Warren, Pennsylvania and notice of this action will be mailed to those who commented on the environmental impact statement.

DATES: This action is effective upon publication in the *Federal Register* December 7, 1990 or the *Warren Times Observer*, Warren, PA.

CONTACT: Dale Dunshie, Information Management Team Leader 222 Liberty Street, P.O. Box 847, Warren, PA 16365; telephone 814/723-5150 for further information.

Dated: November 30, 1990.

David J. Wright,

Forest Supervisor.

[FR Doc. 90-28748 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-11-M

Sequoia National Forest, Tulare County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to harvest and regenerate timber and rehabilitate the watershed burnt in the Stormy Compex Fire on the Hot Springs and Greenhorn Ranger Districts of Sequoia National Forest. The Sequoia National Forest Land and Resource Management Plan has been prepared.

The alternatives to be considered in the Stormy II Fire Salvage Environmental Impact Statement will range from "no action" to harvesting up to approximately 50 million board feet. The quantity of timber cut, road construction and reconstruction, and the physical, biological, economic, and social effects of project implementation will be analyzed within the context of the alternatives. Potential resource issues which may affect alternative development are sensitive species habitat, timber harvest, and watershed rehabilitation.

The California Department of Fish and Game and the U.S. Fish and Wildlife Service will be invited to participate as cooperating agencies to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the proposed timber sale areas. Federal, State, and local agencies; industry; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues and/or concerns.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

Scoping will be conducted during the month of December 1990.

The analysis is expected to take approximately 2 months to complete. The draft EIS is expected to be filed with the Environmental Protection

Agency (EPA) and available for public review and comment by March 1991. At that time EPA will publish a notice of availability of the draft EIS in the *Federal Register*. The comment period on the draft EIS will be 45 days from the date of the EPA's published notice of availability. All persons interested in the proposed project are urged to participate at that time. Comments on the draft EIS should be as specific as possible and may address the adequacy of the EIS or the merits of the alternatives considered. (See the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.)

Federal court decisions have established that reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the 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 in a timely manner so that the agency can respond to them in the final EIS.

After the comment period ends on the draft EIS, comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by mid-June 1991. In the final EIS, the Forest Service is required to respond to comments received on the draft EIS (40 CFR 1503.4). The responsible official will consider these comments, their responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding the project proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision which is published simultaneously with the final EIS.

James A. Crates, Forest Supervisor, Sequoia National Forest, Porterville, CA, is the responsible official. Written comments, questions, and suggestions concerning project scoping or the

analysis should be sent to Jim Whitfield, Sequoia National Forest, 900 West Grand Avenue, Porterville, California 93257. The telephone number is (209) 784-1500.

Dated: November 30, 1990.

James A. Crates,

Forest Supervisor.

[FR Doc. 90-28713 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

High Seas Salmon Fisheries off Alaska

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

ACTION: Notice of availability of an amendment of a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council (Council) has submitted Amendment 4 to the Fishery Management Plan for the Salmon Fisheries in the Exclusive Economic Zone off the Coast of Alaska (FMP) for Secretarial review, and is requesting comments from the public. Amendment 4 provides a definition of "overfishing" as required by NOAA regulations at 50 CFR part 602 which direct the fishery management councils to amend their fishery management plans to include definitions of overfishing for the fisheries involved. Copies of amendment 4 and the associated Environmental Assessment and Federalism Assessment may be obtained from the address below.

DATES: Comments on Amendment 4 should be submitted on or before January 28, 1991.

ADDRESSES: All comments should be sent to the Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1168. Copies of amendment 4, the Environmental Assessment, and the Federalism assessment are available upon request from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510.

FOR FURTHER INFORMATION CONTACT: Aven M. Anderson, National Marine Fisheries Service, Alaska Region, Juneau, Alaska (907) 586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act; 16 U.S.C. 1801 *et seq.*) requires each Regional Fishery Management Council to submit fishery management plan

(FMP) amendments to the Secretary of Commerce (Secretary) for review, approval, and implementation. The Magnuson Act also requires that the Secretary, upon receiving the FMP amendment, immediately publish a notice that the amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve, disapprove, or partially disapprove the amendment.

The Magnuson Act establishes seven national standards for fishery conservation and management which fishery management plans and plan amendments must meet to be approved and implemented; the Magnuson Act also requires the Secretary to publish guidelines for the Councils to use in conforming to these national standards. The guidelines (50 CFR part 602) were revised in 1989 (54 FR 30711 *et seq.*) to require that the Councils amend their fishery management plans to include definitions of overfishing for the fisheries involved. Specifically, the NOAA guidelines require that each FMP must specify, to the maximum extent possible, an objective and measurable definition of overfishing for each stock or stock complex covered by an FMP and provide an analysis of how the definition was determined and how it relates to reproductive potential. Amendment 4 is intended to address these requirements.

In developing Amendment 4, the Council examined three alternatives regarding the definition requirement for salmon stocks occurring the EEZ off Alaska: (1) The status quo (i.e., no definition of overfishing), (2) a definition based upon goals and management objectives set by the Pacific Salmon Commission and the Alaska Board of Fisheries, and (3) a definition incorporating the fishery management policies and definitions of overfishing adopted by the Pacific Salmon Commission and the Alaska Board of Fisheries. The Council adopted the third alternative as its preferred definition of overfishing. The specific management policies and definitions of overfishing promulgated by the Alaska Board of Fisheries and the Pacific Salmon Commission are set forth in Amendment 4.

No Federal regulatory action is necessary to implement Amendment 4. The Council has determined that the proposed amendment is consistent to the maximum extent practicable with the coastal zone programs of the governments in the Council's region. The amendment incorporates an Environmental Assessment, which is available upon request (see Addresses).

Neither a Regulatory Impact Analysis nor a Regulatory Flexibility Analysis was prepared since Amendment 4 will not require rulemaking. There will be no impact on marine mammals or endangered species. No information collection burdens are imposed. If actions are taken subsequently to implement new conservation and management measures to prevent overfishing, the appropriate analyses and determinations will be made at that time.

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

Dated: December 3, 1990.

Joe P. Clem,

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

[FR Doc. 90-28704 Filed 12-4-90; 9:00 am]

BILLING CODE 3510-22-M

Pacific Coast Groundfish Fishery

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

ACTION: Notice of availability of amendment to a fishery management plan, and request for comments.

SUMMARY: NOAA issues this notice that the Pacific Fishery Management Council (Council) has submitted Amendment 5 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for review by the Secretary of Commerce (Secretary), and is requesting comments from the public.

DATE: Comments will be accepted until January 28, 1991.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115-0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, California 90731-7415. Copies of the amendment are available from the Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW First Avenue, Portland, Oregon 97201-5344.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6140; E. Charles Fullerton, 213-514-6196; or the Pacific Fishery Management Council, 503-326-6352.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Act) requires that a Regional Fishery Management Council submit any amendment to a fishery management plan it has prepared to the Secretary for review and approval, disapproval, or partial disapproval. The Act also requires that upon receipt of

the amendment, the Secretary shall publish immediately a notice stating the amendment is available for public review and comment. Comments received from the public will be considered during the secretarial review.

Amendment 5 proposes a definition of overfishing that will be applied to the Pacific coast groundfish fishery off Washington, Oregon, and California, consistent with the criteria at 50 CFR 602.11(c)(5). The Council recommended an overfishing definition that is an upper limit to the fishing mortality rate rather than a threshold biomass. Specifically, the Council defined overfishing as exceeding the fishing mortality rate that would reduce spawning biomass per recruit to 20 percent of its unfished level (F(20%)). When spawning biomass is greater than that which produces the maximum sustainable yield (MSY), the overfishing rate equals the greater of F(20%) or the rate that would, in one year, reduce the spawning biomass to the level that produces MSY. This definition is to be used as an upper limit or constraint to fishing and not as a targeted optimal harvest policy. It is linked to the same productivity assumptions used for determined levels of acceptable biological catch (ABC). Therefore, an objective evaluation of overfishing is feasible for the predominant species and species groups in the Pacific coast groundfish fishery.

Implementation of Amendment 5 will provide fishery managers with an effective means to prevent a stock from closely approaching or reaching an overfished status. The current FMP, which was modified by Amendment 4 on November 15, 1990, contains several safeguards that are intended to alert the Council before an "overfishing" threshold is triggered. First, the Council must justify its recommendation if a harvest guideline or quota is set above an ABC. Second, the Council must make a determination that a resource conservation issue will not occur if landings exceed the ABC or harvest guideline. However, as stated in the 602 Guidelines at 50 CFR 602.11(c)(8), overfishing of a species that is unavoidably caught in a multispecies fishery may be authorized, if justified by the Council, if an analysis demonstrates that it will result in a net benefit to the Nation, and if it does not result in a threatened or endangered listing under the Endangered Species Act.

The Council determined that this amendment would be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management

programs of California, Oregon, and Washington. Letters have been sent to all of the States listed above stating that the Council concluded that Amendment 5 is consistent to the maximum extent practical with the States' coastal zone management programs. The responsible state agencies are reviewing this finding under section 307 of the Coastal Zone Management Act.

Amendment 5 does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

The receipt date for Amendment 5 was November 28, 1990. Proposed regulations are unnecessary for implementation of Amendment 5. A decision by the Secretary on approvability of the amendment is scheduled for March 1, 1991.

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

Dated: December 3, 1990.

David S. Crestin,

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

[FR Doc. 90-28691 Filed 12-3-90; 4:09 pm]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

December 3, 1990.

AGENCY: Committee for the implementation Textile Agreements CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status to these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-8041. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 632 is being increased for special shift,

reducing the limit for Category 640-D. As a result, the limit for Category 632, which is currently filed, will re-open.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Also see 55 FR 1706, published on January 18, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee For The Implementation of Textile Agreements

December 3, 1990.

Commissioner of Customs, Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. This directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on December 10, 1990, you are directed to amend further the January 11, 1990 to adjust the limits for the following categories, in accordance with the provisions of the current bilateral agreement between the Governments of the United States and Republic of Korea, as amended:

Category	Adjusted twelve-month limit ¹
Sublevels in Group II:	
632.....	1,573,613 dozen pairs.
640 D ²	2,956,930 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1989.

² Category 640 D: only HTS 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.

The Committee for the implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-28689 Filed 12-8-90; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 7, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 27, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (55 FR 30745) of proposed addition to the Procurement List.

Comments on this proposed addition were received from the current contractor for this item. The contractor noted that it had been a continuous supplier of items of this type for four years; its plant is located in a labor surplus area; these items made up a significant part of its business and that of certain subcontractors; and the number of employees of one subcontractor who would be displaced if this item were added to the Procurement List exceeded the estimated number of persons with severe disabilities who would gain employment. The contractor noted that the proposed price was higher than that of the current contract, and also questioned whether there was adequate evidence to support a determination that the workshop proposed to produce this item was capable or that the Committee had made an independent capability determination. Finally, the contractor questioned whether the proposed addition met statutory requirements concerning the ratio of workers with disabilities to other workers.

The Committee has taken into account the record of the contractor as a continuous supplier of items of this type and its location in a labor surplus area in determining that the proposed addition would not constitute serious adverse impact on that contractor. The proposed addition concerns only 55 percent of the Government requirement for one of several different disposable coveralls procured by the Government;

the remainder of the Government requirement for this item and several other disposable coveralls remain available for bids from this and other contractors. As the market for these other coveralls is not affected by the proposed addition, the impact on the current contractor is not as significant as its comments allege.

The commenter claims that its subcontractors would lose the portion of business and employment attributed to their production of disposable coveralls if this item is added to the Procurement List. As the above paragraph notes, the impact of losing just this partial requirement for one disposable coverall would be less than alleged. Additionally, the Committee has determined that the creation of jobs for people with severe disabilities, a group which has extremely high unemployment rates, outweighs the potential loss of jobs for more employable people.

While the price the Government will pay for this item on the Procurement List may slightly exceed the current contract price, it should be noted that the statute (41 U.S.C. 47(b) and 48) requires that the price be a fair market price, not the lowest possible price. The price established for this item falls within the Committee guidelines for a fair market price.

The Committee uses the same standards for determining industrial capability of work centers as that used for other Government contractors. Based on on-site inspections by the contracting activity and the central nonprofit agency, the Committee has determined that the workshop is capable of producing these coveralls in compliance with the Government's specification and delivery requirements.

Contrary to the commenter's assertions, the statutory requirement (41 U.S.C. 48b(3)(c) and (4)(c)) that 75 percent of the direct labor employed in the production of commodities and the provision of services by a workshop must be performed by people with severe disabilities applies to the totality of commodities and services produced or provided by the workshop and not to individual items on the Procurement List. Accordingly, the Committee permits lower levels of direct labor on individual items, particularly during a phase-in of production of a new item, as long as the overall requirement is met. In this case, no phase-in was required as the item will be produced with at least 75 percent direct labor by persons with severe disabilities from the start of production.

After consideration of the material presented to it concerning the capability

of a qualified workshop to produce these commodities at a fair market price, the impact of the addition on the current or most recent contractor, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 52-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodities listed.

c. The action will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to the Procurement List:

Coveralls, Disposable

8415-01-092-7529

8415-01-092-7530

8415-01-092-7531

8415-01-092-7532

8415-01-092-7533

(55 percent of Government's Requirement)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-28757 Filed 12-6-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to the Procurement List a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 7, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On September 28, 1990, the Committee for

Purchase from the Blind and Other Severely Handicapped published notice (55 FR 39686) of proposed addition to the Procurement List. After consideration of the material presented to it concerning the capability of a qualified workshop to produce this commodity at a fair market price, the impact of the addition on the current or most recent contractor, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 52-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government. Accordingly, the following commodity is hereby added to the Procurement List: Key Blank, Standard, USPS 5340-00-NIB-0002

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-28758 Filed 12-6-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 7, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is

to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped. It is proposed to add the following commodities and services to the Procurement List:

Commodities

Remover, Floor Polish

7930-00-045-6923

Brassard, Military Police

8455-00-818-8826

Marker, Traffic Control Device

9905-01-009-7826

Services

Commissary Shelf Stocking & Custodial,

Fitzsimons Army Medical Center

Commissary, Denver, Colorado

Commissary Shelf Stocking & Custodial, Fort Riley, Kansas

Janitorial/Custodial, F. Edward Hebert

Federal Building, New Orleans,

Louisiana

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-28759 Filed 12-6-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Additions; Correction

In notice document 90-23640, appearing on page 40904 in the issue of Friday, October 5, 1990, third column; Mask, Surgical, 6515-00-982-7493 should be followed by (Requirements of the Department of Veterans Affairs, Hines, Illinois).

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-28760 Filed 12-6-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions and Deletion; Correction

In notice document 90-27077, appearing on page 47905 in the issue of Friday, November 16, 1990, second column, line 31; Port Angeles, California should read Port Angeles, Washington.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-28761 Filed 12-6-90; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 91-C0003]

Graco Children's Products, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the *Federal Register* in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Graco Children's Products, Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by December 24, 1990.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Jr., Trial Attorney, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION: (attached).

Dated: December 3, 1990.

Sheldon D. Butts

Deputy Secretary.

SETTLEMENT AGREEMENT AND CONDITION OF SETTLEMENT

1. This settlement Agreement, entered into between Graco Children's Products, Inc., a corporation, (hereinafter, "Graco"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

2. The provisions of this Settlement Agreement and Condition of Settlement shall apply to Graco and to each of its successors and assigns.

I. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission.

(hereinafter, "Commission"), an independent federal regulatory agency of the United States of America, established by Congress pursuant to Section 4 of the Consumer Product Safety Act (CPSA), as amended 15 U.S.C. 2053.

4. Graco is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal corporate offices located at Main Street, Elverson, Pennsylvania.

II. Jurisdiction

5. Graco has distributed certain models of children's strollers (hereinafter, "Strollers"), (a) for sale to a consumer for use in or around a permanent or temporary household or residence, in recreation of otherwise or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, in recreation or otherwise. The strollers are "consumer products" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

6. Graco manufactured and imported the strollers for sale to consumers throughout the United States. Graco, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a)(1), (4) and (11) of the CPSA 15 U.S.C. 2052(a)(1), (4) and (11).

III. The Product

7. Graco manufactured, and distributed several stroller models from September 1983 through September 1988, containing the design of concern to the staff. The Graco strollers involved are full size "stroll-a-bed" type strollers that used a particular seat recline mechanism of which there may still be in excess of 1.0 million currently in distribution. The specific stroller models involved are those listed in Attachment A, appended to, and incorporated by reference into, this Settlement Agreement.

IV. Staff Allegations

8. In 1988 Graco began receiving reports of finger injuries to children placed in the strollers. By August, 1988 Graco had learned of four incidents involving fracture, laceration, or partial finger tip amputation in the stroller's recline mechanism latch. In August, 1988 Graco began investigating possible alternative recline mechanism designs.

9. In October, 1988, Graco created a plan to improve the safety of the stroller recline mechanism latch design. In November, 1988, Graco designed and ordered plastic guards to be placed over each of the two recline mechanism

latches on strollers in Graco inventory. The guard was designed to prevent children from placing fingers in the recline mechanism latch. The installation of these guards was completed on all inventory in May of 1989.

10. In January, 1989, Graco introduced a safety change in the stroller production process. All of the subject strollers produced after January 4, 1989 were manufactured with a plastic guard affixed over each of the two recline mechanism latches.

11. By the end of July, 1989, Graco had learned of a total of seven incidents involving laceration, fracture or fingertip amputation in the stroller's recline mechanism.

12. The Commission Staff believes that Graco had received sufficient information no later than August, 1988, to reasonably support the conclusion that the strollers may contain a defect which could create a substantial product hazard. The company did not report such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

V. Response of Graco

13. Graco denies each and all of the staff allegations with respect to its strollers. It further and specifically denies that its products contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further specifically denies an obligation to report information to the Commission under section 15(b) of the CPSA, 15 U.S.C. 2064(b), with respect to the subject strollers.

14. Specifically, and without limitation on any of the denials set forth above, Graco alleges that there are no design, manufacturing, labeling, warning, instruction or other defects within the meaning of the CPSA. Graco further alleges that the incidents described in paragraph 8 were caused by highly unusual circumstances or possibly through improper use by the user or parent and does not admit any liability for any accidents or injuries with respect to the incidents described herein.

15. Graco further alleges that the recline latch mechanism in use on the subject stroller described in paragraph 7 was state-of-the-art design in the relevant industry, continues to be used by some stroller manufacturers on strollers that are presently sold to consumers, and may exist in substantially the same form on many strollers sold during the period of time in

question, the majority of which were not Graco manufactured or distributed units.

VI. Agreement of the Parties

16. Graco and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Condition of Settlement.

17. Graco agrees to pay the Commission the amount of \$100,000 within 30 days after service of the final acceptance of the Commission of this Settlement Agreement. This payment is made as a Condition of Settlement of disputed allegations by the staff that Graco violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), with regard to the subject strollers manufactured and sold by Graco between 1986 and 1988. Graco makes no admission of any fault, liability or statutory violation. The Commission does not make any determination that such strollers described in paragraph 7 contain a defect which creates or could create a substantial product hazard or that a violation of the CPSA has occurred. Neither this Agreement nor Condition of Settlement shall constitute evidence or an admission with respect to any allegation of the staff, or of any wrongdoing, misconduct, or violation of any statute or rule on the part of Graco.

18. This Settlement Agreement constitutes a settlement of the disputed allegations of violations of the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), alleged on the basis of the information that the Commission currently possesses concerning the recline mechanism latch on the subject strollers described in paragraph 7. The Commission specifically waives its right to pursue any further payment based on the information which the staff currently possesses with respect to the recline mechanism latch defect alleged to be present in the strollers identified in paragraph 7.

19. Upon provisional acceptance of this Settlement Agreement and Condition of Settlement by the Commission, this Settlement Agreement and Condition of Settlement shall be placed on the public record and in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Condition of Settlement within 15 days, the Settlement Agreement and Condition of Settlement and accompanying Order will be deemed finally accepted on the 16th day after the date it is published in

the Federal Register, in accordance with 16 CFR 1118.20(f).

20. Upon final acceptance of this Settlement Agreement and Condition of Settlement by the Commission, Graco knowingly, voluntarily and completely waives any rights it may have. (1) To an administrative or judicial hearing with respect to the staff allegations cited herein (2) to judicial review or to the challenge or contest of the validity of the Commission's action with regard to the staff allegations cited herein (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the staff claims cited herein. By making this waiver, Graco does not concede that the subject strollers contain a defect which creates or could create a substantial product hazard within the meaning of section

hazard within the meaning of section 15(b) of the CPSC, 15 U.S.C. 2064(b).

21. The Commission may disclose the terms of the Settlement Agreement and Condition of Settlement and Order to the public, subject to the normal procedures for public disclosure of information required by section 6 of the Consumer Product Safety Act and all applicable regulations.

22. This Settlement Agreement is binding upon the Commission and Graco and, with the exception of Graco's successors and assigns, does not bind or limit others not party to this Settlement Agreement and Condition of Settlement.

23. The parties further agree that the accompanying Order be issued under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject Graco to appropriate legal action.

24. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement,

Condition of Settlement and accompanying Order may be used to vary or to contradict its terms.

Graco Children's Products, Inc.
Dated: September 25, 1990 By:

Jerome J. Drobinski,
Vice President, Product Development, The Consumer Product Safety Commission.

David Schmeltzer,
Associate Executive Director, Directorate for Compliance and Administrative Litigation.

Alan H. Schoem,
Director, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

Dated: September 25, 1990.

William J. Moore, Jr.,
Trial Attorney, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

ATTACHMENT A

[Stroller Model Number Profile]

	1984	1985	1986	1987	1988	1989
Travel-Mate.....	7405 7405AW 57521 7405B 57024		5506 57006 5507 57015	5506 57006 57016	5506 57006 57016 57026 7100 7100T 7101	5506 57006 7100 7101 7100T 57026
Stroll-a-Bed.....		5524 57023 57024 57024W 57032 57033 57034	5508 57013 57014 57024 57034 57024 57044 57104	5507 57014 57024 57032 57034 57034W 57044 57104	37062 5503 5507 56024 56024W 57034 57055 57104 57115 7200 2408 57013 57163 7211	36455 5503 56024 57055 57104 7200 7210 57104 7211
Elite.....		5561 57043	1080 4610 57043 57183 57073 57203	5508 57013 57043 57053	57173 57183 57213 57223 57253 7310	57173 57213 57223 7310 1003 2408 57163 57243 7300 7320DB 9080
Brougham.....			58593	58533 58593	1085 4610 58533 7500	1085 4610 37060 7500 L7500 58593
Regency.....				58603	36453 58603 7600 58809	L7600 58603 7600 58809
Regency Ltd.....						7610
Premier.....				58719 58709	58719	58719 7700 7701
Premier Ltd.....					59849	59849

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby *Ordered*, that Graco Children's Products, Inc. shall pay, within 30 days of final acceptance of this Settlement Agreement and service of this order, a sum in the amount of \$100,000.00 to the Consumer Product Safety Commission.

Provisionally accepted on the 3rd day of December, 1990.

By order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc 90-28715 Filed 12-6-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF ENERGY

Morgantown Energy Technology Center, Financial Assistance Award to Westinghouse Electric Corporation (Cooperative Agreement)

AGENCY: Morgantown Energy Technology Center (METC), U.S. Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for Cooperative Agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i), the DOE, Morgantown Energy Technology Center, gives notice of its plans to award a sixty (60) month Research Cooperative Agreement to Westinghouse Electric Corporation, Pittsburgh, Pennsylvania, for research entitled "Development of High-Temperature Tubular Solid Oxide Fuel Cell (SOFC) Generators." The estimated cost of the project is \$155,000,000 of which Westinghouse will cost share approximately \$91,000,000 and DOE will share approximately \$64,000,000.

FOR FURTHER INFORMATION CONTACT: Crystal A. Sharp, I07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone (304) 291-4386, Procurement Request No. 21-91MC28055.000.

SUPPLEMENTARY INFORMATION: The objective of this project is to develop tubular solid oxide fuel cell (SOFC) technology to the point of acceptable risk for private sector commercialization. This will involve the development of commercial market reference designs which in turn will define SOFC cost and performance criteria. Cell technology which meets those criteria will be developed and demonstrated. Generator test and

development that demonstrate progression of the technology towards commercialization will be conducted. Activities that involve the integration of potential commercial users with SOFC operation will form the basis of a field test program.

Issued: November 29, 1990.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 90-28765 Filed 12-6-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP91-504-000, et al.]

Columbia Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

November 30, 1990.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corp.

[Docket No. CP91-504-000]

Take notice that on November 26, 1990, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP91-504-000, a request pursuant to §§ 157.205 and 157.216 of the Federal Energy Regulatory Commission's (Commission) Regulations under the Natural Gas Act, and Columbia's blanket certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act (NGA), to abandon three (3) additional Points of Delivery to Columbia Gas of Ohio, Inc. (COH), for mainline taps as a result of the sale to Cameron Drilling Company, Inc. (Cameron) of certain non-jurisdictional facilities located in Muskingum County, Ohio, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that the jurisdictional facilities that it requests authorization to abandon consists of three (3) additional Points of Delivery from mainline tap consumers¹ located on, and served directly from Columbia's existing gathering facilities to be sold and that these three (3) Points of Delivery were inadvertently omitted due to clerical error from Columbia's similar request in Docket No. CP90-2144-000 filed with the

¹ The three (3) Points of Delivery serve a total of four (4) mainline customers as a result of one (1) manifold setting.

Commission on September 5, 1990.

Further, Columbia states that the proposed abandonment will not result in the abandonment of service to any customer and that National Gas and Oil Corporation will become responsible for providing and maintaining all necessary gas supplies and deliveries to the former mainline customers of COH.

Comment date: January 14, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP91-488-000]

Take notice that on November 20, 1990, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP91-488-000 a request pursuant to § 157.205 of the Commission's Regulations for permission and approval to abandon certain pipeline facilities located in Pittsburg and Kay Counties, Oklahoma under Arkla's blanket certificate issued in Docket No. CP82-384-000, 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.

Arkla proposes to abandon, in place, six 1-inch sales taps located on Arkla's Line 32 (Line 32) in Pittsburg County, Oklahoma used for the delivery of natural gas to Arkansas Louisiana Gas Company (Arkansas) for resale to domestic customers and to abandon, in place, 2,050 feet of 3-inch pipe and 3,155 feet of 1-inch pipe of Line A-3-C-1 in Kay County, Oklahoma used for delivery of natural gas to Arkansas for resale. Arkla states that Line 32 which is old and deteriorated is no longer economically feasible to operate and poses a safety hazard. Arkla indicates that it plans to abandon Line 32 in place under § 157.216(a) of the Commission's Regulations. Arkansas' customers have consented to the abandonment of these sales taps, it is stated. Arkla states that it will install, at its own expense, facilities for these customers to receive propane service. Also, Arkla states that Line A-3-C-1 was a market lateral to support Arkansas' service to rural customers and that there are no longer any customers receiving service from these facilities. Due to its age, Line A-3-C-1 has become deteriorated and is no longer economically feasible to operate, it is indicated. Arkansas has consented to the abandonment of these facilities, it is stated.

Arkla states that the cost to abandon these facilities is approximately \$2,296.

Comment date: January 14, 1991, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas Co.

[Docket No. CP91-505-000]

Take notice that on November 27, 1990, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP91-505-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of Osborn Heirs Company (Osborn), a producer, under the authorization issued in Docket No. CP89-589-000 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.

CIG would perform the proposed interruptible transportation service for Osborn, pursuant to a transportation service agreement dated June 1, 1990 (contract No. 13055). The term of the transportation agreement is from June 1, 1990, and shall continue in full force and effect for a term extending until May 31, 1991, and month to month thereafter until terminated by 30 days' prior written notice by either party. CIG proposes to transport on a peak day up to 15,000 Mcf; on an average day up to 5,000 Mcf; and on an annual basis up to 1,700,000 Mcf of natural gas for Osborn. CIG states that it would receive the gas at an existing receipt point on its system in Kansas and redeliver the subject gas, less fuel gas and lost and unaccounted-for gas, for the account of Osborn in Kearny County, Kansas. It is indicated that CIG would charge Osborn for the proposed transportation the rates fixed pursuant to CIG's Rate Schedule TI-1, or any effective superseding rate schedule on file with the Commission. CIG avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. CIG commenced such self-

implementing service on October 1, 1990, as reported in Docket No. ST91-3155-000.

Comment date: January 14, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Florida Gas Transmission Co.

[Docket No. CP91-506-000]

Take notice that on November 27, 1990, Florida Gas Transmission Company (Florida Gas) Post Office Box 1087, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-506-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of Crescent City Natural Gas (Crescent), under the authorization issued in Docket No. CP89-50-000, *et al.*, 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.

Florida Gas would perform the proposed interruptible transportation service for Osborn, pursuant to a transportation service agreement dated August 15, 1990 (transportation agreement No. 3548). The term of the transportation agreement is from August 15, 1990, and shall continue for a primary term of one month and month to month thereafter unless terminated by either party upon 30 days written notice to the other party. Florida Gas proposes to transport on a peak day up to 1,050 MMBtu, on an average day up to 788 MMBtu; and on an annual basis up to 383,250 MMBtu of natural gas for Osborn. Florida Gas states that it would receive the gas at multiple receipt points located in various counties or parishes of Texas, Louisiana, Mississippi, Alabama, Florida, and various offshore areas off the states of Texas and Louisiana and redeliver the subject gas to an existing delivery point located in Putnam County, Florida. It is alleged that Florida Gas would charge Crescent for the rates as set in its Rate Schedule ITS-1. Florida Gas avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. Florida Gas commenced such self-implementing service on October 1, 1990, as reported in Docket No. ST91-1952-000.

Comment date: January 14, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Western Transmission Corp.

[Docket Nos. CP91-489-000, and CP91-490-000]

Take notice that on November 20, 1990, Western Transmission Corporation (Applicant), 1801 California Street, Suite 3500, Denver, Colorado 80202, filed in the above referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP86-717-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.²

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: January 14, 1991, in accordance with Standard Paragraph G at the end of this notice.

² These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name	Peak day ¹ average day annual	Receipt points	Delivery points	Start up date rate schedule service type	Related ² docket, contract date
CP91-489-000 (11-20-90)	Grand Valley Gas Company.....	6,100 1,000 365,000	WY.....	WY.....	10-4-90, OAT-2, Interruptible.	ST91-4037-000 9-01-90
CP91-490-000 (11-20-90)	TXO Production Corp.....	500 250 91,250	WY.....	WY.....	10-15-90, OAT-2, Interruptible.	ST91-4036-000 9-01-90

¹ Quantities are shown in Mcf.

² If an ST docket is shown, 120-day transportation service was reported in it.

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. 90-28702 Filed 12-6-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Special Research Grant Program: Nuclear Engineering Research

AGENCY: Department of Energy (DOE), Idaho Operations Office.

ACTION: Notice inviting grant applications.

SUMMARY: The Idaho Operations Office of the Department of Energy in keeping with the Special Research Grant Program, 10 CFR part 605, hereby announces its interest in receiving applications for special research grants that will support nuclear engineering research.

However, in accordance with 10 CFR 600.7(b)(1) eligibility for awards under this program is restricted to colleges and universities that have nuclear engineering programs.

DATES: To permit timely consideration for awarding during FY 1991, applications submitted in response to this Notice should be received by the Idaho Operations Office, Contracts

Management Division by January 31, 1991.

ADDRESSES: Applications should be forwarded to: James P. McGowan, U.S. Department of Energy, Idaho Operations Office, Contracts Management Division, 785 DOE Place, Idaho Falls, Idaho 83402, ATTN: Nuclear Engineering Research.

FOR FURTHER INFORMATION CONTACT: Mr. James P. McGowan, Financial Assistance Branch, Idaho Operations Office, USDOE, Idaho Falls, Idaho 83402.

SUPPLEMENTARY INFORMATION:

Applications should be directed to state-of-the-art research that contributes to the following areas: Applied nuclear sciences, reactor operations and control, reactor neutronics, nuclear thermal hydraulics, nuclear materials, advanced reactor concepts, nuclear technology for space, waste management and environmental remediation, and heavy water reactor safety research for Westinghouse Savannah River Laboratory. The research to be supported should be innovative and revolutionary, rather than evolutionary. Incremental improvements in technologies related to conventional light reactor (LWR) technologies or research typically supported by the U.S. Nuclear Regulatory Commission will not be supported.

1. *Applied nuclear sciences* focuses on research applications of radiation and research reactors, including, but not limited to improved instrumentation or measurement techniques for health physics or biomedical research and the use of research reactors for fundamental studies, and other innovative applications of nuclear science which support DOE missions and goals.

a. Improved instrumentation for health physics or biomedical applications focuses on the development of dosimetry techniques for monitoring of radiation exposures due to neutrons and other radiation in medical application of radiation sources.

b. The use of research reactors for fundamental studies focuses on the development of novel research

capabilities using research reactors or the application of radiation from reactors to probe matter in pursuit of basic knowledge in areas such as condensed matter physics, chemical kinetics, or biotechnology.

c. Other innovative applications of nuclear science which have not been specifically identified elsewhere in this program call will also be considered for funding if they support DOE missions and goals.

2. *Reactor operations and control* includes innovative applications of computer systems and computational tools to improvements in the safety and reliability of nuclear reactor operation, including advances in reactor control and instrumentation, and real-time instrumentation to monitor component and system performance.

a. Advances in reactor control and instrumentation includes the application of human factors engineering and/or expert systems to improve monitors and displays for the control room environment and the application of real-time signal analysis and processing to improve fault detection in reactor instrumentation and components.

b. Real-time instrumentation includes, but is not limited to, the monitoring of component performance to optimize component maintenance and to minimize failure, and the development of nuclear or non-nuclear methods to detect in real time the radiation embrittlement of nuclear reactor vessel materials.

3. *Reactor neutronics* focuses on improvements in reactor computational methodologies in the light of continuing dramatic improvements in computational hardware, including, but not limited to, improvements in core neutronics, reactor kinetics, radiation transport, fission product behavior, nuclear fuel management and fuel cycle optimization.

4. *Nuclear thermal hydraulics* focuses on improvements of models and analysis of thermal hydraulic behavior in a nuclear reactor system, including, but not limited to, applications to

multiphase flow, convective and conductive heat transport, degraded core cooling and emergency coolant flow.

5. *Nuclear materials* addresses the application of engineering sciences to improve knowledge of material behavior in a radiation environment typical of nuclear power plants, including, but not limited to, the identification of improved materials for plant life extension, and the modeling of corrosion and erosion in such environments.

6. *Advanced reactor concepts* focuses on innovative design concepts for improved power reactor performance, including, but not limited to, advanced converter reactors, liquid metal reactors, light water reactors and high temperature gas-cooled reactors.

7. *Nuclear technology for space* focuses on the applications of novel nuclear technologies to the requirements of planetary exploration of the President's Space Exploration Initiative, including, but not limited to, novel nuclear power sources and propulsion systems for planetary exploration and supplying power to a permanent non-terrestrial settlement, nuclear techniques for mineral exploration and material processing, self-illuminations systems, remote power, habitat design, and water and sewage treatment.

8. *Waste management and environmental remediation* focuses on the use of innovative nuclear instruments or nuclear techniques to monitor or remediate radioactive or mixed hazardous wastes in soil or water as part of a global effort to improve the environmental quality of a particular federal or commercial site, and includes, but is not limited to, development of active nuclear interrogation techniques for monitoring low-level environmental contaminant in situ.

9. *Heavy Water Reactor Safety Research for Savannah River Site* focuses on innovative concepts to enhance performance and safety of the DOE's existing and planned low temperature, low pressure production reactors at the Savannah River Site. Research areas of special interest are severe accident phenomena, thermal-hydraulics, reactor neutronics and human performance.

a. Severe accident phenomena research includes understanding of reactor behavior during and following postulated accidents which go beyond fuel melting, including research in aluminum fuel melt morphology, interaction of molten uranium/aluminum with water and structural materials, related fission product chemistry,

aerosol behavior of lithium and aluminum species, filter design for capture of aerosols and fission products in high volumetric flow condition, and mathematical models of the above processes.

b. Thermal hydraulic research includes improved understanding of the analysis capabilities of the RELAP5 and TRAC codes for SRS reactors, including the validation of constitutive relations for two-phase thermal hydraulics at near-atmospheric pressure conditions in annular geometry. The research program also covers development of detailed two-phase flow codes for simulation of the thermal-hydraulic precursors to fuel damage. This code development work is supported by experimental investigations of the thermal-hydraulic precursors (heated air-water-steam flows).

c. Reactor neutronics research includes improved numerical methods and modeling strategies in reactor analysis, including resonance calculations, lattice cell calculations, and full reactor static and transient calculations.

d. Human performance research includes improved understanding of operator response during routine and accident situations, including human factors, advanced operator aides, and control room design, and the application of robotics in emergency response to improve human performance.

It is anticipated that approximately \$2M will be available for grant awards during FY 1991, and that awards will range from \$50K to \$250K per year, with a typical requested project duration of two to three years. However, note that future fiscal year awards will be subject to the availability of appropriated funds. General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the OER Special Research Grant Application Kit and Guide. The application kit and guide is available from the U.S. Department of Energy, Idaho Operations Office (see address above). It is specifically requested that the "Detailed Description of Research Work Proposed" section of the proposal not exceed fifteen double-spaced pages. An abstract of the proposed work consisting of no more than 200 words should be included. The Catalog of Financial Domestic Assistance Number for this program is 81.049.

Issued in Idaho Falls, Idaho, on November 30, 1990.

R. Jeffrey Hoyles,

Acting Director, Contracts Management Division.

[FR Doc. 90-28766 Filed 12-6-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of October 22 Through October 26, 1990

During the week of October 22 through October 26, 1990, the decisions and orders summarized below were issued with respect to applications for refund or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Motion for Discovery

Murphy Oil Corp., et al./Economic Regulatory Administration, 10/22/90, KR D-0460, KR D-0461, LRZ-0010, LRZ-0011

Murphy Oil Corporation, et al. (the respondents) filed a Motion for Discovery in connection with their Statement of Objections to the Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to it on December 15, 1988. The DOE found that the PRO established a prima facie case of regulatory violation, and concluded that the respondent's numerous requests for discovery and depositions concerning the factual and legal bases of the PRO were unwarranted. The DOE also denied the respondents' requests for contemporaneous construction and administrative record discovery on the grounds that no new arguments had been presented that would cause it to reconsider denials of such discovery in previous cases. The DOE next denied a Motion for Discovery filed by the ERA. The DOE found that the ERA had not established a basis for corporate state of mind discovery. It also found that the ERA's discovery requests concerning the respondents' affirmative defenses were unnecessary, because these defenses lacked essential factual evidence in the record of the proceeding. The DOE granted the ERA's Motion to Strike an evidentiary submission of the respondents, finding that the evidence was privileged information relating to confidential settlement negotiations. It allowed the respondents to submit their own information on this issue, and also

to submit evidence on factual assertions whose sole support in the record of the proceeding were assertions contained in affidavits. Finally, the DOE denied a motion by the ERA for an Order Finding Facts on the grounds that such an order was premature in light of the additional evidentiary submissions permitted the respondents.

Implementation of Special Refund Procedures

Gasoline Marketers of America, Paul Investments, Inc., 10/22/90, KEF-138, LEF-006

The DOE issued a Decision and Order implementing procedures for the distribution of \$77,500 in principal, plus accrued interest, and \$45,534 in principal, plus accrued interest, obtained as a result of a settlement agreement and a Consent Order entered into between the DOE and the Gasoline Marketers of America (GMA) and Paul Investments, Inc. (Paul) respectively. The DOE determined that the funds should be distributed to customers that purchased motor gasoline from GMA during the period from March 1, 1979, through August 30, 1979, and from Paul during the period from March 1, 1979, through December 31, 1979. The specific information required in an Application for Refund is set forth in the Decision and Order.

United Refining Co., United Refining Company of Pennsylvania, 10/26/90, KEF-0132

The DOE issued a Decision and Order implementing procedures for the distribution of \$4,351,589.43, plus interest, received pursuant to a consent order entered into by United Refining Company and United Refining Company of Pennsylvania (United) and the DOE on January 13, 1988. The DOE determined that the funds will be distributed to United's customers who purchased certain refined petroleum products from United during specific months. The types of products and the specific months are listed in the Appendix to the Decision and Order. A number of United's subsidiaries, which are listed in the Decision and Order, are included under the definition of United for purposes of the special refund proceeding. The specific information to be included in an Application for Refund is specified in the Decision and Order.

Refund Applications

Anderson Clayton Foods, Oscar Mayer Foods, Corp., Quincy Soybean Co., 10/24/90, RF272-390, RD272-390, RF272-500, RD272-500, RF272-898

The Department of Energy (DOE) issued a Decision and Order granting

refunds from crude oil overcharge funds to Anderson Clayton Foods, Oscar Mayer Foods Corporation, and Quincy Soybean Company based on the three applicants' respective purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. The three firms were each engaged in segments of the food and food processing industry and each used the products in their business operations. The applicants were end-users of the products claimed and were therefore presumed injured. A consortium of 30 states and two territories filed virtually identical "Statements of Objectives" to the three claims. In addition, the States filed "Motions for Discovery" with respect to the claim of Anderson Clayton Foods and Oscar Mayer Food Corporation. The DOE found that the states' filings were insufficient to rebut the presumption of injury for end-users in these cases. Therefore, the Applications for Refund were granted and the Motions for Discovery were denied. The total refunds granted in this Decision are \$31,179.

B-tu-Mix Construction Co., Inc., 10/22/90, RF272-43081, RD272-43081

B-tu-Mix Construction Company is involved in the road construction industry. B-tu-Mix filed an Application for Refund as an end-user of refined petroleum products in the Subpart V crude oil refund proceeding. A group of state governments and two territories of the United States (the States) objected to the application, and provided evidence concerning the construction industry as a whole. The DOE determined that the States had failed to produce any convincing evidence to show the B-tu-Mix had been able to pass on the crude oil overcharges to its customers, and found that the States' evidence failed to properly address the individual situation of the applicant. As in previous decisions, the DOE rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as B-tu-Mix were injured by crude oil overcharges. B-tu-Mix was unable to pass through its alleged overcharges through the use of price escalator clauses. The DOE granted B-tu-Mix a refund of \$19,217, based on its approved purchases of 24,020,852 gallons of petroleum products.

Daughters of Jacob Geriatric Center, 10/23/90, RC272-99

The DOE issued a Supplemental Order to Daughters of Jacob Geriatric Center, in the crude oil subpart V proceeding. The check sent to DOJGC

had been returned, and it was determined that the refund should be rescinded until DOJGC's gallonage figures had been verified and certain irregularities concerning its representative, Infotech Management, Inc., had been investigated.

Dennis Leppert et al., 10/22/90, RF272-76585 et al.

The DOE issued a Decision and Order granting refunds to 16 purchasers of refined petroleum products in the subpart V crude oil refund proceeding. Each applicant was an end-user of the purchased products, and therefore was not required to demonstrate injury in order to qualify for a refund. The refunds approved in this Decision total \$1,392.

Exxon Corp., Tenneco Oil Co., 10/25/90, RF307-9393

The DOE issued a Decision and Order concerning an Application for Refund filed by Tenneco Oil Co. (Tenneco) in the Exxon Corporation special refund proceeding. Tenneco purchased directly from Exxon during the consent order period. The DOE determined that Tenneco was eligible for a refund of \$5,000 or 40 percent of its allocable share, whichever is greater, based on a portion of its purchases from Exxon. In Tenneco's case, \$5,000 was greater. However, the DOE determined that certain purchases made by Tenneco during the Exxon consent order period were spot purchases. Accordingly, Tenneco did not receive a refund for those spot purchases. The sum of the refund granted to Tenneco in this Decision is \$6,696 (\$5,000 principal plus \$1,696 interest).

MacAndrews & Forbes Co., 10/24/90, RF272-556, RD272-556

The Department of Energy (DOE) issued a Decision and Order granting a refund from crude oil overcharge funds to MacAndrews & Forbes Company based on the firm's purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. The applicant was involved in the food and food processing industry and used the petroleum products in its business operations. MacAndrews & Forbes was an end-user of the products claimed and was therefore presumed injured. A consortium of 30 states and two territories filed a "Statement of Objections" and "Motion for Discovery" with respect to the applicant's claim. The DOE found that the states' filings were insufficient to rebut the presumption of injury for end-users in this case. Therefore, the Application for Refund was granted and the Motion for

Discovery was denied. The refund granted to MacAndrews & Forbes Company is \$256,596.

Owens-Illinois, Inc., 10/23/90, RF272-11705, RD272-11705

Owens-Illinois, Inc., a manufacturer of packaging products and supplies, filed an Application for Refund in the subpart V crude oil refund proceeding. The Applicant certified, based on available records and reasonable estimates, that it purchased 539,741,011 gallons of petroleum products during the crude oil price control period. Rejecting the generalized economic objections filed by a group of States, the DOE found that the end-user presumption of injury should be applied to Owens-Illinois, Inc. The refund approved was \$431,793. A related Motion for Discovery filed by the States was denied.

PVM Oil Associates, Inc./New York, 10/26/90, RQ30-565

The State of New York proposed to use a total of \$5,280.47 in PVM Oil Associates, Inc. consent order funds to supplement an ongoing Multifamily Energy Efficiency Training Program, which trains owners, operators, tenants, and maintenance staff in ways to make multifamily buildings more energy efficient. New York's second-stage Application for Refund was approved in full because the program will provide restitution to residents of the New York City metropolitan area who are the tenants or owners of multifamily buildings by creating more energy efficient housing for them and by reducing heating oil bills.

Shell Oil Co./Arne Moores Inter City Oil Co., 10/23/90, RF315-3884, RF315-10004

The Office of Hearings and Appeals (OHA) of the Department of Energy issued a Decision and Order granting the refund application of Inter City Oil Co., Inc. (RF315-10004), in the Shell Oil Company refund proceeding, and denying that of Arne Moores (RF315-3884). Mr. Moores was the former owner of Consumers Oil Company, a purchaser of Shell products. In 1980, Mr. Moores sold all of the stock of Consumers to Inter City. Because in instances of a sale of stock, OHA considers the refund transferred to the new owner, OHA denied Mr. Moores' application. Inter City, however, had already received a small claims principal refund of \$2,233. As the combined gallonage of its own and Consumers' claims fell under the \$5,000 presumption, Inter City was only eligible to receive an additional \$2,767. Inter City argued that the amount of its second refund should not be limited because it had not acquired Consumers

until the end of the consent order period. The OHA, however, determined that because Consumers and Inter City no longer had separate facilities, separate marketing areas, different accountants, separate business records, or separate operations, it would be inappropriate to grant Inter City two refunds under different presumptions. Accordingly, OHA granted Inter City an additional principal refund of \$2,767, to make its total principal refund received \$5,000. To its refund of \$2,767, OHA added \$843 in interest, for a total of \$3,610.

Shell Oil Co./The Wemett Corp., 10/24/90, RF315-7691

The DOE issued a Decision and Order granting an application for refund filed by the Wemett Corporation in the Shell Oil Company special refund proceeding. The applicant purchased the assets of the Wemett Corporation in January 1974, and had previously contested the application for refund filed by Wemett's former owners, who claimed a refund on the basis of The Wemett Corporation's pre-1974 Shell purchases. See *Shell Oil Company/The Wemett Corporation*, 20 DOE ¶ 85,015 (1990) (*Wemett I*). In *Wemett I*, the DOE determined that, because the sale of Wemett involved only assets, not stock, and because the purchase agreement did not specify that the right to collect an oil overcharge refund had been transferred to Wemett's new owners, the original owners of Wemett were entitled to collect a refund on the basis of Wemett's pre-1974 purchases. We therefore granted a refund to Wemett's present owner solely on the basis of the 66,272,114 gallons of petroleum products which it purchased from Shell in and after 1974. The applicant was a mid-level purchaser of Shell products. Accordingly, the applicant was granted a refund equal to 40 percent of its volumetric share plus a proportionate share of the interest that has accrued on the Shell escrow account. The refund granted was \$7,815 (\$5,991 principal plus \$1,824 interest).

Texaco Inc./Commercial Oil Co. Kwik Shop, 10/26/90, RF321-2495, RF321-7810

The DOE issued a Decision and Order concerning two Applications for Refund submitted in the Texaco Inc. special refund proceeding on behalf of Commercial Oil Co. (Commercial) and Kwik Shop. Mr. Whitney Duhon owned Kwik Shop during the consent order period and acquired ownership of Commercial subsequent to this period. Since both firms are currently owned by Mr. Duhon, the DOE considered the applications that he filed on each firm's behalf to be affiliate applications.

During the consent order period, Commercial purchased refined petroleum products directly from Texaco and subsequently sold these products to Kwik Shop. Since these firms are currently affiliated, the DOE denied Kwik Shop's application because its claim was based solely on purchases from Commercial. The DOE determined that Commercial was eligible for a refund equal to its full allocable share. The refund granted to Commercial in this Decision is \$5,867 (\$4,933 principal plus \$934 interest).

The True Co./Petrolane, Inc., 10/22/90, RF195-10

The DOE issued a Decision and Order considering an Application for Refund filed by Petrolane, Inc. in the True Companies special refund proceeding. Petrolane originally claimed that it would make a showing of injury in order to receive a refund of \$19,488.97. However, the firm then indicated that gathering the data to support such a showing would be too burdensome. The firm therefore requested a small claims presumption refund of \$5,000, for which no injury showing is required. The DOE found that since the record did not show that Petrolane was not injured by the True purchases, the firm should receive the small claims refund it requested. Accordingly, the firm was granted a refund of \$5,000 plus interest of \$3,434.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Case Name	Case No.	Date
Atlantic Richfield Co./ Bob Elder Oil Co. <i>et al.</i>	RF304-9515	10/22/90
Atlantic Richfield Co./ Gozzo's Service Center <i>et al.</i>	RF304-11071	10/22/90
Billy R. Jones <i>et al.</i>	RF272-60861	10/25/90
City of Philadelphia, Dept. of Commerce— Division of Aviation.....	RF272-28039	10/23/90
Co-Op Products Association, Fredonia Coop Oil Company.....	RF272-47738 RF272-47882	10/23/90
Edward Kuntz <i>et al.</i>	RF272-26277	10/22/90
Eugene Rupnow <i>et al.</i>	RF272-26278	10/26/90
Exxon Corporation/ American Cyanamid Company <i>et al.</i>	RF307-8721	10/24/90
Exxon Corporation/ Ken's Exxon <i>et al.</i>	RF307-943	10/26/90

Case Name	Case No.	Date
Exxon Corporation/ Montair, Inc.....	RF307-8916	10/24/90
Gulf Oil Corp./J.D. Holcomb <i>et al.</i>	RF300-8930	10/26/90
Gulf Oil Corp./Marion Gulf.....	RF300-10319	10/26/90
Gulf Oil Corp./The Sommers Company d/b/a Sommers Oil Co.....	RF300-8411	10/23/90
Gulf Oil Corp./Walker Gulf Service, Soles Brothers Gulf Service.....	RF300-9091 RF300-9133	10/26/90
Hoppe Grain <i>et al.</i>	RF272-73799	10/25/90
Mull Brothers, Inc. <i>et al.</i>	RF272-1489	10/24/90
Murphy Oil Corp./ Kenda's Spur, Inc.....	RF309-656	10/24/90
Tennessee Farmers Cooperative, U.S. Army Armor Center and Fort Knox.....	RF309-1303 RF309-1308	
P & L Cote Inc. <i>et al.</i>	RF272-13986	10/23/90
Quaker State Oil Refining Corporation.....	RF272-52841	10/23/90
Shell Oil Co./ Allegheny Airlines, Inc. <i>et al.</i>	RF315-5518	10/22/90
Shell Oil Company/ Laughlin Oil Company <i>et al.</i>	RF315-5269	10/23/90
Sterling Engineered Products, Consolidated Freightways, Inc.....	RF272-60289 RF272-61630	10/26/90
Texaco Inc./Anaheim Hills Texaco.....	RF321-1510	10/26/90
Texaco Inc./Gene's Texaco <i>et al.</i>	RF321-282	10/22/90
Texaco Inc./Gonzalez Texaco <i>et al.</i>	RF321-1541	10/25/90
Texaco Inc./Home Oil Co., Inc. <i>et al.</i>	RF321-3616	10/23/90
Texaco Inc./Radiant Fuel Co., Inc. <i>et al.</i>	RF321-3678	10/25/90
Texaco Inc./Town of Sturbridge <i>et al.</i>	RF321-3617	10/25/90
Texas Refinery Corp.....	RF272-48677	10/22/90

Dismissals

The following submissions were dismissed:

Name	Case No.
Amber Oil Co., Inc.....	RF307-6187
ANR Freight Systems, Inc.....	RF307-10023
Back River Exxon.....	RF307-9160
Bean Latino Texaco.....	RF321-7405
Bulk Petroleum Corporation.....	RF309-1309
C.F. Industries, Inc.....	RF321-7902
Charles Pruitt.....	RF315-4600
Chas. Landry.....	RF321-7408
Chuck's Strip Gulf.....	RF300-10263
Chuck's Texaco.....	RF321-110
D.G. Lambert Construction.....	RF321-7412
Dick's Exxon.....	RF307-6722
Doug's Texaco.....	RF321-8609
Epperly's Texaco.....	RF321-1588, RF321-1589
Frank Bellina.....	RF321-7413
G.W. O'Keefe.....	RF315-4608
George Abdallah.....	RF307-5451

Name	Case No.
Hetrick Bros., Inc.....	RF272-36918
James Adrian Lloyd.....	RF315-4606
James H. Gueho.....	RF321-7409
Jax Beer Distributor.....	RF321-7415
John S. Rogers.....	RF315-4605
John W. Kinsey.....	RF321-9360
Joseph Molliere.....	RF321-7411
L.I. Reliable Corp.....	RF307-6195
Las Vegas-Tonopah-Reno Stage- lines.....	RF272-61323
Lester Chedotal.....	RF321-7406
Marcello Distributor, Inc.....	RF321-7402
Martin C. Beech.....	RF315-4602
Memphis City Schools.....	RF307-10024
Mervin J. Hebert.....	RF321-7404
N.J. Cavalier.....	RF321-7410
N. Rodrigue & Son.....	RF321-7416
Nick's Texaco Service.....	RF321-9671
Norm's Garage.....	RF307-6159
Paul's Exxon #1.....	RF307-7105
Paul's Exxon #2.....	RF307-7106
Savage Exxon.....	RF307-1783
Sheridan School District 48J.....	RF272-82556
South Capitol Street Exxon.....	RF307-6156
Steve Fransioli.....	RF315-4601
Sunnyside Corp.....	RF272-70842
Thomas McGuire.....	RF315-4603
Tom Hoekenga.....	RF315-4607
Tommy Shaw's Marina.....	RF321-5318
Vernon Crochet.....	RF321-7407
Vic's Texaco.....	RF321-7901
Vic's Texaco.....	RF321-7403
White's Exxon.....	RF307-6645
Yamhill-Carlton UHS District.....	RF272-82557
467 Associates.....	RF272-49185
61st Street Texaco.....	RF321-9610

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 30, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 90-28767 Filed 12-6-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3867-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 19, 1990 Through November 23, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National

Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 15949).

Draft EISs

ERP No. D-AFS-G65003-NM Rating LO, Creek Diversity Unit Timber Sales and Road Construction, Implementation, Santa Fe National Forest, Pecos Ranger District, San Miguel County, NM.

Summary: EPA has no objections to the draft EIS. EPA recommends selection of alternative plan 6 as the preferred plan of action.

ERP No. DS-COE-H34008-IA Rating LO, Coralville Lake Flood Control, Downstream Area of Influence to Columbus Junction, Operation and Maintenance Changes, Johnson, Iowa, Louisa and Washington Counties, IA.

Summary: EPA has no objections to the proposed action, but requests that the final EIS clarify several wetlands sections.

ERP No. DS-FHW-G40123-NM Rating LO, NM-516/Santa Fe-Los Alamos Corridor Study-Phase C, Additional Information, Funding, Possible COE 404 Permit, Santa Fe, Los Alamos and Sandoval Counties, NM.

Summary: EPA has no objections to the proposed action as described. EPA recommends selection of the Mortandad alignment with the mitigation as described.

Final EISs

ERP No. F-AFS-L40172-ID, South Fork Salmon River Road Reconstruction, Warm Lake Highway to the confluence of the South Fork Salmon River, Implementation, Boise and Payette NFs, Valley County, ID.

Summary: EPA believes that closing 16 miles of road is the environmentally preferred alternative over the Forest Service preferred alternative of paving 33 miles of road. EPA is concerned that dredging of sediment as mitigation for short-term construction effects should be pursued as remedial activity rather than future project mitigation.

Dated: December 4, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-28779 Filed 12-6-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3867-8]

Environmental Impact Statements; Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed November 26, 1990 Through November 30, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900433 Final EIS, FAA, KY, Louisville Airport Improvements, Construction of two Parallel Runways at Standiford Field, Airport Layout Plan, Approval, Funding and 404 Permit, Jefferson County, KY, Due: January 7, 1991, Contact: Peggy S. Kelly (901) 544-3495.

EIS No. 900434, Final EIS, FHW, OR, US 30/Columbia River Highway Improvements, Bennett Road to Columbia Road, Funding and 404 Permit, Columbia County, OR, Due: January 7, 1991, Contact: Richard Fairbrother (503) 399-5749.

EIS No. 900435, Draft EIS, AFS, MT, Flathead National Forest Land and Resource Management Plan, Amendment No. 10 Open Road Density Standard for Non-Wilderness Portion of the Forest, Implementation, Flathead, Lake, Lincoln and Missoula Counties, MT., Due: January 31, 1991, Contact: Charles Snyder (406) 755-5401.

EIS No. 900436, Draft EIS, IBR, CA, Shasta Lake Outflow Temperature Control, Upper Sacramento River, Keswick Dam to Red Bluff Diversion Dam, Funding, Shasta County, CA, Due: March 1, 1991, Contact: Colette Diede (916) 978-4956.

EIS No. 900437, Final EIS, BLM, UT, Dixie Resource Area, Resource Management Plan, Implementation, Washington County, UT, Due: January 7, 1991, Contact: David Everett (801) 673-4654.

EIS No. 900438, Final EIS, COE, FL, Canaveral Harbor Navigation Improvements, Implementation, Brevard County, FL, Due: January 7, 1991, Contact: Ray Boothby (904) 791-3453.

EIS No. 900439, Final EIS, BLM, WY, Rock Springs District Wilderness Study Areas (WSAs), Wilderness Recommendations, Designation or Nondesignation, Fremont, Lincoln, Sublette and Sweetwater Counties, WY, Due: January 7, 1991, Contact: Alan Stein (307) 382-5350.

EIS No. 900440, Draft EIS, BLM, AZ, Kingman Resource Area, Resource Management Plan, Implementation, Mohave, Yavapi and Coconino, AZ, Due: March 8, 1991, Contact: Bill Carter (602) 757-3161.

EIS No. 900441, Draft EIS, COE, CA, North Delta Multipurpose Water Program, Sacramento, Cosumnes and Mokelumne River, Section 10 and 404 Permit Sacramento County, CA, Due: March 31, 1991, Contact: Jean Elder (916) 551-2270.

EIS No. 900442, Draft EIS, GSA, VA, U.S. Navy Systems Commands Consolidation, Office Complex Construction and Rehabilitation at Seven Sites in either the City of Alexandria or Arlington County, VA, Due: January 21, 1991, Contact: Thomas Sherman (202) 708-5891.

EIS No. 900443, Final EIS, USN, NJ, Naval Weapons Station Earle Trestle Replacement, Construction and Section 10 Permit, Sandy Hook Bay, Colts Neck, Monmouth County, NJ, Due: January 7, 1991, Contact: Robert Offermueller (215) 897-6262.

EIS No. 900444, Final EIS, AFS, MT, Badger-Two Medicine Area Exploratory Oil and Gas Wells Drilling, Leasing and Permit, Lewis and Clark National Forest, Pondera and Glacier Counties, MT, Due: January 11, 1991, Contact: Norman Yogerst (406) 329-3634.

EIS No. 900445, Draft Supplement, FHW, OR, Salem-Dayton Highway/OR-221/Wallace Road Widening, Orchard Heights Road to Oakcrest Drive, Funding, Section 404 Permit, Polk County, OR, Due: January 31, 1991, Contact: Richard Fairbrother (503) 399-5749.

Dated: December 4, 1990.

William D. Dickerson,
Deputy Director, Office of Federal Activities.
[FR Doc. 90-28780 Filed 12-6-90; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59899; FRL 3842-5]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 46066) (40

CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 5 such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 91-38, November 28, 1990.

Y 91-39, December 3, 1990.

Y 91-40, December 5, 1990.

Y 91-41, December 4, 1990.

Y 91-42, December 5, 1990.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW, Washington, DC 20460; (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and noon, and 1:00 p.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 91-38

Importer: I & I USA, Inc.

Chemical. (S) 2-Propenoic acid, 2-methyl-2-propenoic acid, 2-methyl-2-hydroxyethyl ester; benzene, ethenyl-; poly (oxy (methyl-1,2-ethanediy))_n.alpha.-(2-methyl-1-1-oxo-2-propenyl)-.omega.-hydroxy-2-propenoic acid, 2-methyl-, methyl ester 2-propenoic acid, 2-methyl-, methyl ester 2-propenoic acid, ethyl ester.

Use/Import. (S) Coating resin of carrier particles for controlling surface of particles for electrographic developer. Import range: 9,200-45,000 kg/yr.

Y 91-39

Importer: Confidential.

Chemical. (G) Adpic acid polyester.

Use/Import. (G) Plasticizer. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1371 mg/kg species (Rat). Mutagenicity: negative.

Y 91-40

Manufacturer: Akzo Coatings Inc.

Chemical. (G) Acrylic resin solution.

Use/Production. (G) Resin for coatings. Prod. range: Confidential.

Y 91-41

Manufacturer: Confidential.

Chemical. (G) Fatty acid isophthalene alkylid.

Use/Production. (S) Binder for general metal coating. Prod. range: Confidential.

Y 91-42

Importer. Reichhold Chemiclax, Inc.
Chemical. (G) Acrylic-styrene modified epoxy ester.

Use/Import. (S) Automobile parts coatings. Import range: Confidential.

Dated: December 3, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-28752 Filed 12-6-90; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59289; FRL 3842-6]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES:

Written comments by:

T 91-1, December 16, 1990.

ADDRESSES: Written comments, identified by the document control number "(OPTS-59289)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW, Rm. L-100, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW, Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and noon, and 1:00 p.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 91-1

Close of Review Period. December 30, 1990.

Importer. Confidential.

Chemical. (G) Isocyanate prepolymer.

Use/Import. (G) Curing agent additive for surface coating. Import range: Confidential.

Dated: December 3, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-28751 Filed 12-6-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

[Petition No. P5-90]

Conditions Unfavorable to Shipping in United States-Venezuela Trade; Filing of Petition for Relief

Notice is given that a petition for relief from conditions unfavorable to shipping in the United States-Venezuela trade ("Trade") has been filed by Total Ocean Marine Services Inc. ("Petitioner"), requesting relief under section 19(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(b). Petitioner requests Commission assistance to obtain confirmation of Petitioner's authorization by the Venezuelan Ministry of Transport and Communications for Petitioner to operate third flag vessels in a common carrier service in the Trade and/or provide such other relief as deemed appropriate.

To facilitate thorough consideration of the petition, interested persons are requested to reply to the petition no later than January 7, 1991. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001, shall consist of an original and 15 copies, and shall be served on Thomas F. Vogt, President, Total Ocean Marine Services Inc., 845 North Central Avenue, Massapequa, New York 11758.

Copies of the petition are available for examination at the Washington, DC office of the Commission, 1100 L Street, NW., room 11101.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-28692 Filed 12-6-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Port of New Orleans/Coastal Cargo Co., Inc.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No: 224-200446.

Title: Port of New Orleans/Coastal Cargo Co., Inc. Terminal Agreement.

Parties:

Board of Commissioners of the Port of New Orleans ("Port")

Coastal Cargo Company, Inc.

("Coastal").

Filing Party: Gerald O. Gussoni, Jr., Port General Counsel, The Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, Louisiana 70160.

Synopsis: The Agreement provides for Coastal's lease of 105,881 square feet of sections 1-40, all divisions, shed only, of the Port's Milan Street Wharf for a term of two years. The Port will receive an annual base rent of \$127,057.20.

Agreement No: 224-200447.

Title: Port of New Orleans/Coastal Cargo Co., Inc. Terminal Agreement.

Parties:

Board of Commissioners of the Port of New Orleans ("Port")

Coastal Cargo Company, Inc.

("Coastal").

Filing Party: Gerald O. Gussoni, Jr., Port General Counsel, The Board of

Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, Louisiana 70160.

Synopsis: The Agreement provides for Coastal's lease of sections 1-30, all divisions, shed only, of the Port's Mandeville Street Wharf for a term of two years. The Port will receive an annual base rent of \$64,491.00.

Dated: December 4, 1990.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-28747 Filed 12-6-90; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Partial Suspension of a Laboratory Which No Longer Meets Minimum Standards To Engage in Confirmatory Urine Drug Testing for Amphetamines

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services routinely publishes in the *Federal Register* a list of laboratories certified to meet standards of subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979-11986) dated April 11, 1988. This notice informs the public that, effective December 3, 1990, the following laboratory's certification is partially suspended under § 3.14 of the Guidelines:

Roche Biomedical Laboratories, 6370 Wilcox Road, Dublin, OH 43017; Telephone (614)-889-1061.

The certification of the above named laboratory is suspended from conducting confirmatory testing of amphetamines. Under the terms of the suspension, the laboratory is required to send a portion of each urine specimen that it determines by initial testing to be positive for amphetamines to another HHS/NIDA certified laboratory for independent testing of the specimen for amphetamines. The result determined by this independent testing will be the result reported.

The laboratory named above continues to meet all requirements for HHS/NIDA certification for testing urine specimens for marijuana, cocaine, opiates and phencyclidine.

FOR FURTHER INFORMATION CONTACT: Mona W. Brown, Press Officer, National

Institute on Drug Abuse, room 10-A-54, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301)-443-6245.

Charles R. Schuster,

Director, National Institute on Drug Abuse.

[FR Doc. 90-28802 Filed 12-6-90; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 90N-0298]

RIN 0905-AC44

Drug Export Amendments Act of 1986; Export Applications Review Document; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a review document relating FDA's experience with the export of unapproved new human drugs, unlicensed human biological products, and unapproved new animal drugs, under the Drug Export Amendments Act of 1986. The document entitled "A review of FDA's Implementation of the Drug Export Amendments of 1986" is being made available to the public to provide information on the agency's implementation of the amendments. This notice announces the availability of the review document.

DATES: Written comments on or before March 7, 1991.

ADDRESSES: Written comments regarding the review document may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857. Requests for single copies of the review document may be sent to the CDER Executive Secretariat (HFD-008), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Division of Congressional and Public Affairs (HFB-140), Center for Biologics Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Copies of the revised application checklist for the export of unlicensed partially processed biological products may be obtained from the Division of Inspections and Surveillance (HFB-124), Center for Biologics Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist FDA in processing your request. Requests and

comments should be identified with the docket number found in brackets in the heading of this document. 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:

Steven H. Unger, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (Export Amendments) amends the Federal Food, Drug, and Cosmetic Act (the act) and the Public Health Service Act to authorize the export, from the United States to other countries for commercial marketing, of unapproved new human drugs, unlicensed human biological products, and unapproved new animal drugs. Prior to the Export Amendments, such articles could not be exported for commercial marketing unless approved or licensed by FDA for marketing in the United States.

The Export Amendments provide three tracks for the export of these products. Under each track, FDA must approve an application before export is permitted. The tracks vary in terms of drug eligibility criteria, procedures for approval of export applications, and postapproval requirements. The first track governs applications to export unapproved new human drugs, unlicensed human biological products, and unapproved new animal drugs to foreign countries in which the products are approved. (See sections 802(b) through 802(e) of the act (21 U.S.C. 382(b) through 382(e)).) Export under this track is limited to 21 countries that are listed in the Export Amendments. The second track governs applications to export such unapproved and unlicensed products, to any country, for use in the prevention or treatment of tropical diseases. (See section 802(f) of the act (21 U.S.C. 382(f)).) The third track governs applications to export unlicensed, partially processed biological products for human use that are approved, or are in the process of being approved, in the 21 listed countries. (See section 351(h)(1)(A) of the Public Health Service Act (42 U.S.C. 262(h)(1)(A)).)

FDA has completed a review document that provides a summary of the Export Amendments. This notice announces the availability of the review document. Copies of the document may be obtained from either the CDER Executive Secretariat (HFD-008) or the

Division of Congressional and Public Affairs (HFB-140) (addresses above).

In addition, the Center for Biologics Evaluation and Research has prepared a revised checklist for the contents of applications to allow the export of unlicensed, partially processed biological products. The new checklist recommends the submission of less information than was recommended by the previous checklist. Copies of the checklist may be obtained from the Division of Inspections and Surveillance (HFB-124) (address above).

Dated: November 28, 1990.

Ronald G. Chesmore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-28712 Filed 12-6-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPD-623-PN]

RIN 0938-AE95

Medicare Program; Proposed Additions to and Deletions From the Current List of Covered Surgical Procedures for Ambulatory Surgical Centers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice announces and solicits public comment on the specific proposed additions to and deletions from the current list of surgical procedures for which facility services are covered when the procedures are performed in an ambulatory surgical center (ASC). It also announces and solicits public comment on the assignment of payment groups for each procedure. Additionally, this notice announces and solicits public comment on the proposed coordination of our biennial ASC procedure list update with our annual ASC rate update for those years when the two updates are both made.

This proposed notice would implement section 1833(i)(1) of the Social Security Act, as amended by section 9343 of the Omnibus Budget Reconciliation Act of 1986 which requires, in part, that the list of covered ASC procedures be reviewed and updated at least every 2 years.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 4, 1990.

ADDRESSES: Mail comments to the following address: Health Care

Financing Administration, Department of Health and Human Services, Attention: BPD-623-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW Washington, DC, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. In commenting, please refer to file code BPD-623-PN. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7680).

FOR FURTHER INFORMATION ABOUT PROPOSED ADDITIONS OR DELETIONS, CONTACT: Robert Cereghino, (301) 966-4645.

FOR INFORMATION ABOUT PROPOSED PAYMENT GROUPS, CONTACT: Vivian Braxton (301) 966-4571.

SUPPLEMENTARY INFORMATION:

I. Background

Section 934 of Pub. L. 96-499, the Omnibus Reconciliation Act of 1980, enacted on December 5, 1980, amended sections 1832(a)(2) and 1833 of the Social Security Act (the Act) to authorize Medicare Part B coverage for facility services furnished in connection with certain surgical procedures performed in an ambulatory surgical center (ASC).

With respect to the surgical procedures covered under this provision, section 1833(i)(1) of the Act requires the Secretary to specify, in consultation with appropriate medical organizations, surgical procedures that, although appropriately performed in an inpatient hospital setting, can also be performed safely on an ambulatory basis. The report accompanying the legislation (Report of the Committee on the Budget, House of Representatives, that accompanied H.R. 7765, H.R. Rep. No. 96-1167, 96th Cong., 2d Sess. 390 (1980)) explained that Congress intended that procedures currently performed on an ambulatory basis, especially in physicians' offices, that do not generally require the more elaborate facilities of an ASC, should not be included in the list of covered procedures.

In line with this Congressional intent, our current regulations (42 CFR

416.65(a)) specify the following four requirements regarding the range of covered ASC services.

1. Procedures on the list are commonly performed on an inpatient basis but also may, consistent with accepted medical practice, be performed in an ambulatory surgical facility.

2. The list excludes procedures that are commonly performed, or may be safely performed, in physicians' offices.

3. Procedures are limited to those requiring a dedicated operating room and generally do not require an overnight stay.

4. The list does not contain procedures excluded from Medicare coverage.

We recognize that for individuals with certain medical conditions, a procedure on the list may nonetheless be safely performed only on an inpatient basis. The choice of operating site remains a matter for the professional judgment of the patient's physician.

Currently, ASC covered procedures are classified according to an 8 group payment classification system, as follows:

Group 1—\$271	Group 5—\$585
Group 2—\$363	Group 6—\$752
Group 3—\$417	Group 7—\$812
Group 4—\$513	Group 8—\$871

The ASC facility payment for all procedures in each group is established at a single rate adjusted for geographic variation. This prospectively determined facility group rate does not include physicians' fees and other medical items and services (for example, prosthetic devices, except intraocular lenses) for which separate payment is authorized under other provisions of the Medicare program. Rather, the rate is a standard overhead amount that covers the cost of services such as nursing, supplies, equipment, and use of the facility.

Section 9343 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-509, enacted on October 21, 1986) amended section 1833(i)(2)(A) of the Act to require annual rather than periodic updating of ASC rates beginning no later than July 1, 1987. We published revised rates as set forth above in the July 5, 1990 Federal Register notice with comment period (55 FR 27690). These new rates were applied to facility services furnished on or after July 1, 1990.

For the proposed additions to the list of covered procedures in this notice, we have proposed payment group rates. These rates were established by HCFA medical staff based on already existing procedure payment rates in the same coding and medical category.

Section 9343 of Public Law 99-509 also requires that the ASC list of procedures

be reviewed and updated by April 21, 1987 and not less often than every 2 years thereafter. Accordingly, we published the latest updates to the list of covered ASC procedures in the Federal Register on April 21, 1987 (52 FR 13176) and on June 1, 1989 (54 FR 23540). These updates supplement the original list of covered ASC procedures published on August 5, 1982 (47 FR 34099).

II. Provisions of the Proposed Notice

In this notice, we propose specific procedures for addition to or deletion from the ASC list. We also propose a payment group for each proposed addition. These proposed changes are the result of our consideration of data on site of service from the Part B Medicare Data (BMAD) files, as explained below, and general correspondence received from the public and the medical community over the past few years. Additionally, we propose to coordinate our biennial ASC procedure list update with our annual ASC rate update for those years when the two updates are both made and would implement the ASC update effective October 1 of each year.

A. Criteria for Determining Procedures To Be Added To or Deleted From the ASC List

We evaluated the usual site of service of surgical procedures considered for coverage under the ASC benefit based on the BMAD files, which are maintained centrally as a component of the Medicare statistical system. These files consist of data sets produced from information maintained by the Medicare carriers in (1) prevailing charge screen files, (2) beneficiary history files, and (3) physician/supplier history files. One of the BMAD files is the procedure file, from which source data are extracted to create an array of every procedure code used by each carrier in processing Medicare claims. The procedure file includes data elements such as frequency, submitted charges, allowed charges, and denied services. These variables can be arrayed for each procedure code by site of service (for example, physicians' office, ASC, inpatient hospital, outpatient hospital) and by type of service (for example, surgical service).

The procedure file is constructed from 100 percent of the bills processed annually by carriers which report procedures using the HCFA Common Procedure Coding System (HCPCS). The source data that we used in assessing site of service are claims processed in calendar year 1988.

The 1988 file is the most current data available and includes claims from all

carriers. In addition to reviewing the site of service data for procedures suggested by the public in general correspondence, we also reviewed the data for all covered procedures on the current list as well as data for all other codes in the surgery section of the Physician's Current Procedural Terminology, Fourth Edition, 1990 (CPT-4). (The CPT-4 is a compilation of current terminology for medical procedures and codes for each procedure that have been assigned by the American Medical Association.) Thus, our proposed additions and deletions are based on a comprehensive analysis of site of service data for all codes in the surgery section of the CPT-4.

When we arrayed the CPT-4 codes by site of service, we found that many of the surgical procedures were not commonly furnished on an inpatient basis or were furnished in physicians' offices a majority of the time. Based on these data, it would be contrary to our regulations and program objectives to cover these procedures when performed in an ASC.

In the August 11, 1987 Federal Register proposed notice (52 FR 29729), we described a threshold rule that we used in analyzing 1984 BMAD data. We decided that if a procedure was performed on an inpatient basis 20 percent of the time or less, or in physicians' offices 50 percent of the time or more, it should not be covered when performed in an ASC. Based on our analysis of available claims payment data, we believed these levels best reflected the legislative objectives of (1) moving procedures from the more expensive inpatient hospital setting to the less expensive ASC setting and (2) preventing the migration of procedures from the less expensive physicians' office setting to the ASC. We indicated we would monitor our claims experience in order to assure that the 20/50 threshold rule we developed would continue to achieve these objectives.

HCFA medical consultants may make exceptions and override the threshold rule when they believe the threshold rule is inaccurate or to maintain clinical consistency.

B. Proposed Additions

1. Additions Based on Data

The proposed additions listed in the addendum to this notice are the result of our consideration of site of service data from the BMAD files, suggestions from HCFA medical staff, and suggestions from the general public in correspondence over the past few years. Additions suggested by the public are marked with an asterisk (*). The

proposed additions are listed according to body system, appropriate terminology, and CPT-4 coding. Proposed assigned payment groups are also given for each procedure.

2. Additions Not on the Basis of Data Alone

We identified 8 procedures that would not have been proposed for addition to the list on the basis of data alone but which we propose to add for the reasons discussed below. Additions marked with an asterisk denote those suggested by the general public. A proposed payment group is given for each procedure.

Based on general correspondence from the medical community, our medical staff are proposing to reinstate on the ASC list the following 4 procedures which pertain to the removal of benign or malignant skin lesions of a diameter from 3.1-4.0 centimeters. We were advised by our medical advisors that these lesions are too large to be removed routinely in physicians' offices. We have accepted that viewpoint.

PYMT GRP	CPT-4 Code	Description
1	*11404	Excision, benign lesion, except skin tag (unless listed elsewhere), trunk, arms or legs; lesion diameter 3.1 to 4.0 cm.
1	*11444	Excision, other benign lesion (unless listed elsewhere), face, ears, eyelids, nose, lips, mucous membrane; lesion diameter 3.1 to 4.0 cm.
1	*11624	Excision, malignant lesion, scalp, neck, hands, feet, genitalia; lesion diameter 3.1 to 4.0 cm.
1	*11644	Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter 3.1 to 4.0 cm.

Although the BMAD files indicate that the following 3 procedures are performed in physicians' offices more than 50 percent of the time, we decided to propose their addition to the list because our medical consultants advised us that, in spite of the data, the procedures are not commonly performed in physicians' offices. We note that these procedures are infrequently performed in any setting and that a few errors in the reporting of the site of service would have a significant effect on our analysis of place of service data.

PYMT GRP	CPT-4 Code	Description
5	24362	Arthroplasty, elbow; with implant and fascia lata ligament reconstruction.

PYMT GRP	CPT-4 Code	Description
2 5	26550 26585	Pollicization of a digit. Repair bifid digit.

The following 11 procedures were added to the CPT-4 in 1990. These are similar to already covered procedures. Based on general correspondence with the medical community, we are proposing to add these procedures to the list:

PYMT GRP	CPT-4 Code	Description
5	21343	Open treatment of closed or open depressed frontal sinus fracture.
4	26037	Decompressive fasciotomy, hand (excludes 26035).
3	29826	Arthroscopy, shoulder, surgical; decompression of subacromial space with partial acromioplasty with or without coracoacromial release.
3	31611	Construction of tracheoesophageal fistula and subsequent insertion of an alaryngeal speech prosthesis (eg, voice button, Blom-Singer prosthesis).
2	32002	Thoracentesis with insertion of tube with or without water seal (eg, for pneumothorax) (separate procedure).
2	36522	Photopheresis, extracorporeal.
4	36832	Revision of an arteriovenous fistula, with or without thrombectomy, autogenous or non-autogenous graft.
5	58988	Laparoscopy, surgical; with removal of adnexal structures (partial or total oophorectomy and/or salpingectomy).
2	58992	Hysteroscopy; with lysis of intrauterine adhesions or resection of intrauterine septum (any method).
3	58994	Hysteroscopy; with removal of submucous leiomyomata (any method).
5	69662	Revision of stapedectomy or stapedotomy.

3. Suggestions for Additions Not Accepted

Based on our threshold rule and the restriction that approved procedures be surgical in nature, we do *not* propose to add to the ASC list the following procedures that were submitted by the public in general correspondence during the last few years.

Integumentary System Skin, Subcutaneous and Areolar Tissues Incision

- 10000 Incision and drainage of infected or noninfected sebaceous cyst; one lesion.
- 10001 Second lesion.
- 10002 More than two lesions.
- 10003 Incision and drainage of infected or noninfected epithelial inclusion cyst ("sebaceous cyst") with complete removal of sac and treatment of cavity.
- 10020 Incision and drainage of furuncle.
- 10040 Acne surgery (e.g., marsupialization, opening or removal of multiple milia, comedones, cysts, pustules).
- 10060 Incision and drainage of abscess (e.g., carbuncle, suppurative hidradenitis, and other cutaneous or subcutaneous abscesses); simple.
- 10061 Complicated.
- 10080 Incision and drainage of pilonidal cyst; simple.
- 10081 Complicated.
- 10100 Incision and drainage of onychia or paronychia; single or simple.
- 10101 Multiple or complicated.
- 10120 Incision and removal of foreign body, subcutaneous tissues; simple.
- 10121 Complicated.
- 10140 Incision and drainage of hematoma; simple.
- 10160 Puncture aspiration of abscess, hematoma, bulla, or cyst.
- Excision—Debridement
- 11000 Debridement of extensive eczematous of infected skin; up to 10% of body surface.
- 11001 Each additional 10% of the body surface.
- 11040 Debridement; skin, partial thickness.
- 11041 Full thickness.
- Biopsy
- 11100 Biopsy of skin, subcutaneous tissue and/or mucous membrane (including simple closure), unless otherwise listed (separate procedure); one lesion.
- 11101 Each additional lesion.
- Excision—Benign Lesions
- 11400 Excision, benign lesion, except skin tag (unless listed elsewhere), trunk, arms or legs; lesion diameter 0.5 cm or less.
- 11401 Lesion diameter 0.6 to 1.0 cm.
- 11402 Lesion diameter 1.1 to 2.0 cm.
- 11403 Lesion diameter 2.1 to 3.0 cm.
- 11420 Excision, benign lesion, except skin tag (unless listed elsewhere), scalp, neck, hands, feet, genitalia; lesion diameter 0.5 cm or less.
- 11421 Lesion diameter 0.6 to 1.0 cm.
- 11422 Lesion diameter 1.1 to 2.0 cm.
- 11423 Lesion diameter 2.1 to 3.0 cm.

Integumentary System Skin, Subcutaneous and Areolar Tissues Incision—Continued

- 11440 Excision, other benign lesion (unless listed elsewhere), face, ears, eyelids, nose, lips, mucous membrane; lesion diameter 0.5 cm or less.
- 11441 Lesion diameter 0.6 to 1.0 cm.
- 11442 Lesion diameter 1.1 to 2.0 cm.
- 11443 Lesion diameter 2.1 to 3.0 cm.
- Excision—Malignant Lesions
- 11600 Excision, malignant lesion, trunk, arms or legs; lesion diameter 0.5 cm or less.
- 11601 Lesion diameter 0.6 to 1.0 cm.
- 11602 Lesion diameter 1.1 to 2.0 cm.
- 11603 Lesion diameter 2.1 to 3.0 cm.
- 11620 Excision, malignant lesion, scalp, neck, hands, feet, genitalia; lesion diameter 0.5 cm or less.
- 11621 Lesion diameter 0.6 to 1.0 cm.
- 11622 Lesion diameter 1.1 to 2.0 cm.
- 11623 Lesion diameter 2.1 to 3.0 cm.
- 11640 Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter 0.5 cm or less.
- 11641 Lesion diameter 0.6 to 1.0 cm.
- 11642 Lesion diameter 1.1 to 2.0 cm.
- 11643 Lesion diameter 2.1 to 3.0 cm.
- Introduction
- 11900 Injection, intralesional; up to and including seven lesions.
- 11901 More than seven lesions.
- 11920 Tattooing, intradermal introduction of insoluble opaque pigments to correct color defects of skin; 6.0 sq cm or less.
- 11921 6.1 to 20.0 sq cm.
- Repair—Simple
- 12001 Simple repair of superficial wounds of scalp, neck, axillae, external genitalia, trunk and/or extremities (including hands and feet); 2.5 cm or less.
- 12002 2.6 cm to 7.5 cm.
- 12004 7.6 cm to 12.5 cm.
- 12011 Simple repair of superficial wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 2.5 cm or less.
- 12013 2.6 cm to 5.0 cm.
- 12014 5.1 cm to 7.5 cm.
- 12015 7.6 cm to 12.5 cm.
- Miscellaneous Procedures
- 15780 Dermabrasion; total face (eg, for acne scarring, fine wrinkling, rhytids, general keratosis).
- 15781 Segmental, face.
- 15782 Regional, other than face.
- 15783 Superficial, any site (eg, tattoo removal).
- 15786 Abrasion; single lesion (eg, keratosis, scar).
- 15787 Each additional four lesions or less.
- 15822 Blepharoplasty, upper eyelid.
- 15823 With excessive skin weighting down lid.

Integumentary System Skin, Subcutaneous and Areolar Tissues Incision—Continued

- Burns, Local Treatment
- 16000 Initial treatment, first degree burn, when no more than local treatment is required.
- Destruction
- 17000 Destruction by any method, with or without surgical curettement, all facial lesions or premalignant lesions in any location, including local anesthesia; one lesion.
- 17001 Second and third lesions, each.
- 17002 Over three lesions, each additional lesion.
- 17010 Complicated lesion(s).
- 17100 Destruction by any method of benign skin lesions on any area other than the face, including local anesthesia; one lesion.
- 17101 Second lesion.
- 17102 Over two lesions, each additional lesion up to 15 lesions.
- 17104 15 or more lesions.
- 17105 Complicated lesions.
- 17110 Destruction by any method of flat (plane, juvenile) warts or molluscum contagiosum, milia, up to 15 lesions.
- 17200 Electrosurgical destruction of multiple fibrocuteaneous tags; up to 15 lesions.
- 17201 Each additional ten lesions.
- Repair and Reconstruction
- 19355 Correction of inverted nipples.
- Respiratory System Accessory Sinuses Endoscopy
- 31250 Nasal endoscopy, diagnostic (includes examination of the medical meatus, infundibulum and sinus ostia).
- Eye and Ocular Adnexa Anterior Segment—Anterior Chamber Incision
- *65855 Trabeculectomy by laser surgery, one or more sessions (defined treatment series).
- Anterior Segment—Iris, Ciliary Body Destruction
- 66761 Iridotomy by photocoagulation (one or more sessions) (e.g., for glaucoma).
- Anterior Segment—Lens Incision
- 66802 Discission of lens capsule; laser surgery (one or more stages).
- 66820 Discission of secondary membranous cataract ("after cataract") and/or anterior hyaloid; incisional technique (Ziegler or Wheeler knife).
- Posterior Segment—Retinal Detachment Prophylaxis
- 67145 Prophylaxis of retinal detachment (e.g., retinal break, lattice degeneration) without drainage, one or more sessions; photocoagulation (laser or xenon arc).

Integumentary System Skin, Subcutaneous and Areolar Tissues Incision—Continued

- Posterior Segment—Other Procedures Destruction—Retina, Choroid
- 67228 Destruction of localized lesion of retina (e.g., maculopathy, choroidopathy, small tumors), one or more sessions; photocoagulation (laser or xenon arc).
- Ocular Adnexa—Orbit Other Procedures
- 67500 Retrobulbar injection; medication (separate procedure, does not include supply of medication).
- Office and Other Outpatient Medical Services Cardiovascular Cardiac Catheterization
- 93501 Right heart catheterization.
- 93510 Left heart catheterization, retrograde, from the brachial artery, axillary artery or femoral artery; percutaneous.
- 93524 Combined transseptal and retrograde left heart catheterization.
- 93526 Combined right heart catheterization and retrograde left heart catheterization.
- 93527 Combined right heart catheterization and transseptal left heart catheterization (with or without retrograde left heart catheterization).
- 93546 Combined left heart catheterization and left ventricular angiography.
- 93547 Combined left heart catheterization, selective coronary angiography and selective left ventricular angiography.
- 93548 Combined left heart catheterization, selective coronary angiography, selective left ventriculography, with aortic root aortography.
- 93549 Combined right and left heart catheterization, selective coronary angiography, and selective left ventricular angiography.
- 93550 With selective visualization of bypass graft.
- 93551 Selective opacification of aortocoronary bypass grafts; one or more coronary arteries.
- 93552 Combined left heart catheterization, selective coronary angiography, selective left ventricular cineangiography and visualization of bypass grafts.
- 93553 With aortic root aortography.
- Intracardiac Electrophysiological Procedures
- 93600 Bundle of His recording.
- 93602 Intra-atrial recording.
- 93603 Right ventricular recording.
- 93607 Left ventricular recording.
- 93610 Intra-atrial pacing.
- 93612 Intraventricular pacing.
- 93618 Induction of arrhythmia by electrical pacing.

C. Proposed Retentions

We applied the threshold criteria to our list of over 1300 individual CPT-4 codes. We identified 22 procedures with an inpatient frequency of 20 percent or less, or that are performed in physicians' offices 50 percent of the time or more. Before placing the procedures on the list of proposed deletions, we reviewed them to see if the simple statistical tests, used alone, had produced inconsistent results. We identified 15 procedures that would have been proposed for deletion on the basis of the data alone, but which we propose to retain on the current ASC list for the following reasons.

Although the BMAD files indicate that the following 5 procedures were performed infrequently on an inpatient basis, we decided not to delete them from the list because they are frequently performed in an ASC. We believe it would be inappropriate to delete a procedure from the ASC list when the reason it is performed infrequently on an inpatient basis is because it is paid for under the ASC setting.

- 65420 Excision or transposition of pterygium without graft.
- 66741 Cycloablation; subsequent.
- 66762 Coreoplasty by photocoagulation.
- 66821 Discission of secondary membranous cataract; laser surgery.
- 68700 Plastic repair of canaliculi.

Although the BMAD files indicate that the following 6 procedures are performed in physicians' offices more than 50 percent of the time, we decided not to delete them from the list because to do so would lead to inconsistency in the coverage of the type of surgery described by the code. For example, CPT-4 code 64726, "Decompression; plantar digital nerve," is a type of neuroplasty (surgical repair of a nerve). All other neuroplasty procedures meet the threshold rule. Therefore, CPT-4 code 64726 and the codes listed below will not be deleted so that clinical consistency may be maintained.

- 13101 Repair, complex, trunk; 2.6 cm to 7.5 cm.
- 26476 Tendon lengthening, extensor, hand or finger, single, each.
- 41005 Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; sublingual, superficial.
- 64726 Decompression; plantar digital nerve.
- 64837 Suture of each additional nerve, hand or foot.

- 69745 Suture facial nerve, intratemporal, with or without graft or decompression; including medial to geniculate ganglion.

Although the BMAD files indicate that the following 4 procedures are performed in physicians' offices more than 50 percent of the time, we decided not to delete them from the list because our medical consultants advised us that, in spite of the data, they are not commonly performed in physicians' offices. We note that these procedures are infrequently performed in any setting and that a few errors in the reporting of site of service would have significant effect on an analysis of place of service data.

- 23066 Biopsy, soft tissue of shoulder area; deep.
 25450 Epiphyseal arrest by epiphysodesis or stapling; distal radius OR ulna.
 28545 Treatment of closed tarsal bone dislocation; requiring anesthesia.
 69120 Excision external ear; complete amputation.

D. Proposed Deletions

We propose to delete the following 7 procedures from the current ASC list because our data indicate they are performed 50 percent of the time or more in physicians' offices.

- 41826 Excision of lesion or tumor, dentalveolar.
 42665 Ligation salivary duct, intraoral.
 54205 Injection procedure for Peyronie disease with surgical exposure of plaque.
 54230 Injection procedure for corpora cavernosography.
 57450 Culdoscopy, diagnostic.
 64408 Injection, anesthetic agent; vagus nerve.
 69105 Biopsy external auditory canal.

In addition, we propose to delete CPT-4 code 74741, "Hysterosalpingography; complete procedure," because it is a radiological procedure. We also propose to delete CPT-4 code 27095, "Injection procedure for hip arthrography; with anesthesia," CPT-4 code 31708, "Instillation of contrast material for laryngography or bronchography, without catheterization," and CPT-4 code 50394, "Injection procedure for pyelography," because they are performed only in conjunction with radiological procedures.

E. Suggested Procedures Sometimes Cosmetic

We have received a few suggestions to add the following 4 miscellaneous integumentary procedures. These blepharoplasty procedures are often cosmetic and as such are not covered under Medicare. We are therefore not listing these codes under "Proposed Additions," but are instead seeking public comment for recommendation of further HCFA study.

These procedures are:

- 15820 Blepharoplasty, lower eyelid.
 15821 Blepharoplasty, lower eyelid; with extensive herniated fat pad.
 15822 Blepharoplasty, upper eyelid.
 15823 Blepharoplasty, upper eyelid; with excessive skin weighting down lid.

F. Proposed Coordination of ASC Payment Rate and Procedure Updates

As previously stated, section 9343 of Public Law 99-509 directs the Secretary to review and update not later than July 1, 1987 and annually thereafter the amount of payment made to ASCs for facility services furnished in conjunction with a covered ASC procedure. This statutory provision also revised section 1833(i)(2)(A) of the Act directing the Secretary to review and update the list of procedures for which ASC payment can be made by April 21, 1987, and no less often than every two years thereafter. To date, separate documents have been published in the *Federal Register* when changes have been made in either payment rates or the list of ASC covered procedures. However, both ASC industry representatives and Medicare servicing contractors indicate that the lack of coordination and predictability in the publication of these ASC updates is costly and disruptive because of the changes in coverage and benefits that these updates trigger. Hospital outpatient departments are affected also because their payments for the performance of ASC-approved procedures are based in part on the ASC payment rate.

We have reviewed the statute and believe that it does not prohibit synchronization of ASC procedure list and payment rate updates. Therefore, we are proposing to schedule implementation of the annual ASC rate update and the biennial ASC procedure list update to coincide and be made effective on the same day for those years when the two updates are both made. Additionally, we propose to make the ASC payment update cycle consistent with the updating of the

hospital prospective payment system wage index currently used in calculating ASC payment rates. This would allow ASCs to benefit from use of the most recently revised wage index values. This advantage cannot be attained under the July 1 ASC rate update cycle because under the current schedule the revised ASC rates generally would be published three months before the new hospital wage index is made final in October. Therefore, we are proposing to publish the ASC rate update on or before September 1 each year to be effective October 1. We believe that adoption of an October implementation date would be advantageous to both the industry and the Medicare program.

III. Request for Information

This proposed notice solicits comments on the following:

- Specific additions to and deletions from the current ASC list.
- Assignment of payment groups. With respect to renal extra corporeal shock wave lithotripsy (CPT-4 code 50590), which we are proposing to assign to payment group 7, preliminary information is insufficient to allow us to evaluate the appropriateness of our proposed assignment. Therefore, we invite comment on the appropriateness of our proposed group assignment and solicit detailed information on facility charges and costs associated with providing lithotripsy services in an ASC, e.g., cost and types of lithotriptors currently in use, supply costs, machine maintenance expenses and personnel costs.
- Elimination of separate *Federal Register* publications to update ASC procedures and payment rates.

Comments and suggestions must be forwarded to the address indicated under the "Addresses" section of this notice. We request that, when commenting on our proposed additions and deletions and in making suggestions for further revisions to the list, respondents specifically consider the four requirements contained in § 416.65(a) and discussed in section I. above. We also request that suggestions for additional procedures or changes in existing procedures refer to each surgical procedure code according to the American Medical Association's (AMA) *Physician's Current Procedural Terminology, Fourth Edition, 1990 (CPT-4)*.

IV. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a

regulatory impact analysis for any proposed notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed notice would permit facility fees to be paid when the approximately 900 surgical procedures proposed to be added by this notice are performed in an ASC. Payments to ASCs are generally lower than payments to hospitals for surgery performed in a hospital, whether on an inpatient or outpatient basis. We do not anticipate that many services would shift from the hospital inpatient setting to ASCs, therefore the savings as a result of this shifting would be negligible. However, we anticipate some program savings due to shifting of services from hospital outpatient departments to ASCs since payments to ASCs for a given surgical procedure are generally lower than payments to hospitals for the same procedure. Additional savings would be realized as a result of lower payments to hospitals when the listed procedures continue to be performed on an outpatient basis since the hospital rate would become a blend of hospital costs and ASC rates instead of hospital costs alone.

In addition, a small number of physicians' office services are expected to shift to the ASC setting as a result of the expansion of the list of covered ASC services. Since a facility fee is not paid when surgery is performed in the physicians' office, this shifting would result in increased program costs. The additional payments made to ASCs, as a result of surgical procedures being shifted from physicians' offices to ASCs, would not completely offset the savings realized as a result of other shifting, explaining why the net result of this notice would be a savings to the program.

Based on a proposed effective date of October 1, 1991, we estimate \$10 million in savings in each year from FY 1992 through FY 1996. Since this proposed notice would not meet the \$100 million criterion or meet the other E.O. 12291 criteria, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all physicians, ASCs and hospitals to be small entities.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

There should be no significant impact on surgeons because surgeons generally are paid the same fee for performing the service in the ASC, in the office or in the hospital. Physicians and hospitals with an ownership interest in ASCs may benefit, but profits are limited by the ASC fee schedule payment.

We anticipate that approximately 10 percent of the procedures being performed in hospital outpatient units would shift to ASCs, resulting in some savings, but 90 percent would continue to be performed in hospitals.

As explained with reference to E.O. 12291, we expect no significant impact from this proposed notice. Therefore, we have determined and the Secretary certifies, that this proposed notice would not result in a significant economic impact on a substantial number of small entities and would not have a significant economic impact on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

V. Other Required Information

A. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we proceed with a final notice, we will respond to the comments in the preamble of that notice.

B. Paperwork Reduction Act

This proposed notice does not impose any information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

(Catalog of Federal Domestic Assistance Program No. 13.744, Medicare—Supplementary Medical Insurance Program)
(Section 1833(i)(1) of the Social Security Act (42 U.S.C. 1395(i)(1); 42 CFR 416.65)

Dated: October 17, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Addendum—Proposed Additions to the Current List of Covered Surgical Procedures for Ambulatory Surgical Centers (ASCs)

The proposed additions listed in this addendum are the result of our consideration of site of service data from the BMAD files, suggestions from HCFA medical staff, and suggestions from the general public in correspondence over the past few years. The additions suggested by the public are marked with an asterisk (*). The additions outside threshold parameters that have been recommended by HCFA medical consultants to maintain clinical consistency are marked with a bullet (•). The additions are listed according to body system, appropriate terminology, and Physician's Current Procedural Terminology, Fourth Edition, 1990 (CPT-4) coding. Proposed payment groups are also given for each procedure.

Caution: This addendum is not a complete list of proposed additions. For additions proposed for reasons other than data or maintenance of clinical consistency, see section B.2. of this notice.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)

Pymt grp	CPT-4 code	Description
Integumentary System—Skin, Subcutaneous and Areolar Tissues		
2	10180	<i>Incision</i> Incision and drainage, complex, postoperative wound infection.
2	11450	<i>Excision—Benign Lesions.</i> Excision of skin and subcutaneous tissue for hidradenitis, axillary; with primary suture.
2	11451	Excision of skin and subcutaneous tissue for hidradenitis, axillary; with other closure.
2	11462	Excision of skin and subcutaneous tissue for hidradenitis, inguinal; with primary suture.
2	11463	Excision of skin and subcutaneous tissue for hidradenitis, inguinal; with other closure.
2	11470	Excision of skin and subcutaneous tissue for hidradenitis, perianal, perineal, or umbilical; with primary closure.
2	11604	<i>Excision—Malignant Lesions</i> ** Excision, malignant lesion, trunk, arms, or legs; lesion diameter 3.1 to 4.0 CM.
Miscellaneous		
2	11960	<i>Introduction</i> *Insertion of tissue expander(s).
3	11970	*Replacement of tissue expander with permanent prosthesis.
1	11971	*Removal of tissue expander(s) without insertion of prosthesis.
Repair		
2	12005	<i>Repair—Simple</i> **Simple repair of superficial wounds of scalp, neck, axillae, external genitalia, trunk and/or extremities (including hands and feet); 12.6 CM to 20.0 CM.
2	12016	**Simple repair of superficial wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 12.6 CM to 20.0 CM.
1	12020	*Treatment of superficial wound dehiscense; simple closure.
1	12021	**Treatment of superficial wound dehiscense; with packing.
<i>Repair—Intermediate</i>		
2	12034	*Layer closure of wounds of scalp, axillae, trunk and/or extremities (excluding hands and feet); 7.6 CM to 12.5 CM.
2	12035	*Layer closure of wounds of scalp, axillae, trunk and/or extremities (excluding hands and feet); 12.6 CM to 20.0 CM.
2	12044	Layer closure of wounds of neck, hands, feet and/or external genitalia; 7.6 CM to 12.5 CM.
2	12045	Layer closure of wounds of neck, hands, feet and/or external genitalia; 12.6 CM to 20.0 CM.
2	12054	**Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 7.6 CM to 12.5 CM.
2	12055	*Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 12.6 CM to 20.0 CM.
<i>Repair—Complex</i>		
2	13100	**Repair, complex, trunk; 1.1 CM to 2.5 CM.
2	13120	**Repair, complex, scalp, arms, and/or legs; 1.1 CM to 2.5 CM.
2	13131	**Repair, complex, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; 1.1 CM to 2.5 CM.
2	13150	**Repair, complex eyelids, nose, ears and/or lips; 1.0 CM or less.
2	13151	**Repair, complex, eyelids, nose, ears and/or lips. 1.1 CM to 2.5 CM.
2	13160	*Secondary closure of surgical wound or dehiscence, extensive or complicated.
2	14000	*Adjacent tissue transfer or rearrangement, trunk; defect 10 SQ CM or less.
2	14040	**Adjacent tissue transfer or rearrangement, forehead, cheeks, chin, mouth, neck, axillae, genitalia, hands and/or feet; defect 10 SQ CM or less.
<i>Free Skin Grafts</i>		
2	15120	*Split graft, face, eyelids, mouth, neck, ears, orbits genitalia, and/or multiple digits; 100 SQ CM or less, or each one percent of body area of infants and children (except 15050).
3	15121	*Split graft, face, eyelids, mouth, neck, ears, orbits genitalia, and/or multiple digits; 100 SQ CM or less, or each one percent of body area of infants and children, or part thereof.
2	15400	*Application of xenograft, skin.
<i>Pressure Ulcers (Decubitus Ulcers)</i>		
3	15934	Excision, sacral pressure ulcer, with local or regional skin flap closure (eg, advancement, rotation, rhomboid, bipedicle).
4	15935	Excision, sacral pressure ulcer, with local or regional skin flap closure (eg, advancement, rotation; rhomboid, bipedicle) with ostectomy.
4	15936	Excision, sacral pressure ulcer, with other closure.
4	15937	Excision, sacral pressure ulcer, with other closure; with ostectomy.
3	15940	Excision, ischial pressure ulcer, with primary suture.
<i>Burns, Local Treatment</i>		
1	16030	Dressings and/or debridement, initial or subsequent; without anesthesia, large (eg, more than one extremity).
2	16035	Escharotomy.
Breast		
1	19100	<i>Excision</i> * Biopsy of breast: needle (separate procedure).
2	19110	Nipple exploration, with or without excision of a solitary lactiferous duct or a papilloma lactiferous duct.
3	19112	* Excision of lactiferous duct fistula.
7	19162	Mastectomy, partial; with axillary lymphadenectomy.
5	19260	Excision of chest wall tumor including ribs.
<i>Repair and Reconstruction</i>		
1	19328	* Removal of intact mammary implant.
1	19330	* Removal of mammary implant material.
2	19340	Immediate insertion of breast prosthesis following mastopexy, mastectomy or in reconstruction.
3	19342	Delayed insertion of breast prosthesis following mastopexy, mastectomy or in reconstruction.
4	19350	* Nipple/areola reconstruction.
5	19360	* Breast construction with muscle or myocutaneous flap.
5	19364	Breast reconstruction with free flap.
5	19366	Breast reconstruction with other technique.
4	19370	* Open periprosthetic capsulotomy, breast.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
4 5	19371 19380	* Periprosthetic capsulectomy, breast. * Revision of reconstructed breast
Musculoskeletal System—General		
		<i>Excision</i>
2	20200	Biopsy, muscle; superficial.
1	20206	Biopsy, muscle, percutaneous needle.
1	20220	Biopsy, bone, trocar or needle; superficial (EG, ilium, sternum, spinous process, ribs).
		<i>Introduction or Removal</i>
1	20670	* Removal of implant; superficial, (EG, buried wire, pin or rod) (separate procedure).
2	20690	Application of external fixation system (EG, Hoffman apparatus), including removal.
		<i>Grafts (or Implants)</i>
4	20924	Tendon graft, from a distance (EG, palmaris, toe extensor, plantaris).
1	20976	Electrical stimulation to aid bone healing; percutaneous insertion of electrodes.
Head		
		<i>Excision</i>
2	21025	Excision of bone (EG, for osteomyelitis or bone abscess); mandible.
2	21026	Excision of bone (EG, for osteomyelitis or bone abscess); facial bone(s).
2	21041	Excision of benign cyst or tumor of mandible; complex.
3	21070	Coronoidectomy (separate procedure).
		<i>Repair, Revision, or Reconstruction</i>
5	21200	Osteotomy (EG, for prognathism, micrognathism, apertognathism or for reconstruction), mandible, total or horizontal.
5	21202	Osteotomy (EG, for prognathism, micrognathism, apertognathism or for reconstruction), mandible, segmental.
5	21203	Osteotomy (EG, for prognathism, micrognathism, apertognathism or for reconstruction), mandibular, ramus (osteotomy).
5	21204	Osteotomy (EG, for prognathism, micrognathism, apertognathism or for reconstruction), maxilla, total.
5	21206	Osteotomy (EG, for prognathism, micrognathism, apertognathism or for reconstruction), maxilla, segmental.
7	21208	Osteoplasty, facial bones; augmentation (autograft, allograft, or prosthetic implant).
5	21209	Osteoplasty, facial bones; reduction.
7	21210	Graft, bone; nasal, maxillary or malar areas (includes obtaining graft).
7	21215	Graft, bone; mandible (includes obtaining graft).
7	21230	Graft; rib cartilage, autogenous, to face, chin, nose or ear (includes obtaining graft).
7	21235	Graft; ear cartilage to nose or ear (includes obtaining graft).
4	21240	Arthroplasty, temporomandibular joint, with or without autograft.
5	21242	Arthroplasty, temporomandibular joint, with allograft.
5	21243	Arthroplasty, temporomandibular joint, with prosthetic joint replacement.
7	21244	Reconstruction of mandible, extraoral, with transosteal bone plate (EG, mandibular staple bone plate).
7	21245	Reconstruction of mandible or maxilla, subperiosteal implant; partial.
7	21246	Reconstruction of mandible or maxilla, subperiosteal implant; complete.
7	21248	* Reconstruction of mandible or maxilla, endosteal implant (EG, blade, cylinder); partial.
7	21249	Reconstruction of mandible or maxilla, endosteal implant (EG, blade, cylinder); complete.
7	21250	Osteoplasty of maxilla and/or other facial bones for midface hypoplasia or retrusion (lefort type operation); without bone graft.
7	21254	Osteoplasty of maxilla and/or other facial bones for midface hypoplasia or retrusion (lefort type operation); with bone graft.
7	21267	Orbital repositioning, periorbital osteotomies, unilateral, with bone grafts; extracranial approach.
5	21270	Malar augmentation, bone or alloplastic material.
7	21275	Secondary revision of orbitocraniofacial reconstruction.
5	21280	Medial canthoplasty.
5	21282	Lateral Canthopexy.
		<i>Fracture and/or Dislocation</i>
2	21300	Treatment of closed skull fracture without operation.
2	21337	Treatment of closed nasal septal fracture.
5	21339	Open treatment of nasoethmoid fracture; with external fixation.
5	21385	Open treatment of orbital floor "blowout" fracture; transantral approach (Caldwell-LUC type operation).
5	21386	Open treatment of orbital floor "blowout" fracture; periorbital approach.
5	21387	Open treatment of orbital floor "blowout" fracture; combined approach.
5	21390	Open treatment of orbital floor "blowout" fracture; periorbital approach, with alloplastic or other implant.
5	21395	Open treatment of orbital floor "blowout" fracture; periorbital approach with bone graft (includes obtaining graft).
2	21400	treatment of fracture of orbit, except "blowout"; without manipulation.
3	21401	Treatment of fracture of orbit, except "blowout"; with manipulation.
4	21406	Open treatment of fracture of orbit, except "blowout"; without implant.
5	21407	Open treatment of fracture of orbit, except "blowout"; with implant.
4	21421	Treatment of palatal or alveolar ridge fractures (lefort I type); closed manipulation with interdental wire fixation or fixation of denture or splint.
5	21422	Treatment of palatal or alveolar ridge fractures (lefort I type); open treatment.
3	21440	Manipulative treatment of alveolar ridge fracture (separate procedure).
4	21445	Open treatment of alveolar ridge fracture (separate procedure).
5	21454	Open treatment of closed or open mandibular fracture with external fixation.
4	21455	Closed manipulative treatment by interdental fixation of closed or open mandibular fracture.
4	21461	Open treatment of closed or open mandibular fracture; without interdental fixation.
5	21462	Open treatment of closed or open mandibular fracture; with interdental fixation.
4	21465	Open treatment of mandibular condylar fracture.
5	21470	Open treatment of complicated closed or open mandibular fracture by multiple surgical approaches including internal fixation, interdental fixation, and/or wiring of dentures or splints.
3	21493	Treatment of closed or open hyoid fracture; without manipulation.
2	21497	Interdental wiring, for condition other than fracture.
		<i>Neck (Soft Tissues) and Thorax</i>
		<i>Excision</i>
1	21550	Biopsy, soft tissue of neck or thorax.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
3	21557	Radical resection of tumor (EG, malignant neoplasm), soft tissue of neck or thorax.
2	21620	Ostectomy of sternum, partial. <i>Repair, Revision or Reconstruction</i>
2	21700	Division of scalenus anticus; without resection of cervical rib.
3	21720	Division of sternocleidomastoid for torticollis, open operation; without cast application.
3	21725	Division of sternocleidomastoid for torticollis, open operation; with cast application. <i>Fracture and/or Dislocation</i>
1	21800	* Treatment of rib fracture; closed, uncomplicated, each.
2	21805	Treatment of rib fracture; open or complicated, each.
2	21810	* Treatment of rib fracture; closed or open requiring external fixation ("flail chest");
1	21820	Treatment of sternum fracture; closed.
Back and Flank		
<i>Excision</i>		
1	21920	Biopsy, soft tissue of back or flank; superficial.
2	21925	Biopsy, soft tissue of back or flank; deep.
2	21930	Excision, tumor, soft tissue of back or flank.
3	21935	Radical resection of tumor (EG, malignant neoplasm), soft tissue of back or flank.Q03
Spine (vertebral Column)		
<i>Excision</i>		
3	22100	Partial resection of vertebral component, spinous processes; cervical.
3	22101	Partial resection of vertebral component, spinous processes; thoracic.
3	22102	Partial resection of vertebral component, spinous processes; lumbar. <i>Fracture and/or dislocation.</i>
1	22305	Closed treatment of vertebral process fracture(s).
1	22310	Closed treatment of vertebral body fracture(s), without manipulation.
2	22315	Closed treatment of vertebral fracture and/or dislocation, with or without anesthesia, by manipulation or traction, each.
3	22325	Open treatment of vertebral fracture and/or dislocation; lumbar, each.
3	22326	Open treatment of vertebral fracture and/or dislocation; cervical, each.
3	22327	Open treatment of vertebral fracture and/or dislocation; thoracic, each. <i>Manipulation</i>
2	22505	* Manipulation of spine requiring anesthesia, any region.Q03
Shoulder		
<i>Excision</i>		
1	23065	* Biopsy, soft tissue of shoulder area; superficial.
2	23075	Excision, tumor, shoulder area; subcutaneous.
3	23077	Radical resection of tumor (eg, malignant neoplasm), soft tissue of shoulder area.
4	23105	Arthrotomy for synovectomy; glenohumeral joint.
4	23106	Arthrotomy for synovectomy; sternoclavicular joint.
4	23107	Arthrotomy, glenohumeral joint, with joint exploration, with or without removal of loose or foreign body.
5	23120	Claviclectomy; Partial.
5	23125	Claviclectomy; total.
5	23145	Excision or curettage of bone cyst or benign tumor of clavicle or scapula; with autograft (includes obtaining graft).
5	23146	Excision or curettage of bone cyst or benign tumor of clavicle or scapula; with allograft.
5	23155	Excision or curettage of bone cyst or benign tumor of proximal humerus; with autograft (includes obtaining graft).
5	23156	Excision or curettage of bone cyst or benign tumor of proximal humerus; with allograft. <i>Introduction or Removal</i>
1	23330	* Removal of foreign body, shoulder; subcutaneous. <i>Repair, revision or reconstruction.</i>
5	23395	Muscle transfer, any type for paralysis of shoulder or upper arm; single.
7	23397	Muscle transfer, any type for paralysis of shoulder or upper arm; multiple.
4	23400	Scapulopexy (EG, Sprengel's deformity or for paralysis).
5	23410	Repair of ruptured supraspinatus tendon (rotator cuff) or musculotendinous cuff; acute.
7	23412	Repair of ruptured supraspinatus tendon (rotator cuff) or musculotendinous cuff; chronic.
5	23415	Coracoacromial ligament release, with or without acromioplasty, fro chronic ruptured supraspinatus tendon (rotator cuff).
7	23420	Repair of complete shoulder (rotator) cuff avulsion, chronic (includes acromioplasty).
4	23430	Tenodesis for rupture of long tendon of biceps.
4	23440	Resection or transplantation of long tendon of biceps, for chronic tenosynovitis.
5	23450	Capsulorrhaphy for recurrent dislocation, anterior; putti-platt procedure or magnuson type operation.
7	23455	Capsulorrhaphy for recurrent dislocation, anterior; bankart type operation with or without stapling.
5	23460	Capsulorrhaphy for recurrent dislocation, anterior, any type; with bone block.
7	23462	Capsulorrhaphy for recurrent dislocation, anterior, any type; with coracoid process transfer.
5	23465	Capsulorrhaphy for recurrent dislocation, posterior, with or without bone block.
7	23466	Capsulorrhaphy for recurrent dislocation with any type multi-directional instability.
4	23480	Osteotomy, clavicle, with or without internal fixation.
5	23485	Osteotomy, clavicle, with or without internal fixation; with bone graft for nonunion or malunion (includes obtaining graft and/or necessary fixation).
3	23490	Prophylactic treatment (nailing, pinning, plating or wiring) with or without methyl methacrylate; clavicle.
3	23491	Prophylactic treatment (nailing, pinning, plating or wiring) with or without methyl methacrylate; proximal humerus and humeral head. <i>Fracture and/or Dislocation</i>
1	23500	Treatment of closed clavicular fracture; without manipulation.
3	23510	Treatment of open clavicular fracture, with uncomplicated soft tissue closure.
1	23520	Treatment of closed sternoclavicular dislocation; without manipulation.
1	23525	Treatment of closed sternoclavicular dislocation; with manipulation.
3	23530	Open treatment of closed or open sternoclavicular dislocation, acute or chronic.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
4	23532	Open treatment of closed or open sternoclavicular dislocation, acute or chronic; with fascial graft (includes obtaining graft).
1	23540	Treatment of closed acromioclavicular dislocation; without manipulation.
1	23545	Treatment of closed acromioclavicular dislocation; with manipulation
3	23550	Open treatment of closed or open acromioclavicular dislocation, acute or chronic.
4	23552	Open treatment of closed or open acromioclavicular dislocation, acute or chronic; with fascial graft (includes obtaining graft).
1	23570	Treatment of closed scapular fracture; without manipulation.
1	23575	Treatment of closed scapular fracture; with manipulation (with or without shoulder joint involvement).
3	23580	Treatment of open scapular fracture, with uncomplicated soft tissue closure.
3	23585	Open treatment of closed or open scapular fracture juxta-articular.
1	23600	Treatment of closed humeral (surgical or anatomical neck) fracture; without manipulation.
4	23615	Open treatment of closed or open humeral (surgical or anatomical neck) fracture, with or without internal or external skeletal fixation.
1	23620	*Treatment of closed greater tuberosity fracture; without manipulation.
1	23650	*Treatment of closed shoulder dislocation, with manipulation; without anesthesia.
		<i>Arthrodesis</i>
4	23800	Arthrodesis, shoulder joint with or without local bone graft.
5	23802	Arthrodesis, shoulder joint, with primary autogenous graft (includes obtaining graft).
		<i>Amputation</i>
3	23921	Disarticulation of shoulder; secondary closure or scar revision. <i>Humerus (Upper Arm) and Elbow.</i>
		<i>Incision.</i>
2	23931	Incision and drainage, upper arm or elbow area; infected bursa.
		<i>Excision.</i>
1	24065	Biopsy, soft tissue of upper arm or elbow area; superficial.
2	24066	Biopsy, soft tissue of upper arm or elbow area; deep.
3	24077	Radical resection of tumor (EG, malignant neoplasm), soft tissue of upper arm or elbow area.
4	24102	Arthrotomy, elbow; for synovectomy.
3	24150	Radical resection for tumor, shaft or distal humerus.
4	24151	Radical resection for tumor, shaft or distal humerus; with autograft (includes obtaining graft).
3	24152	Radical resection for tumor, radial head or neck.
4	24153	Radical resection for tumor, radial head or neck; with autograft (includes obtaining graft).
		<i>Repair, Revision and Reconstruction.</i>
5	24360	Arthroplasty, elbow; with membrane.
5	24361	Arthroplasty, elbow; with distal humeral prosthetic replacement.
7	24363	Arthroplasty, elbow; with distal humerus and proximal ulnar prosthetic replacement ("total elbow").
5	24365	Arthroplasty, radial head.
5	24366	Arthroplasty, radial head; with implant.
4	24400	Osteotomy, humerus, with or without internal fixation.
4	24410	Multiple osteotomies with realignment on intramedullary rod, humeral shaft (sofield type procedure).
3	24430	Repair of nonunion or malunion, humerus; without graft (EG, compression technique).
4	24435	Repair of nonunion or malunion, humerus; with iliac or other autograft (includes obtaining graft).
3	24498	Prophylactic treatment (nailing, pinning, plating or wiring); with or without methylmethacrylate, humerus.
		<i>Fracture and/or Dislocation.</i>
1	24500	Treatment of closed humeral shaft fracture; without manipulation.
1	24560	Treatment of closed humeral epicondylar fracture, medial or lateral; without manipulation.
1	24576	Treatment of closed humeral condylar fracture, medial or lateral; without manipulation.
5	24587	Open treatment of closed or open comminuted elbow fracture (fracture distal humerus and/or proximal ulna/radius), with or without internal or external skeletal fixation; with implant.
5	24588	Open treatment of closed or open comminuted elbow fracture (fracture distal humerus and/or proximal ulna/radius), with or without internal or external skeletal fixation; with implants and fascia lata ligament reconstruction.
1	24600	Treatment of closed elbow dislocation; without anesthesia.
2	24660	Treatment of open radial head or neck fracture, with uncomplicated soft tissue closure.
1	24670	Treatment of closed ulnar fracture, proximal end (olecranon process); without manipulation.
		<i>Arthrodesis</i>
4	24800	Arthrodesis, elbow joint; with or without local autograft or allograft
5	24802	Arthrodesis, elbow joint; with autograft (includes obtaining graft other than locally obtained).
		<i>Amputation</i>
3	24925	Amputation, arm through humerus; secondary closure or scar revision.

Forearm and Wrist

2	25031	Incision Incision and drainage, forearm and/or wrist; infected bursa
		<i>Excision</i>
1	25065	*Biopsy, soft tissue of forearm/or wrist; superficial
2	25075	Excision, tumor, forearm and/or wrist area; subcutaneous.
3	25077	Radical resection of tumor (eg, malignant neoplasm), soft tissue of forearm and/or wrist area.
4	25105	Arthrotomy, wrist joint; for synovectomy.
4	25115	Radical excision of bursa, synovia of wrist, or forearm tendon sheaths (eg, tenosynovitis, fungus, TBC, or other granulomas, rheumatoid arthritis); flexors.
4	25116	Radical excision of bursa, synovia of wrist, or forearm tendon sheaths (eg, tenosynovitis, fungus, TBC, or other granulomas, rheumatoid arthritis); extensors, with or without transposition of dorsal retinaculum.
2	25118	Synovectomy, extensor tendon sheath, wrist, single compartment.
3	25119	Synovectomy, extensor tendon sheath, wrist, single compartment; with resection of distal ULNA.
3	25170	Radical resection for tumor, radius or ulna.
		<i>Introduction or Removal</i>
1	25250	Removal of wrist prosthesis (separate procedure).
1	25251	Removal of wrist prosthesis; complicated, including "total wrist".
		<i>Repair, Revision or Reconstruction</i>
5	25330	Arthroplasty, wrist.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
5	25331	Arthroplasty, wrist; with implant.
5	25332	Arthroplasty, wrist, pseudarthrosis type with internal fixation.
3	25335	Centralization of wrist on ulna (EG, radial club hand).
3	25350	Osteotomy, radius; distal third.
3	25355	Osteotomy, radius; middle or proximal third.
3	25360	Osteotomy; ulna.
3	25365	Osteotomy; radius and ulna.
3	25370	Multiple osteotomies, with realignment on intramedullary rod (sofield type procedure); radius or ulna.
4	25375	Multiple osteotomies, with realignment on intramedullary rod (sofield type procedure); radius and ulna.
3	25400	Repair of nonunion or malunion, radius or ulna; without graft (EG, compression technique).
4	25405	Repair of nonunion or malunion, radius or ulna; with iliac or other autograft (includes obtaining graft).
3	25415	Repair of nonunion or malunion, radius and ulna; without graft (EG, compression technique).
4	25420	Repair of nonunion or malunion, radius and ulna; with iliac or other autograft (includes obtaining graft).
3	25425	Repair of defect with autograft; radius or ulna.
4	25426	Repair of defect with autograft; radius and ulna.
4	25440	Repair of nonunion, scaphoid (navicular) bone, with or without radial styloidectomy (includes obtaining graft and necessary fixation)
5	25441	Arthroplasty with prosthetic replacement; distal radius.
5	25442	Arthroplasty with prosthetic replacement; distal ulna.
5	25443	Arthroplasty with prosthetic replacement; scaphoid (navicular).
5	25444	Arthroplasty with prosthetic replacement; lunate.
5	25445	Arthroplasty with prosthetic replacement; trapezium.
7	25446	Arthroplasty with prosthetic replacement; distal radius and partial or entire carpus ("total wrist").
5	25447	Interposition arthroplasty, intercarpal or carpometacarpal joints.
5	25449	Revision of arthroplasty, including removal of implant, wrist joint.
3	25490	Prophylactic treatment (nailing, pinning, plating or wiring), with or without methyl methacrylate; radius.
3	25491	Prophylactic treatment (nailing, pinning, plating or wiring), with or without methyl methacrylate; ulna.
3	25492	Prophylactic treatment (nailing, pinning, plating or wiring), with or without methyl methacrylate; radius and ulna.
		<i>Fracture and/or Dislocation</i>
2	25624	Treatment of closed carpal scaphoid (navicular) fracture; with manipulation.
		<i>Arthrodesis</i>
4	25800	Arthrodesis, wrist joint (including radiocarpal and/or ulnocarpal fusion); without bone graft.
5	25805	Arthrodesis, wrist joint (including radiocarpal and/or ulnocarpal fusion); with sliding graft.
5	25810	Arthrodesis, wrist joint (including radiocarpal and/or ulnocarpal fusion); with iliac or other autograft (includes obtaining graft).
4	25820	Intercarpal fusion; without bone graft.
5	25825	Intercarpal fusion; with autograft (includes obtaining graft).
		<i>Amputation</i>
3	25907	Amputation, forearm, through radius and ulna; secondary closure or scar revision.
3	25922	Disarticulation through wrist; secondary closure or scar revision.
3	25929	Transmetacarpal amputation; secondary closure or scar revision.
Hand and Fingers		
		<i>Excision</i>
3	26117	Radical resection of tumor (eg, malignant neoplasm), soft tissue of hand or finger.
3	26130	Synovectomy, carpometacarpal joint.
3	26236	Partial excision (craterization, saucerization, or diaphysectomy) of bone (eg, for osteomyelitis); distal phalanx of finger.
3	26260	Radical resection (ostectomy) for tumor, proximal or middle phalanx of finger.
2	26262	Radical resection (ostectomy) for tumor, distal phalanx of finger.
		<i>Introduction or Removal</i>
2	26320	Removal of implant from finger or hand.
		<i>Repair, Revision or Reconstruction</i>
4	26357	Flexor tendon repair or advancement, single, in "no man's land"; secondary, each tendon.
4	26415	* Extensor tendon excision, implantation of plastic tube or rod for delayed extensor tendon graft, hand or finger.
3	26437	Extensor tendon realignment, hand.
1	26478	Tendon lengthening, flexor, hand or finger, single, each.
1	26479	Tendon shortening, flexor, hand or finger, single, each.
4	26504	Tendon pulley reconstruction; with tendon prosthesis (separate procedure).
5	26527	Arthroplasty, carpometacarpal joint.
4	26548	Repair and reconstruction, finger, volar plate, interphalangeal joint.
2	26560	Repair of syndactyly (web finger) each web space; with skin flaps.
3	26561	Repair of syndactyly (web finger) each web space; with skin flaps and grafts.
4	26562	Repair of syndactyly (web finger) each web space; complex (eg, involving bone, nails).
5	26565	Osteotomy for correction of deformity; metacarpal.
5	26580	Repair cleft hand.
5	26590	Repair macrodactyilia.
3	26591	Repair, intrinsic muscles of hand (specify).
3	26593	Release, intrinsic muscles of hand (specify).
2	26596	Excision of constricting ring of finger, with multiple Z-plasties.
3	26597	Release of scar contracture, flexor or extensor, with skin grafts, rearrangement flaps, or Z-plasties, hand and/or finger.
		<i>Fractures and/or Dislocations</i>
4	26615	Open treatment of closed or open metacarpal fracture, single, with or without internal or external skeletal fixation, each bone.
2	26742	Treatment of closed articular fracture, involving metacarpophalangeal or proximal interphalangeal joint; with manipulation, each
2	26756	Treatment of closed distal phalangeal fracture; finger or thumb; with percutaneous pinning, each.
2	26776	Treatment of closed interphalangeal joint dislocation, single, with manipulation; with percutaneous pinning.
		<i>Arthrodesis</i>
4	26850	Arthrodesis, metacarpophalangeal joint, with or without internal fixation.
4	26852	Arthrodesis, metacarpophalangeal joint, with or without internal fixation; with autograft (includes obtaining graft).

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
Pelvis and Hip Joint		
		<i>Excision</i>
3	27049	Radical resection of tumor (eg, malignant neoplasm), soft tissue of pelvis and hip area.
3	27050	Arthrotomy, for biopsy; sacroiliac joint.
5	27060	Excision; ischial bursa.
5	27062	Excision; trochanteric bursa or calcification.
		<i>Introduction and/or Removal</i>
1	27086	Removal of foreign body, pelvis or hip; subcutaneous tissue.
		<i>Repair, Revision or Reconstruction</i>
3	27097	Hamstring recession, proximal.
3	27098	Adductor transfer to ischium.
4	27100	Transfer external oblique muscle to greater trochanter including fascial or tendon extension (graft).
4	27105	Transfer paraspinous muscle to hip (includes fascial or tendon extension graft).
4	27110	Transfer iliopsoas to greater trochanter.
4	27111	Transfer iliopsoas to femoral neck.
		<i>Fractures and/or Dislocations</i>
1	27190	Treatment of closed sacral fracture.
2	27192	Open treatment of closed or open sacral fracture.
1	27195	Treatment of sacroiliac and/or symphysis pubis dislocation, without manipulation.
2	27196	Treatment of sacroiliac and/or symphysis pubis dislocation, with anesthesia and with manipulation.
2	27201	Treatment of open coccygeal fracture.
1	27210	Treatment of closed iliac, pubic or ischial fracture.
1	27230	Treatment of closed femoral fracture, proximal end, neck; without manipulation.
1	27238	Treatment of closed intertrochanteric, pertrochanteric, or subtrochanteric femoral fracture; without manipulation.
1	27246	Treatment of closed greater trochanteric fracture, without manipulation.
1	27250	Treatment of closed hip dislocation, traumatic; without anesthesia.
2	27252	Treatment of closed hip dislocation, traumatic; requiring anesthesia.
1	27265	Treatment of atraumatic hip dislocation (eg, post-total hip arthroplasty); without anesthesia.
2	27266	Treatment of atraumatic hip dislocation (eg, post-total hip arthroplasty); requiring general anesthesia.
Femur (Thigh Region) and Knee Joint		
		<i>Excision</i>
1	27323	Biopsy, soft tissue of thigh or knee area; superficial.
4	27331	Arthrotomy, knee with joint exploration, with or without biopsy, with or without removal of loose or foreign bodies.
4	27332	Arthrotomy, knee, for excision of semilunar cartilage (meniscectomy); medial or lateral.
4	27333	Arthrotomy, knee, for excision of semilunar cartilage (meniscectomy); medial and lateral.
4	27334	Arthrotomy, knee, for synovectomy; anterior or posterior.
4	27335	Arthrotomy, knee, for synovectomy; anterior and posterior including popliteal area.
3	27340	Excision, prepatellar bursa.
4	27356	Excision or curettage of bone cyst or benign tumor of femur; with allograft.
		<i>Repair, Revision or Reconstruction</i>
1	27380	Suture of infrapatellar tendon; primary.
3	27381	Suture of infrapatellar tendon; secondary reconstruction, including fascial or tendon graft.
3	27385	Suture of quadriceps or hamstring muscle rupture; primary.
3	27386	Suture of quadriceps or hamstring muscle rupture; secondary reconstruction, including fascial or tendon graft.
4	27403	Arthrotomy with open meniscus repair.
4	27405	Repair, primary, torn ligament and/or capsule, knee; collateral.
4	27407	Repair, primary, torn ligament and/or capsule, knee; cruciate.
4	27409	Repair, primary, torn ligament and/or capsule, knee; collateral and cruciate ligaments.
3	27418	Anterior tibial tubercle plasty for chondromalacia patellae (maquet procedure).
3	27427	Ligamentous reconstruction (augmentation), knee; extra-articular.
4	27428	Ligamentous reconstruction (augmentation), knee; intra-articular (open).
4	27429	Ligamentous reconstruction (augmentation), knee; intra-articular (open) and extra-articular.
4	27437	Arthroplasty, patella; without prosthesis.
5	27438	Arthroplasty, patella; with prosthesis.
5	27440	Arthroplasty, knee, tibial plateau.
5	27441	Arthroplasty, knee, tibial plateau; with debridement and partial synovectomy.
5	27442	Arthroplasty, knee, femoral condyles or tibial plateaus.
5	27443	Arthroplasty, knee, femoral condyles or tibial plateaus; with debridement and partial synovectomy.
		<i>Fractures and/or Dislocations</i>
1	27500	Treatment of closed femoral shaft fracture (including supracondylar); without manipulation (includes traction).
2	27502	Treatment of closed femoral shaft fracture (including supracondylar); with manipulation.
2	27504	Treatment of closed femoral shaft fracture (including supracondylar), with uncomplicated soft tissue closure.
1	27508	Treatment of closed femoral fracture, distal end, medial or lateral condyle; without manipulation.
1	27510	Treatment of closed femoral fracture, distal end, medial or lateral condyle; without manipulation.
2	27512	Treatment of open femoral fracture, distal end, medial or lateral condyle; with uncomplicated soft tissue closure.
1	27516	Treatment of closed distal femoral epiphyseal separation; without manipulation (includes traction).
1	27517	Treatment of closed distal femoral epiphyseal separation; with manipulation.
1	27520	Treatment of closed patellar fracture, without manipulation.
1	27530	Treatment of closed tibial fracture, proximal (plateau); without manipulation.
1	27538	Treatment of closed intercondylar spine(s) fracture(s) of knee.
1	27550	Treatment of closed knee dislocation; without anesthesia.
1	27560	Treatment of closed patellar dislocation; without anesthesia.
		<i>Amputation</i>
3	27594	Amputation, thigh, through femur, any level; secondary closure or scar revision.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
Leg (Tibia and Fibula) and Ankle Joint		
		<i>Incision</i>
2	27604	Incision and drainage, leg or ankle; infected bursa.
		<i>Excision</i>
1	27613	Biopsy, soft tissue of leg or ankle area; superficial.
2	27614	Biopsy, soft tissue of leg or ankle area; deep.
3	27615	Radical resection of tumor (eg, malignant neoplasm), soft tissue of leg or ankle area.
2	27618	Excision, tumor, leg or ankle area; subcutaneous.
3	27619	Excision, tumor, leg or ankle area; deep, subfascial or intramuscular.
4	27625	Arthrotomy, ankle, for synovectomy; arthrotomy, ankle, for synovectomy.
4	27626	Including tenosynovectomy.
		<i>Repair, Revision or Reconstruction</i>
3	27687	Gastrocnemius recession (ER, Stuyver Procedure).
2	27695	Suture, primary, torn, ruptured or severed ligament, ankle; collateral.
2	27696	Suture, primary, torn, ruptured or severed ligament, ankle; both collateral ligaments.
2	27698	Suture, secondary repair, torn, ruptured or severed ligament, ankle, collateral (EG, Watson-Jones procedure).
5	27700	Arthroplasty, ankle.
2	27704	Removal of ankle implant.
2	27705	Osteotomy; tibia.
2	27707	Osteotomy; fibula.
2	27709	Osteotomy; tibia and fibula.
4	27715	Osteoplasty, tibia and fibula, lengthening.
2	27730	Epiphyseal arrest by epiphysiodesis or stapling; distal tibia.
2	27732	Epiphyseal arrest by epiphysiodesis or stapling; distal fibula.
2	27734	Epiphyseal arrest by epiphysiodesis or stapling; distal tibia and fibula.
2	27740	Epiphyseal arrest by epiphysiodesis or stapling; combined, proximal and distal tibia and fibula.
2	27742	Epiphyseal arrest by epiphysiodesis or stapling; combined, proximal and distal tibia and fibula and distal femur.
3	27745	Prophylactic treatment (nailing, pinning, plating or wiring); with or without methylmethacrylate, tibia.
		<i>Fractures and/or Dislocations</i>
1	27750	Treatment of closed tibial shaft fracture; without manipulation.
1	27752	Treatment of closed tibial shaft fracture; without manipulation.
2	27754	Treatment of open tibial shaft fracture; with uncomplicated soft tissue closure.
1	27760	*Treatment of closed distal tibial fracture (medial malleolus); without manipulation.
1	27762	Treatment of closed distal tibial fracture (medial malleolus); with manipulation.
1	27780	*Treatment of closed proximal fibula or shaft fracture; without manipulation.
1	27786	*Treatment of closed distal fibula fracture (lateral malleolus); without manipulation.
1	27788	Treatment of closed distal fibula fracture (lateral malleolus); without manipulation.
1	27800	Treatment of closed tibial and fibula fractures, shafts; without manipulation.
1	27808	Treatment of closed bimalleolar ankle fracture, (including potts); without manipulation.
1	27810	Treatment of closed bimalleolar ankle fracture, (including potts); with manipulation.
2	27812	Treatment of open bimalleolar ankle fracture, with uncomplicated soft tissue closure.
3	27814	Open treatment of closed or open bimalleolar ankle fracture, with or without internal skeletal fixation.
1	27816	Treatment of closed trimalleolar ankle fracture; without manipulation.
1	27818	Treatment of closed trimalleolar ankle fracture; without manipulation.
2	27820	Treatment of open trimalleolar ankle fracture; with uncomplicated soft tissue closure.
3	27822	Open treatment of closed or open trimalleolar ankle fracture, with or without internal or external skeletal fixation, medial and/or lateral malleolus; only
3	27823	Open treatment of closed or open trimalleolar ankle fracture; with or without internal or external skeletal fixation, medial and/or lateral malleolus; including internal skeletal fixation of posterior lip (malleolus).
1	27830	Treatment of proximal tibiofibular joint dislocation; without anesthesia.
1	27831	Treatment of proximal tibiofibular joint dislocation; requiring anesthesia.
2	27832	Open treatment of proximal tibiofibular joint dislocation; with fixation or excision.
1	27840	Treatment of ankle dislocation; with anesthesia.
		<i>Arthrodesis</i>
4	27870	Arthrodesis, ankle, any method.
4	27871	Arthrodesis, tibiofibular joint, proximal or distal
		<i>Amputation</i>
3	27884	Amputation leg, through tibia and fibula; secondary closure or scar revision.
Foot		
		<i>Incision</i>
2	28020	Arthrotomy, with exploration, drainage or removal of loose or foreign body; intertarsal or tarsometatarsal joint.
		<i>Excision</i>
2	28043	*Excision, tumor, foot; subcutaneous.
3	28046	Radical resection of tumor (EG, malignant neoplasm), soft tissue of foot.
2	28054	Arthrotomy for synovial biopsy; interphalangeal joint.
2	28060	Fasciectomy, excision of plantar fascia; partial (separate procedure).
3	28070	Synovectomy; intertarsal or tarsometatarsal joint, each.
2	28100	Excision or curettage of bone cyst or benign tumor, talus or calcaneus.
2	28104	Excision or curettage of bone cyst or benign tumor, tarsal or metatarsal bones, except talus or calcaneus.
3	28106	Excision or curettage of bone cyst or benign tumor, tarsal or metatarsal bones, except talus or calcaneus; with iliac or other autograft (including obtaining graft).
3	28116	Osteotomy, excision of tarsal coalition.
4	28119	Osteotomy, calcaneus for spur, with or without plantar fascial release.
3	28130	Tallectomy (astragalectomy)
3	28150	Phalangectomy of toe, single, each.
		<i>Introduction and/or Removal</i>

PROPOSED-ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
2	28192	Removal of foreign body, foot; deep. <i>Repair, Revision or Reconstruction</i>
2	28236	Transfer of tendon, anterior tibial into tarsal bone.
3	28238	Advancement of posterior tibial tendon with excision of accessory navicular bone (kidner type procedure).
2	28240	Tenotomy, lengthening, or release, abductor hallucis muscle.
4	28262	Capsulotomy, midfoot, extensive, including posterior talotibial capsulotomy and tendon(s) lengthening as for resistant clubfoot deformity
2	28280	* Webbing operation (create syndactylism of toes) for soft corn (Kelikian type procedure).
3	28288	Osteotomy, partial, exostectomy or condylectomy, single, metatarsal head, first through fifth, each metatarsal head, (separate procedure).
2	28300	* Osteotomy; calcaneus (Dwyer or Charners type procedure), with or without internal fixation.
2	28302	Osteotomy; talus
2	28304	Osteotomy, midtarsal bones, other than calcaneus or talus.
3	28305	Osteotomy, midtarsal bones, other than calcaneus or talus; with autograft (includes obtaining graft) (Fowler type).
4	28309	* Osteotomy, metatarsals—multiple, for cavus foot (Swanson type procedure).
2	28313	Reconstruction, angular deformity of toe (overlapping second toe, fifth toe, curly toes), soft tissue procedures only
4	28320	Repair of nonunion or malunion tarsal bones (eg, calcaneus, talus). <i>Fracture and/or dislocation</i>
1	28400	* Treatment of closed calcaneal fracture; without manipulation.
3	28410	Treatment of open calcaneal fracture, with uncomplicated soft tissue closure.
3	28415	Open treatment of closed or open calcaneal fracture, with or without intrnal or external skeletal fixation.
3	28440	Treatment of open talus fracture, with uncomplicated soft tissue closure.
3	28445	Open treatment of closed or open talus fracture, with or without internal skeletal fixation.
3	28460	Treatment of open tarsal bone fracture (except talus and calcaneus), with uncomplicated soft tissue closure, each.
2	28476	Treatment of closed metatarsal fracture; with manipulation and percutaneous pinning, each.
3	28480	Treatment of open metatarsal fracture, with uncomplicated soft tissue closure, each.
2	28496	Treatment of closed fracture great toe, phalanx or phalanges; with manipulation and percutaneous pinning.
1	28635	Treatment of closed metatarsophalangeal joint dislocation; requiring anesthesia.
3	28640	Treatment of open metatarsophalangeal joint dislocation, with uncomplicated soft tissue closure.
1	28665	* Treatment of closed interphalangeal joint dislocation; requiring anesthesia. <i>Arthrodesis</i>
4	28705	Pantalar arthrodesis.
4	28715	Triple arthrodesis.
4	28725	Subtalar arthrodesis.
4	28730	Arthrodesis, midtarsal or tarsometatarsal, multiple or transverse.
4	28735	Arthrodesis, midtarsal or tarsometatarsal, multiple or transverse—with osteotomy as for flatfoot correction.
5	28737	Arthrodesis, midtarsal navicular-cuneiform, with tendon lengthening and advancement (Miller type procedure)
4	28740	Arthrodesis, midtarsal or tarsometatarsal, single joint. <i>Arthroscopy</i>
3	29815	Arthroscopy, shoulder, diagnostic, with or without synovial biopsy (separate procedure).
3	29819	Arthroscopy, shoulder, surgical; with removal of loose body or foreign body
3	29820	Arthroscopy, shoulder, surgical; synovectomy, partial.
3	29821	Arthroscopy, shoulder, surgical; synovectomy, complete.
3	29822	Arthroscopy, shoulder, surgical; debridement, limited.
3	29823	Arthroscopy, shoulder, surgical; debridement, extensive.
3	29825	Arthroscopy, shoulder, surgical; with lysis and resection of adhesions with or without manipulation.
3	29830	* Arthroscopy, elbow, diagnostic, with or without synovial biopsy (separate procedure).
3	29834	* Arthroscopy, elbow, surgical; with removal of loose body or foreign body
3	29835	* Arthroscopy, elbow, surgical; synovectomy, partial.
3	29836	* Arthroscopy, elbow, surgical; synovectomy, complete.
3	29837	* Arthroscopy, elbow, surgical; debridement, limited.
3	29838	* Arthroscopy, elbow, surgical; debridement, extensive.
3	29840	Arthroscopy, wrist, diagnostic, with or without synovial; biopsy (separate procedure).
3	29843	Arthroscopy, wrist, surgical; for infection, lavage and drainage.
3	29844	Arthroscopy, wrist, surgical; synovectomy, partial.
3	29845	* Arthroscopy, wrist, surgical; synovectomy, complete.
3	29846	Arthroscopy, wrist, surgical; excision of triangular fibrocartilage and/or joint debridement.
3	29847	Arthroscopy, wrist, surgical; internal fixation for fracture or instability
4	29880	Arthroscopy, knee, surgical; with meniscectomy (medial and lateral, including any meniscal shav
3	29883	Arthroscopy, knee, surgical; with meniscus repair (medial and lateral).
3	29885	Arthroscopy, knee, surgical; drilling for osteochondritis dissecans with bone grafting; with or without internal fixation (including debridement of base of lesion).
3	29888	Arthroscopically aided anterior cruciate ligament repair/augmentation or reconstruction.
3	29889	Arthroscopically aided posterior cruciate ligament repair/augmentation or reconstruction.
3	29894	* Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; with removal of loose body or foreign body.
3	29895	Arthroscopy, ankle (tibiotalar, and fibulotalar joints), surgical synovectomy, partial.
3	29897	* Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; debridement, limited.
3	29898	* Arthroscopy, ankle (tibiotalar and fibulotalar joints), surgical; debridement, extensive.

Respiratory System—Nose

1	30120	Excision
1	30124	Excision or surgical planing of skin of nose for rhinophyma. * Excision demoid cyst, nose; simple, skin, subcutaneous.
		<i>Repair</i>
5	30540	Repair choanal atresia; intranasal.
2	30560	Lysis intranasal synechia. <i>Other Procedures</i>
1	30820	* Cyrosurgery of turbinates, unilateral or bilateral.
1	30903	* Control nasal hemorrhage, anterior, complex (cauterization with local anesthesia and packing).
1	30905	Control nasal hemorrhage, posterior, with posterior nasal packs and/or cauterization; initial.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
1	30906	Control nasal hemorrhage, posterior, with posterior nasal packs and/or cauterization; subsequent.
Accessory Sinuses		
		<i>Incision</i>
2	31050	Sinusotomy, sphenoid, with or without biopsy.
4	31051	Sinusotomy, sphenoid, with or without biopsy; with mucosal stripping or removal of polyp(s)
4	31075	Sinusotomy frontal; transorbital, unilateral (for mucocoele or ostemoa, lynch type).
4	31080	Sinusotomy frontal obliterative without osteoplastic flap, brow incision (includes ablation).
4	31086	Sinusotomy frontal; nonobliterative, with osteoplastic flap, brow incision.
5	31090	Sinusotomy combined, three or more sinuses.
		<i>Endoscopy</i>
2	31252	* Nasal endoscopy, surgical; with nasal polypectomy.
3	31254	* Nasal endoscopy, surgical; with ethmoidectomy, partial.
5	31255	* Nasal endoscopy, surgical; with ethmoidectomy, anterior and posterior (total).
3	31256	* Nasal endoscopy, surgical; with maxillary antrostomy.
3	31258	* Nasal endoscopy, surgical; with removal of foreign body(s).
2	31260	* Maxillary sinus endoscopy, diagnostic, with or without biopsy.
3	31263	* Maxillary sinus endoscopy, surgical; with removal of foreign body(s).
3	31265	* Maxillary sinus endoscopy, surgical; with removal of cyst.
3	31267	Maxillary sinus endoscopy, surgical; with removal of mucous membrane and/or polyps.
3	31268	* Maxillary sinus endoscopy, surgical; with removal of fungus ball.
1	31270	* Sphenoid endoscopy, diagnostic.
2	31275	* Sphenoid endoscopy, surgical; including sphenoidotomy.
3	31277	* Sphenoid endoscopy, surgical; with removal of mucous membrane.
Larynx		
		<i>Excision</i>
5	31300	Laryngotomy (thyrotomy, laryngofissure); with removal of tumor or laryngocele, cordectomy.
2	31320	Laryngotomy (thyrotomy, laryngofissure); diagnostic laryngoscopy direct, with or without tracheoscopy; diagnostic, newborn.
		<i>Endoscopy</i>
1	31520	Laryngoscopy direct, with or without tracheoscopy; diagnostic, newborn.
2	31528	Laryngoscopy direct, with or without tracheoscopy; with dilatation, initial.
2	31529	Laryngoscopy direct, with or without tracheoscopy; with dilatation, subsequent.
5	31580	Laryngoplasty; for laryngeal web, two stage, with keel insertion and removal.
5	31582	Laryngoplasty; for laryngeal stenosis, with graft or core mold, including tracheotomy.
4	31584	Laryngoplasty; with open reduction of fracture.
1	31585	Treatment of closed laryngeal fracture; without manipulation.
2	31586	Treatment of closed laryngeal fracture; with closed manipulative reduction.
5	31588	Laryngoplasty, not otherwise specified (eg, for burns, reconstruction after partial laryngectomy).
5	31590	Laryngeal reinnervation by neuromuscular pedicle.
2	31595	Section recurrent laryngeal nerve, therapeutic (separate procedure), unilateral.
Trachea and Bronchi		
		<i>Endoscopy</i>
2	31629	Bronchoscopy; with transbronchial needle aspiration biopsy.
		<i>Repair</i>
5	31750	Tracheoplasty; cervical.
2	31755	Tracheoplasty; tracheopharyngeal fistulization, each stage.
4	31785	Excision of tracheal tumor or carcinoma; cervical.
		<i>Suture</i>
2	31800	Suture of external tracheal wound or injury; cervical.
1	31820	Surgical closure tracheostomy or fistula; without plastic repair.
2	31825	Surgical closure tracheostomy or fistula; with plastic repair.
2	31830	Revision of tracheostomy scar
Lungs and Pleura		
		<i>Incision</i>
1	32000	Thoracentesis, puncture of pleural cavity for aspiration, initial or subsequent.
2	32005	Chemical Pleurodesis (eg, for recurrent or persistent pneumothorax).
2	32020	Tube thoracostomy with or without water seal (eg, for abscess, hemothorax, empyema) (separate procedure).
		<i>Excision</i>
1	32400	Biopsy, pleura; percutaneous needle.
1	32405	Biopsy, lung or mediastinum, percutaneous needle.
1	32420	Pneumonocentesis, puncture of lung for aspiration.
Cardiovascular System—Heart and Pericardium		
		<i>Pericardium</i>
2	33010	Pericardiocentesis; initial.
2	33011	Pericardiocentesis; subsequent.
Arteries and Veins		
		<i>Arterial Embolectomy or Thrombectomy.</i>
3	34101	Embolectomy or thrombectomy, with or without catheter: axillary, brachial, innominate, subclavian artery, by arm incision.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
		<i>Intra-Arterial—Intra-Aortic.</i>
4	36260	Insertion of implantable intra-arterial infusion pump (eg, for chemotherapy of liver).
2	36261	Revision of implanted intra-arterial infusion pump.
1	36262	Removal of implanted intra-arterial infusion pump.
		<i>Venous.</i>
1	36488	Placement of central venous catheter (subclavian, jugular, or other vein) (eg, for central venous pressure, hyper-alimentation, hemodialysis, or chemotherapy); percutaneous, age 2 years or under.
1	36489	Placement of central venous catheter (subclavian, jugular, or other vein) (eg, for central venous pressure, hyper-alimentation; hemodialysis, or chemotherapy); percutaneous, over age 2.
1	36490	Placement of central venous catheter (subclavian, jugular, or other vein) (eg, for central venous pressure, hyper-alimentation, hemodialysis, or chemotherapy); cutdown, age 2 years or under.
1	36491	Placement of central venous catheter (subclavian, jugular, or other vein) (eg, for central venous pressure, hyper-alimentation, hemodialysis, or chemotherapy); cutdown, over age 2.
3	36495	Insertion of implantable intravenous infusion pump or venous access port.
2	36496	Revision of implantable intravenous infusion pump or venous access port.
1	36497	Removal of implantable intravenous infusion pump or venous access port.
		<i>Arterial.</i>
1	36640	Arterial catheterization for prolonged infusion therapy (chemotherapy), cutdown. <i>Intervascular Cannulization or Shunt (Separate Procedure).</i>
3	36800	*Insertion of cannula for hemodialysis, other purpose; vein to vein.
3	36810	*Insertion of cannula for hemodialysis, other purpose; arteriovenous, external (scribner type).
3	36815	*Insertion of cannula for hemodialysis, other purpose; arteriovenous, external revision or closure.
3	36820	*Insertion of cannula for hemodialysis, other purpose; arteriovenous, internal (cimino type).
3	36821	*Arteriovenous anastomosis, direct, any site; creation of arteriovenous fistula.
4	36825	*Autogenous graft.
4	36830	*Creation of arteriovenous fistula; nonautogenous graft.
4	36835	*Insertion of Thomas Shunt.
4	36840	*Insertion mandril.
4	36845	*Anastomosis mandril.
2	36860	*Cannula declotting; without balloon catheter.
3	36861	*Cannula declotting; with balloon catheter.
Hemic and Lymphatic Systems—Lymph nodes and lymphatic channels.		
1	38300	<i>Incision.</i> *Drainage of lymph node abscess or lymphadenitis; simple.
1	38505	<i>Excision.</i> Biopsy or excision of lymph node(s); by needle, superficial (eg, cervical, inguinal, axillary).
2	38525	Biopsy or excision of lymph node(s); deep axillary node(s).
Digestive System—Vestibule of Mouth		
1	40806	<i>Incision.</i> Incision of labial frenum (frenotomy).
1	40819	<i>Excision, Destruction.</i> *Excision of frenum, labial or buccal (frenulectomy, frenulectomy, frenectomy).
1	40820	*Destruction of lesion or scar of vestibule of mouth by physical methods (eg, laser, thermal, cryo, chemical).
Tongue, Floor of Mouth		
		<i>Incision.</i>
1	41006	Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; sublingual, deep, suprathyoid.
1	41007	Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; submental space.
1	41008	Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; submandibular space.
1	41009	Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; masticator space.
1	41010	Incision of lingual frenum (frenotomy).
1	41015	Extraoral incision and drainage of abscess, cyst, or hematoma of floor of mouth; sublingual.
1	41016	Extraoral incision and drainage of abscess, cyst, or hematoma of floor of mouth; submental.
1	41017	Extraoral incision and drainage of abscess, cyst, or hematoma of floor of mouth; submandibular.
1	41018	Extraoral incision and drainage of abscess, cyst, or hematoma of floor of mouth; masticator space.
		<i>Excision.</i>
1	41110	*Excision of lesion of tongue without closure.
2	41112	Excision of lesion of tongue with closure; anterior two-thirds.
2	41113	Excision of lesion of tongue with closure; posterior one-third.
		<i>Repair.</i>
2	41250	Repair of laceration 2.5 cm or less; floor of mouth and/or anterior two-thirds of tongue.
2	41252	Repair of laceration of tongue, floor of mouth, over 2.6 cm or complex.
		<i>Other Procedures</i>
1	41500	Fixation of tongue, mechanical, other than suture (eg, K-wire).
1	41510	Suture of tongue to lip for micrognathia (Douglas type procedure).
2	41520	Frenoplasty (surgical revision of frenum, eg, with z-plasty).
Dentoalveolar structures.		
1	41800	<i>Incision</i> Drainage of abscess, cyst, hematoma from dentoalveolar structures.
1	41805	Removal of embedded foreign body from dentoalveolar structures soft tissues.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
Palate, Uvula		
5	42145	<i>Excision, destruction</i> Palatopharyngoplasty (eg, uvulopalatopharyngoplasty, uvulopharyngoplasty).
1	42160	Destruction of lesion, palate or uvula (thermal, cryo or chemical).
		<i>Repair.</i>
1	42180	Repair, laceration of palate; up to 2 cm.
5	42200	Palatoplasty for cleft palate, soft and/or hard palate only.
5	42205	Palatoplasty for cleft palate, with closure of alveolar ridge; soft tissue only.
5	42210	Palatoplasty for cleft palate, with closure of alveolar ridge; with bone graft to alveolar ridge (includes obtaining graft).
7	42215	Palatoplasty for cleft palate; major revision.
5	42220	Palatoplasty for cleft palate; secondary lengthening procedure.
5	42225	Palatoplasty for cleft palate; attachment pharyngeal flap.
5	42235	Repair of anterior palate, including vomer flap.
4	42260	Repair of nasolabial fistula.
3	42281	Insertion of pin-retained palatal prosthesis.
Salivary Gland and Ducts		
		<i>Incision</i>
1	42300	*Drainage of abscess; parotid, simple.
1	42310	*Drainage of abscess; submaxillary or sublingual, intraoral.
		<i>Excision</i>
2	42405	Biopsy of salivary gland; incisional.
3	42409	*Marsupialization of sublingual salivary cyst (ranula).
7	42410	Excision of parotid tumor or parotid gland; lateral lobe, without nerve dissection.
7	42420	Excision of parotid tumor or parotid gland; total, with dissection and preservation of facial nerve.
7	42425	Excision of parotid tumor or parotid gland; total, en bloc removal with sacrifice of facial nerve.
7	42426	Excision of parotid tumor or parotid gland; total, with unilateral radical neck dissection.
		<i>Repair</i>
4	42510	*Parotid duct diversion, bilateral (Wilke type procedure); with ligation of both submandibular (Wharton's) ducts.
Pharynx, Adenoids, and Tonsils		
		<i>Incision</i>
1	42700	*Incision and drainage abscess; peritonsillar.
		<i>Excision</i>
1	42802	Biopsy; hypopharynx.
1	42804	Biopsy; nasopharynx, visible lesion, simple.
5	42820	Tonsillectomy and adenoidectomy; under age 12.
5	42821	Tonsillectomy and adenoidectomy; age 12 or over.
3	42825	Tonsillectomy, primary or secondary; under age 12.
4	42826	Tonsillectomy, primary or secondary; age 12 or over.
3	42830	Adenoidectomy, primary; under age 12.
4	42831	Adenoidectomy, primary; age 12 or over.
3	42835	Adenoidectomy, secondary; under age 12.
4	42836	Adenoidectomy, secondary; age 12 or over.
		<i>Other Procedures</i>
1	42960	Control oropharyngeal, hemorrhage, primary or secondary (eg, posttonsillectomy); simple.
2	42962	Control oropharyngeal, hemorrhage, primary or secondary (eg, posttonsillectomy); with secondary surgical intervention.
Esophagus		
		<i>Incision</i>
1	43234	Upper gastrointestinal endoscopy, simple primary examination (eg, with small diameter flexible fiberscope).
2	43241	Upper gastrointestinal endoscopy including esophagus, stomach, and either the duodenum and/or jejunum as appropriate; with transendoscopic tube or catheter placement.
2	43243	Upper gastrointestinal endoscopy including esophagus, stomach, and either the duodenum and/or jejunum as appropriate; for injection sclerosis of esophageal and/or gastric varices.
2	43245	Upper gastrointestinal endoscopy including esophagus, stomach, and either the duodenum and/or jejunum as appropriate; for dilation of gastric outlet for obstruction.
2	43246	Upper gastrointestinal endoscopy including esophagus, stomach, and either the duodenum and/or jejunum as appropriate; for directed placement of percutaneous gastrostomy tube.
2	43265	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen; for destruction lithotripsy of stone, any method.
2	43267	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen; for insertion of nasobiliary or nasopancreatic drainage tube.
2	43268	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen; for insertion of tube or stent into bile or pancreatic duct.
2	43269	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen; for removal and/or change of tube, stent or foreign body.
2	43271	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen; for balloon dilation of ampulla, biliary or pancreatic duct.
2	43272	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen; for ablation of tumor or mucosal lesion (eg, laser, hot biopsy/fulguration).

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
Stomach		
1	43600	<i>Excision.</i> Biopsy of stomach: by capsule, tube, peroral (one or more specimens).
2	43750	<i>Introduction.</i> Percutaneous placement of gastrostomy tube change of gastrostomy tube.
1	43870	<i>Suture.</i> Closure of Gastrostomy, surgical.
Intestines (Except Rectum)		
1	44100	<i>Excision.</i> Biopsy of intestine by capsule, tube, peroral (one or more specimens).
1	44312	<i>Enterostomy—External Fistulization of Intestines (Separate Procedure).</i> Revision of ileostomy; simple (release of superficial scar).
2	44372	<i>Endoscopy, small bowel and stomal.</i> Small intestinal endoscopy, enteroscopy beyond second portion of duodenum; for placement of percutaneous jejunostomy tube.
2	44373	Small intestinal endoscopy, enteroscopy beyond second portion of duodenum; for conversion of percutaneous gastrostomy tube to percutaneous jejunostomy tube.
1	44385	Fiberoptic evaluation of small intestinal (kock) or pelvic pouch.
1	44386	Fiberoptic evaluation of small intestinal (KOCK) or pelvic pouch; for biopsy and/or collection of specimen by brushing or washing.
1	44393	Fiberoptic colonoscopy through colostomy; for ablation of tumor or mucosal lesion (eg, laser, hot biopsy/fulguration).
Rectum		
1	45100	<i>Excision.</i> Biopsy of anorectal wall, anal approach (eg, congenital megacolon).
2	45108	Anorectal myomectomy.
2	45150	Division of stricture of rectum.
<i>Endoscopy.</i>		
1	45305	*Proctosigmoidoscopy; for biopsy.
1	45307	Proctosigmoidoscopy; for removal of foreign body.
1	45310	*Proctosigmoidoscopy; for removal of polyp or papilloma.
1	45315	*Proctosigmoidoscopy; for removal of multiple excrescences, papillomata or polyps.
1	45317	Proctosigmoidoscopy; for control of hemorrhage (eg, electrocoagulation, laser photocoagulation).
1	45320	Proctosigmoidoscopy; for ablation of tumor (eg, electrocoagulation, photocoagulation, hot biopsy/fulguration).
1	45321	Proctosigmoidoscopy; for decompression of volvulus.
1	45332	Sigmoidoscopy, flexible fiberoptic; for removal of foreign body.
1	45336	Sigmoidoscopy, flexible fiberoptic; for ablation of tumor or mucosal lesion (eg, electrocoagulation, photocoagulation, hot biopsy/fulguration).
1	45337	Sigmoidoscopy, flexible fiberoptic for decompression of volvulus.
<i>Manipulation</i>		
1	45905	Dilation of anal sphincter (separate procedure) under anesthesia other than local.
Anus		
1	46030	<i>Incision.</i> *Removal of anal seton, other marker.
1	46050	*Incision and drainage, perianal abscess, superficial.
<i>Excision</i>		
2	46210	Cryptectomy; single.
1	46220	*Papillectomy or excision of single tag, anus (separate procedure).
<i>Endoscopy</i>		
1	46608	*Anoscopy; for removal of foreign body.
1	46610	Anoscopy; for removal of polyp.
1	46612	Anoscopy; for multiple polyp removal.
<i>Repair</i>		
3	46700	Anoplasty, Plastic operation for stricture; adult.
3	46705	Anoplasty, plastic operation for stricture; infant.
<i>Destruction</i>		
1	46922	Destruction of lesion(s), anus (eg, condyloma, papilloma, molluscum contagiosum, herpetic vesicle), simple; surgical excision.
Biliary Tract		
<i>Introduction</i>		
2	47510	Introduction of percutaneous transhepatic catheter or stent for biliary drainage.
1	47525	Change of percutaneous biliary drainage catheter.
1	47530	Revision and/or reinsertion of transhepatic T-Tube.
<i>Endoscopy</i>		
2	47552	Biliary endoscopy, percutaneous via T-tube or other tract; diagnostic
3	47553	Biliary Endoscopy, percutaneous via T-tube or other tract for biopsy and/or collection of specimen by brushing or washing
3	47554	Biliary endoscopy, percutaneous via T-tube or other tract for removal of stone(s).
3	47555	Biliary endoscopy, percutaneous via T-tube or other tract for dilation of biliary duct stricture.
<i>Excision</i>		
3	47630	Biliary duct stone extraction, percutaneous via T-tube tract, basket or snare (EG, Burhenne Technique)
Pancreas		
<i>Excision</i>		

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
1	48102	Biopsy of pancreas, percutaneous needle.
Abdomen, Peritoneum, and Omentum		
2	49080	<i>Incision</i> Peritoneocentesis, abdominal paracentesis, or peritoneal lavage; initial.
2	49081	Peritoneocentesis, abdominal paracentesis, or peritoneal lavage; subsequent.
2	49085	Removal of peritoneal foreign body from peritoneal cavity.
1	49180	<i>Excision and Destruction</i> Biopsy, abdominal or retroperitoneal mass, percutaneous needle.
4	49580	<i>Repair</i> Hernioplasty, Herniorrhaphy, Herniotomy Repair umbilical hernia; under age 5 years
Urinary System—Kidney		
1	50395	<i>Introduction</i> Introduction of guide into renal pelvis and/or ureter; with dilation to establish nephrostomy tract, percutaneous.
1	50520	<i>Suture</i> Closure of Nephrocutaneous or pyelocutaneous fistula.
1	50551	<i>Endoscopy</i> Renal endoscopy through established nephrostomy or pyelostomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service.
1	50555	Renal endoscopy through established nephrostomy or pyelostomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service; with biopsy.
1	50557	Renal endoscopy through established nephrostomy or pyelostomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service; with fulguration and/or incision, with or without biopsy.
1	50574	Renal endoscopy through nephrotomy or pyelotomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service; with biopsy.
7	50590	<i>Other Procedures</i> Lithotripsy, extracorporeal shock wave.
Ureter		
2	50600	<i>Incision</i> Ureterotomy with exploration or drainage (separate procedure).
2	50605	Ureterotomy for insertion of indwelling stent, all types.
1	50688	<i>Introduction</i> * Change of ureterostomy tube.
1	50920	<i>Suture</i> Closure of ureterocutaneous fistula.
2	50940	Deligation of ureter.
1	50951	<i>Endoscopy</i> Ureteral endoscopy through established ureterostomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service.
Bladder		
4	51020	<i>Incision</i> Cystotomy or cystostomy; with fulguration and/or insertion of radioactive material.
4	51030	Cystotomy or cystostomy; with cryosurgical destruction of intravesical lesion.
3	51040	Cystostomy, cystostomy with drainage.
4	51045	Cystotomy, with insertion of ureteral catheter or stent (separate procedure).
4	51050	Cystolithotomy, cystostomy with removal of calculus, without vesical neck resection.
4	51060	Transvesical ureterolithotomy.
4	51065	Cystotomy, with stone basket extraction and/or ultrasonic or electrohydraulic fragmentation of ureteral calculus.
3	51080	Drainage of perivesical or prevesical space abscess.
4	51500	<i>Excision</i> Excision of urachal cyst or sinus, with or without umbilical hernia repair.
3	51520	Cystotomy; for simple excision of vesical neck (separate procedure).
4	51525	Cystotomy; for excision of bladder diverticulum, single or multiple (separate procedure).
4	51530	Cystotomy; for excision of bladder tumor.
4	51535	Cystotomy for excision, incision, or repair of ureterocele.
1	51725	<i>Urodynamics</i> Simple cystometrogram (CMG) (EG, spinal manometer).
1	51726	Complex cystometrogram (EG, calibrated electronic equipment).
1	51772	Urethral pressure profile studies (UPP) (urethral closure pressure profile), any technique.
1	51785	Electromyography studies (EMG) or anal or urethral sphincter, any technique.
1	51880	<i>Repair</i> Closure of cystostomy (separate procedure).
3	51920	Closure of vesicouterine fistula.
4	52325	<i>Transurethral Surgery (Ureter and Pelvis)</i> Cystourethroscopy (including ureteral catheterization); with fragmentation of ureteral calculus (EG, ultrasonic or electro-hydraulic technique).
3	52334	Cystourethroscopy with insertion of ureteral guide wire through kidney to establish a percutaneous nephrostomy, retrograde.
4	52336	Cystourethroscopy, with ureteroscopy and/or pyeloscopy (includes dilation of the ureter by any method); with removal or manipulation of calculus (ureteral catheterization is included).
4	52337	Cystourethroscopy, with ureteroscopy and/or pyeloscopy (include dilation of the ureter by any method); with lithotripsy (ureteral catheterization is included).

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCs)—Continued

Pymt grp	CPT-4 code	Description
4	52338	Cystourethroscopy, with ureteroscopy and/or pyeloscopy (includes dilation of the ureter by any method); with biopsy and/or fulguration of lesion.
Urethra		
		<i>Excision</i>
1	53200	Biopsy of urethra.
5	53210	Urethrectomy, total, including cystostomy; female.
5	53215	Urethrectomy, total, including cystostomy; male.
2	53250	Excision of bulbourethral gland (Cowper's gland).
2	53260	Excision or fulguration; urethral polyp(s), distal urethra.
		<i>Repair</i>
1	53442	Removal of perineal prosthesis introduced for continence.
		<i>Suture</i>
2	53505	Urethrorrhaphy, suture of urethral wound or injury; penile.
Male Genital System—Penis		
		<i>Incision</i>
1	54015	Incision and drainage of penis, deep.
		<i>Destruction</i>
1	54057	Destruction of lesion(s), penis (EG, condyloma, papilloma, molluscum contagiosum, herpetic vesicle), simple laser surgery.
1	54060	Destruction of lesion(s), penis (EG, condyloma, papilloma, molluscum contagiosum, herpetic vesicle), simple; surgical excision.
1	54065	Destruction of lesion(s), penis (EG, condyloma, papilloma, molluscum contagiosum, herpetic vesicle), extensive, any method.
		<i>Excision</i>
1	54100	Biopsy of penis; cutaneous (separate procedure).
3	54111	
3	54112	Excision of penile plague (peyronie disease); with graft greater than 5 cm in length.
		<i>Repair</i>
3	54300	Plastic operation of penis for straightening of chordee (EG, hypospadias), with or without mobilization of urethra.
3	54360	Plastic operation on penis to correct angulation.
5	54400	Insertion of penile prosthesis; non-inflatable (semi-rigid).
5	54401	Insertion of penile prosthesis; inflatable (self-contained).
3	54402	Removal or replacement of non-inflatable (semi-rigid) or inflatable (self-contained) penile prosthesis.
7	54405	Insertion of inflatable (multi-component) penile prosthesis, including placement of pump, cylinders, and/or reservoir.
5	54407	Removal, repair, or replacement of inflatable (multi-component) penile prosthesis, including pump and/or reservoir and/or cylinders.
3	54409	Surgical correction of hydraulic abnormality of inflatable (multi-component) prosthesis including pump and/or reservoir and/or cylinders.
4	54420	Corpora cavernosa-saphenous vein shunt (priapism operation), unilateral or bilateral.
4	54430	Corpora cavernosa-corpora spongiosum shunt (priapism operation), unilateral or bilateral.
4	54435	Corpora cavernosa-glans penis fistulization (EG, biopsy needle, winter procedure, rongeur, or punch) for priapism.
2	54440	Plastic operation of penis for injury.
		<i>Manipulation</i>
1	54450	Foreskin manipulation including lysis of preputial adhesions and stretching.
Testis		
		<i>Excision</i>
1	54500	Biopsy of testis, needle (separate procedure).
4	54550	Exploration for undescended testis (inguinal or scrotal area).
7	54560	Exploration for undescended testis with abdominal exploration.
4	54600	Reduction of torsion of testis, surgical, with or without fixation of contralateral testis.
3	54620	Fixation of contralateral testis (separate procedure).
4	54640	Orchiopexy, any type, with or without hernia repair.
4	54645	Orchiopexy, any type, with or without hernia repair; second stage (torek type).
2	54660	Insertion of testicular prosthesis (separate procedure).
Epididymis		
		<i>Excision</i>
1	54800	Biopsy of epididymis, needle.
Scrotum		
		<i>Incision</i>
1	55100	Drainage of scrotal wall abscess.
2	55110	Scrotal exploration.
Vas Deferens		
		<i>Incision</i>
2	55200	Vasotomy, cannulization with or without incision of vas, unilateral or bilateral (separate procedure).
Seminal Vesicles		
		<i>Incision</i>
1	55600	Vesiculotomy.
Prostate		
		<i>Incision</i>
2	55725	Prostatotomy, external drainage of prostatic abscess, any approach; complicated.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
4	55740	Prostatolithotomy, removal of prostatic calculus (separate procedure).
3	55860	<i>Excision</i> Exposure of prostate, any approach, for insertion of radioactive substance.
Female Genital System—Perineum		
1	56100	<i>Excision</i> *Biopsy of perineum (separate procedure).
5	56200	<i>Repair</i> Perineoplasty, repair of perineum, nonobstetrical (separate procedure).
Vulva and Introitus		
5	56620	<i>Excision</i> Vulvectomy; partial (less than 80% of vulvar area).
7	56625	Vulvectomy; complete (skin and subcutaneous tissue).
1	56700	Hymenectomy, partial excision of hymen.
3	56710	Plastic revision of hymen.
1	56720	Hymenotomy, simple incision.
3	56800	<i>Repair</i> Plastic repair of introitus.
Vagina		
1	57000	<i>Incision</i> Colpotomy; with exploration.
2	57010	Colpotomy; with drainage of pelvic abscess.
1	57065	<i>Destruction</i> Destruction of vaginal lesion(s); extensive, any method.
2	57135	<i>Excision</i> Excision of vaginal cyst or tumor.
1	57180	<i>Introduction</i> Introduction of any hemostatic agent or pack for spontaneous or traumatic nonobstetrical vaginal hemorrhage (separate procedure).
1	57200	<i>Repair</i> Colporrhaphy, suture of injury of vagina (nonobstetrical).
2	57210	Colpoperineorrhaphy, suture of injury of vagina and/or perineum (nonobstetrical).
3	57220	Plastic operation on urethral sphincter, vaginal approach (eg, Kelly urethral plication) (separate procedure).
3	57230	Plastic repair of urethrocele (separate procedure).
5	57240	Anterior colporrhaphy, repair of cystocele with or without repair of urethrocele (separate procedure).
5	57250	Posterior colporrhaphy, repair of rectocele with or without perineorrhaphy.
5	57260	Combined anteroposterior colporrhaphy.
7	57265	Combined anteroposterior colporrhaphy; with enterocele repair.
3	57300	Closure of rectovaginal fistula; vaginal or transanal approach.
3	57310	Closure of urethrovaginal fistula.
4	57311	Closure of urethrovaginal fistula; with bulbocavernosus transplant.
3	57320	Closure of vesicovaginal fistula; vaginal approach.
2	57451	<i>Endoscopy</i> Culdoscopy, diagnostic; with biopsy and/or lysis of adhesions or tubal sterilization.
Cervix Uteri		
2	57513	<i>Excision</i> Cauterization of cervix; laser surgery.
3	57530	Trachelectomy (cervicectomy), amputation of cervix (separate procedure).
3	57550	Excision of cervical stump, vaginal approach.
1	57700	<i>Repair</i> Cerclage of uterine cervix, nonobstetrical.
1	57800	*Dilation of cervical canal, instrumental (separate procedure).
Corpus Uteri		
5	58145	<i>Excision</i> Myomectomy, excision of fibroid tumor of uterus, single or multiple (separate procedure); vaginal approach.
Ovary		
3	58800	<i>Incision</i> Drainage of ovarian cyst(s), unilateral or bilateral, (separate procedure); vaginal approach.
3	58820	Drainage of ovarian abscess; vaginal approach.
Endoscopy-Laparoscopy-Hysteroscopy		
1	58990	Hysteroscopy; diagnostic.
Endocrine System—Thyroid Gland		
1	60000	<i>Incision</i> *Incision and drainage of thyroglossal cyst, infected. <i>Excision</i>

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCs)—Continued

Pymt grp	CPT-4 code	Description
4	60281	Excision of thyroglossal duct cyst or sinus; recurrent.
Nervous System—Skull, Meninges, and Brain		
		<i>Puncture for Injection, Drainage or Aspiration</i>
1	61055	Cisternal or lateral cervical puncture with injection of drug or other substance for diagnosis or treatment.
		<i>Twist Drill, Burr Hole(s) or Trephine</i>
3	61215	Insertion of subcutaneous reservoir, pump or continuous infusion system for connection to ventricular catheter.
		<i>Stereotaxis</i>
3	61790	Creation of lesion by stereotactic method, percutaneous, by neurolytic agent (e.g., alcohol, thermal, electrical, radiofrequency); gasserian ganglion.
3	61791	Creation of lesion by stereotactic method, percutaneous, by neurolytic agent (e.g., alcohol, thermal, electrical, radiofrequency); trigeminal medullary tract.
		<i>Neurostimulators, Intracranial</i>
2	61885	Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling.
1	61888	Revision or removal of intracranial neurostimulator receiver.
		<i>CSF Shunt</i>
1	62194	Replacement or irrigation, subarachnoid/subdural catheter.
1	62225	Replacement or irrigation, ventricular catheter.
2	62230	Replacement or revision of CSF shunt, obstructed valve, or distal catheter in shunt system.
2	62256	Removal of complete CSF shunt system; without replacement.
Spine and Spinal Cord		
		<i>Puncture for Injection, Drainage or Aspiration</i>
1	62268	Percutaneous aspiration, spinal cord cyst or syrinx.
1	62269	Biopsy of spinal cord, percutaneous needle.
1	62272	Spinal puncture, therapeutic, for drainage of spinal fluid (by needle or catheter).
1	62280	Injection of neurolytic substance (e.g., alcohol, phenol, iced saline solutions); subarachnoid.
1	62282	Injection of neurolytic substance (e.g., alcohol, phenol, iced saline solutions); lumbar or caudal epidural.
3	62294	Injection procedure, arterial, for occlusion of arteriovenous malformation, spinal.
		<i>Stereotaxis</i>
2	63600	Creation of lesion of spinal cord by stereotactic method, percutaneous, any modality (including stimulation and/or recording).
1	63610	Stereotactic stimulation of spinal cord, percutaneous, separate procedure not followed by other surgery.
		<i>Neurostimulators, Spinal</i>
2	63650	Percutaneous implantation of neurostimulator electrodes; epidural.
2	63652	Percutaneous implantation of neurostimulator electrodes; intradural (spinal cord).
1	63660	Revision or removal of spinal neurostimulator electrodes.
2	63685	Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling.
1	63688	Revision or removal of spinal neurostimulator receiver.
		<i>Shunt, Spinal CSF</i>
3	63744	Replacement, irrigation or revision of lumbosubarachnoid shunt.
2	63746	Removal of entire lumbosubarachnoid shunt system without replacement.
4	63750	Insertion, subarachnoid catheter with reservoir and/or pump for intermittent or continuous infusion of drug, including laminectomy.
2	63780	Insertion, subarachnoid or epidural catheter, with reservoir and/or pump for drug infusion, without laminectomy.
Extracranial Nerves, Peripheral Nerves, and Autonomic Nervous—System Introduction/Injection of Anesthetic Agent (Nerve Block), Diagnostic or therapeutic		
		<i>Neurostimulators, Peripheral Nerve</i>
1	64575	Incision for implantation of neurostimulator electrodes; peripheral nerve.
2	64590	Incision for subcutaneous placement of neurostimulator receiver, direct or inductive coupling.
1	64595	Revision or removal of peripheral neurostimulator receiver.
1	64620	Destruction by neurolytic agent; intercostal nerve.
Destruction by Neurolytic Agent (e.g., Chemical, Thermal, Electrical, Radiofrequency)		
		<i>Somatic Nerves</i>
1	64623	Destruction by neurolytic agent; paravertebral facet joint nerve, lumbar, each additional level.
		<i>Sympathetic Nerves</i>
2	64680	Destruction by neurolytic agent, celiac plexus, with or without radiologic monitoring.
		<i>Transection or Avulsion of Nerve</i>
2	64746	Transection or avulsion of phrenic nerve.
2	64771	Transection or avulsion of other cranial nerve, extradural.
		<i>Excision-Somatic Nerves</i>
2	64783	Excision of neuroma; hand or foot, each additional nerve, except same digit (list separately by this number)
3	64792	Excision of neurofibroma or neurolemmoma; extensive (including malignant type).
		<i>Nerve Repair by Suture (Neurorrhaphy)</i>
2	64858	Suture of sciatic nerve.
1	64859	Suture of each additional major peripheral nerve.
3	64861	Suture of brachial plexus.
3	64862	Suture of lumbar plexus.
3	64864	Suture of facial nerve; extracranial.
4	64865	Suture of facial nerve; intratemporal, with or without grafting.
4	64870	Anastomosis; facial-phrenic.
Eye and Ocular Adnexa Eyeball		
		<i>Removal of Eye</i>
5	65112	Exenteration of orbit (does not include skin graft), removal of orbital contents; with therapeutic removal of bone.
7	65114	Exenteration of orbit (does not include skin graft), removal of orbital contents; with temporalis muscle transplant.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
3	65240	<i>Removal of Ocular Foreign Body</i> Removal of foreign body, intraocular; from lens (without extraction lens), magnetic extraction.
1	65270	<i>Repair of Laceration of Eyeball</i> Repair of laceration; conjunctiva, with or without nonperforating laceration sclera, direct closure.
3	65275	*Repair of laceration; cornea, nonperforating, with or without removal foreign body.
Anterior Segment—Anterior Chamber		
2	65825	<i>Incision</i> Goniotomy; with goniotomy.
2	65830	*Goniotomy; without goniotomy.
2	65850	*Trabeculotomy ab externo.
Anterior Segment—Iris, Ciliary Body		
2	66740	<i>Destruction</i> *Cyclodialysis; Initial.
Posterior Segment—Vitreous		
2	67031	*Severing of vitreous strands, vitreous face adhesions, sheets, membranes or opacities, laser, surgery (one or more stages).
5	67038	Vitrectomy, mechanical, pars plana approach; with epiretinal membrane stripping.
5	67040	Vitrectomy, mechanical, pars plana approach; with endolaser panretinal photocoagulation.
Posterior Segment—Retinal Detachment		
5	67112	<i>Repair</i> Repair of retinal detachment, one or more sessions; previously operated upon, any technique.
2	67115	Release of encircling material (posterior segment).
2	67121	Removal of implanted material, posterior segment; intraocular.
2	67141	*Prophylaxis of retinal detachment, (eg, retinal break, lattice degeneration) without drainage, one or more sessions; cryotherapy, diathermy.
Ocular Adnexa—Orbit		
5	67420	<i>Exploration, Excision</i> Orbitotomy with bone flap, lateral approach (eg, kroenlein); with removal of lesion.
5	67430	*Orbitotomy with bone flap, lateral approach (eg, kroenlein); with removal of foreign body.
5	67440	Orbitotomy with bone flap, lateral approach (eg, kroenlein); with drainage or decompression.
5	67450	Orbitotomy with bone flap, lateral approach (eg, kroenlein); for exploration, with or without biopsy.
Ocular Adnexa—Eyelids		
1	67911	<i>Excision or Removal of Lesion Involving More Than Skin (IE, Involving Lid Margin, Tarsus, and/or Palpebral Conjunctiva)</i> <i>Repair Blepharoptosis, Lid Retraction</i> *Correction of lid retraction.
Ocular Adnexa—Conjunctiva		
4	68330	<i>Conjunctivoplasty</i> *Repair of symblepharon; conjunctivoplasty, without graft.
4	68335	Repair of symblepharon; with free graft conjunctiva or buccal mucous membrane (includes obtaining graft).
4	68340	*Repair of symblepharon; division of symblepharon with or without insertion of conformer or contact lens.
Ocular Adnexa—Lacrimal System		
1	68525	<i>Excision</i> Biopsy of lacrimal sac; probing of nasolacrimal duct, with or without irrigation, unilateral or bilateral; requiring general anesthesia.
1	68825	<i>Probing and Related Procedures</i> Probing of nasolacrimal duct, with or without irrigation, unilateral or bilateral; requiring general anesthesia.
Auditory System—External Ear		
1	69205	<i>Removal Foreign Body</i> *Removal foreign body from external auditory canal; with general anesthesia.
3	69310	<i>Repair</i> Reconstruction of external auditory canal (meatoplasty) (eg, for stenosis due to trauma, infection), (separate procedure).
7	69320	Reconstruction of external auditory canal for congenital atresia, single stage.
Middle Ear		
3	69421	<i>Incision</i> *Myringotomy including aspiration and/or eustachian tube inflation requiring general anesthesia.
1	69424	*Ventilating tube removal when originally inserted by another physician.
3	69436	Tympanostomy (requiring insertion of ventilating tube), general anesthesia.
7	69502	<i>Excision</i> Mastoidectomy; complete.
7	69505	Mastoidectomy; modified radical.
7	69511	Mastoidectomy; radical.
7	69530	Petrous apicectomy including radical mastoidectomy.

PROPOSED ADDITIONS TO COVERED PROCEDURES IN AMBULATORY SURGICAL CENTERS (ASCS)—Continued

Pymt grp	CPT-4 code	Description
5	69550	Excision aural glomus tumor; transcanal.
7	69552	Excision aural, glomus tumor; transmastoid. <i>Repair</i>
7	69601	Revision mastoidectomy; resulting in complete mastoidectomy.
7	69602	Revision mastoidectomy; resulting in modified radical mastoidectomy.
7	69603	Revision mastoidectomy; resulting in radical mastoidectomy.
7	69604	Revision mastoidectomy; resulting in tympanoplasty.
7	69605	Revision mastoidectomy; with apicectomy. <i>Other Procedures</i>
3	69710	Implantation of replacement of electromagnetic bone conduction hearing device in temporal bone.
1	69711	Removal or repair of electromagnetic bone conduction hearing device in temporal bone.
Inner Ear		
		<i>Incision, Destruction</i>
5	69801	Labyrinthotomy, with or without cryosurgery or other nonexcisional destructive procedures or tack procedure; transcanal.
7	69802	Labyrinthotomy, with or without cryosurgery or other nonexcisional destructive procedures or tack procedure; with mastoidectomy.
7	69805	Endolymphatic sac operation; without shunt.
7	69806	Endolymphatic sac operation; with shunt.
5	69820	Fenestration semicircular canal.
5	69840	*Revision fenestration operation. <i>Excision</i>
7	69905	Labyrinthectomy; transcanal.
7	69910	Labyrinthectomy; with mastoidectomy.
7	69915	Vestibular nerve section, translabyrinthine approach.
7	69930	Cochlear device implantation, with or without mastoidectomy.

* Denotes addition suggested by the general public.

* Denotes addition outside threshold parameters recommended by HCFA medical consultants to maintain clinical consistency.

[FR Doc. 90-28633 Filed 12-6-90, 8:45 am]

BILLING CODE 4120-03-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the Federal Register on November 16, 1990.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. Certificate of Election for Reduced Spouse's Benefits—0960-0398—The information on form SSA-25 is used by the Social Security Administration to entitle eligible spouses to reduced benefits for months in which they do not have an entitled child in care. The respondents are eligible spouses who file this certificate to elect reduced benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 1,000 hours.

2. State Agency Schedule for Equipment Purchases for SSA Disability Programs—0960-0406—The information collected on the form SSA-871 is used by the Social Security Administration to reimburse state agencies for equipment purchases necessary to administer the disability provisions of the Social Security (Title II) and Supplemental Security Income (Title XVI) programs. The affected public is comprised of the 54 State Disability Determination Services who are purchasers of equipment.

Number of Respondents: 54.

Frequency of Response: 1.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 54 hours.

3. DDS CEMS Data Reporting Form—0960-0384—The information on form SSA-1461 is used by the Social Security Administration (SSA) to analyze and evaluate the costs incurred by the State Disability Determination Services in making disability determinations for SSA.

Number of Respondents: 52.

Frequency of Response: 4.

Average Burden Per Response: 5 hour.

Estimated Annual Burden: 1,040 hours.

4. Service Delivery Questionnaires—0960-NEW—The information of forms SSA-4298 and SSA-4299 will be used by the Social Security Administration to assess the public's perception of the quality of the services offered. The respondents will be recipients of Title II benefits or title XVI payments.

Number of Respondents: 8,100.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 2,025 hours.

5. Request for Correction of Earnings Record—0960-0029—The information on form SSA-7008 is used by the Social Security Administration (SSA) to compare an individual's alleged earnings with those contained in SSA's records. The respondents are individuals who request a correction of their earnings shown in SSA's records.

Number of Respondents: 375,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 62,500 hours

6. Referral and Treatment Status of SSI Drug Addicts or Alcoholics—0960-0331—The information on form SSA-8740 is used by the Social Security Administration to refer and monitor the treatment of people who receive Supplemental Security Income because they are either drug addicts or alcoholics. The respondents are State agencies which have agreed to refer and monitor the treatment of such people.

Number of Respondents: 27,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 4,500 hours.

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: November 30, 1990.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 90-28685 Filed 12-6-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2934-N-02]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: December 7, 1990.

ADDRESSES: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless

Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the *Federal Register* identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's needs, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Brietman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days

from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's *Federal Register* Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Air Force: John Carr, Real Estate Specialist, Air Force Closure and Integration Division (LEEIR), Washington, DC 20330-5000, (703) 697-9556. (This is not a toll-free number.)

Dated: November 30, 1990.

Paul Roitman Bardack

Deputy Assistant Secretary for Economic Development.

New Hampshire—Pease Air Force Base

All properties included in this Notice are located at Pease Air Force Base, Rockingham County, New Hampshire. The Base is being closed pursuant to the Base Closure and Realignment Act. The Department of the Air Force is the land holding and disposal agency. The property is excess. The majority of properties will be vacant not later than March 31, 1991.

The Base covers 4,257 acres, has over 3.8 million square feet of building space, and includes a hospital, theatre, bowling alley, 2 chapels, over 2,000 bachelor bed spaces, and 1,200 military multifamily housing units. The New Hampshire Air National Guard is expected to continue operations on a portion of the Base.

HUD has reviewed information on 793 properties located at the Base and has found 687 to be suitable for possible use to assist the homeless. To facilitate review by interested homeless assistance providers, like use facilities have been grouped below, rather than listed individually. Extensive assistance, including maps, tours, and details on specific properties, is available for interested homeless assistance providers at the Base; interested parties should contact Mr. Gary Kuwabara at (603) 430-3303.

Suitable Buildings

Property Number: 189040320-189040323
Type Facility: 3 open mess and 1 dining hall
Property Number: 189040324
Type Facility: Credit union building
Property Number: 189040325-189040326
Type Facility: 2 bachelor quarters buildings
Property Number: 189040327
Type Facility: Hospital heat plant
Property Number: 189040328
Type Facility: Hospital

Property Number: 189040329
Type Facility: Trailer (hospital office space)

Property Number: 189040330-189040332
Type Facility: 3 training facilities

Property Number: 189040333-189040334
Type Facility: 2 child care facilities

Property Number: 189040335
Type Facility: Fire station

Property Number: 189040059-189040319
Type Facility: 261 4-unit residences

Property Number: 189040347 and 189040349
Type Facility: 2 sales stores

Property Number: 189040350
Type Facility: Commissary

Property Number: 189040351-189040352
Type Facility: 2 chapels

Property Number: 189040383
Type Facility: Single family residence

Property Number: 189040384
Type Facility: Rod and gun club

Property Number: 189040385
Type Facility: Motor pool

Property Number: 189040386-189040394
Type Facility: 9 dormitories

Property Number: 189040395-189040404
Type Facility: 10 residences with detached garage

Property Number: 189040405-189040467
Type Facility: 63 2-unit residences with detached garage

Property Number: 189040468-189040471
Type Facility: 4 6-unit residences with attached garage

Property Number: 189040472-189040715
Type Facility: 244 detached housing storage sheds

Property Number: 189040720, 189040721, 189040728
Type Facility: 3 communications facilities

Property Number: 189040734-189040742
Type Facility: 9 recreational facilities, including library, bowling center, theatre, gymnasium, youth center, bath house, and automotive shop

Property Number: 189040743-189040751
Type Facility: 9 small concrete munitions storage buildings

Property Number: 189040752-189040771
Type Facility: 20 administrative facilities

Property Number: 189040773-189040788, 189040790-189040793, 189040795-189040805
Type Facility: 31 miscellaneous buildings used for office, administrative, educational, laboratory, traffic check, storage, maintenance, and other purposes

[FR Doc. 90-28593 Filed 12-6-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-942-01-4214-12; U-016659]

Termination of Recreation and Public Purpose Classification; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates Recreation and Public Purpose Classification affecting 2,550.50 acres in Grand County, Utah.

EFFECTIVE DATE: January 7, 1991.

FOR FURTHER INFORMATION CONTACT: Mike Barnes, BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84155 (801) 538-4119.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by the Recreation and Public Purpose Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4, it is ordered as follows: 1. Pursuant to 43 CFR 2091.7-1(b)(1), and the authority delegated to me by BLM Manual section 1203, classification decision U-016659 dated September 14, 1955, as amended, which classified 2,550.50 acres of public land as suitable for recreation and public purposes is hereby terminated insofar as it affects the following described lands:

Salt Lake Meridian

T. 26 S., R. 19 E.,

Sec. 25, All above 5000 feet;

Sec. 26, E $\frac{1}{2}$ to canyon rim;

Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$ to the rim.

T. 26 S., R. 20 E.,

Sec. 20, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 28, N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$

NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$

NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$

NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,

N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$

SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$

SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 30, Lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;

Sec. 31, Lots 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,

E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 33, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,

E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 27 S., R. 20 E.,

Sec. 4, Lots 3, 6, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 8, NW $\frac{1}{4}$.

The area described contains 2,550.50 acres located in Grand County.

2. The classification provided for segregation of the lands against all forms of appropriation under the public land laws, but not the Recreation and Public Purposes act, the United States mining and the mineral leasing laws. At 8 a.m. on January 7, 1991, the lands described in paragraph 1 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on January 7, 1991, shall be considered as simultaneously filed at that time. Those

received thereafter shall be considered in order of filing.

James M. Parker,

State Director.

[FR Doc. 90-28749 Filed 12-6-90; 8:45 am]

BILLING CODE 4310-00-M

[CA-050-4333-10]

Closure Order; Samoa Dunes Recreation Area, California

SUMMARY: Notice is hereby given related to the closure of Bureau of Land Management (BLM) administered lands to all public use in accordance with regulations contained in 43 CFR 8364.1. This action affects approximately 40 acres located in Section 31, T.5N., R.1W., Humboldt Meridian, known as the Rare Plant Protection Area of the Samoa Dunes Recreation Area. These public lands will be temporarily closed to all public use to protect Menzies' Wallflower (*Erysimum menziesii*) habitat until an interpretive hiking trail is completed which will guide visitors along a specific path. Employees, agents and permittees of the BLM may be exempt from this closure as determined by the authorized officer.

DATES: This action is effective immediately.

ADDRESSES: Maps and supporting documentation of the area temporarily closed to public use are available for review at the following location: Bureau of Land Management, Arcata Resource Area, 1125 16th Street, room 219, Arcata, CA 95521.

FOR FURTHER INFORMATION CONTACT: Dan Averill, Acting Area Manager at the Arcata address given above; telephone (707) 822-7648.

SUPPLEMENTARY INFORMATION: The purpose of temporarily closing the 40 acre Rare Plant Protection Area is to prevent visitors from inadvertently trampling Menzies' Wallflower populations as they hike through this rare plant habitat. This particular plant species is listed as endangered by the California Department of Fish and Game and is a candidate for Federal listing by the U.S. Fish and Wildlife Service. Its habitat has been reduced to dune systems along the California coast in three locations—Monterey, Fort Bragg and the Samoa Peninsula near Eureka.

An interpretive hiking trail will be developed during the next several months which will direct visitors along a specified path nearby the rare plants. This will provide people with the opportunity to come in close proximity to the plants without disturbing them or

their habitat. Until this trail is completed, however, visitors must be prevented from meandering throughout the area as these plants are extremely difficult to identify during the winter months and unintentional trampling could result in resource damage. The determination to terminate the closure order will be made by the authorized officer.

Dan Averill,

Acting Area Manager.

[FR Doc. 90-28690 Filed 12-6-90; 8:45 am]

BILLING CODE 4310-40-M

[NM-940-90-GPO-406-4111-15; TX NM 66731]

Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice:

SUMMARY: Under the provisions of 43 CFR 3108.2-3, Union Pacific Resources petitioned for reinstatement of oil and gas lease TX NM 66731, covering the following described lands located in Houston County, Texas:

Tract K1b-VI

Containing 2,560.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence. No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of \$500.00 has been paid. Future rentals shall be at the rate of \$5.00 per acre per year and royalties shall be at the rate of 16 2/3 percent.

Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, February 1, 1990.

Dated: November 29, 1990.

Katy Galassini,

Acting Chief, Adjudication Section.

[FR Doc. 90-28682 Filed 12-6-90; 8:45 am]

BILLING CODE 4310-FB-M

Proposed Resource Management Plan and Final Environmental Impact Statement for the Dixie Resource Area, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of proposed resource management plan and final environmental impact statement.

SUMMARY: The proposed resource management plan (RMP) and final environmental impact statement (EIS) for the Dixie Resource Area, Cedar City District, Washington County, Utah, is available for distribution to the public; Federal, State, and local agencies; and Indian tribes. The RMP will guide management of the public lands and resources in the Dixie Resource Area, Bureau of Land Management (BLM).

The RMP would provide comprehensive management for the public lands in Washington County, Utah. It would designate 11 Areas of Critical Environmental Concern (ACECs). The EIS presents the RMP and three land use alternatives for management of the Dixie Resource Area.

A 30-day protest period for the RMP will commence with publication of a Notice of Availability for the EIS in the *Federal Register* by the Environmental Protection Agency.

The RMP will be implemented after publication of a separate Record of Decision and Final RMP.

FOR FURTHER INFORMATION CONTACT: David Everett, Team Leader, Dixie Resource Area, Bureau of Land

Management, 225 North Bluff Street, St. George, Utah 84770, (801) 673-4654.

SUPPLEMENTARY INFORMATION: The Dixie RMP/EIS analyzes three alternatives and the RMP. Each plan provides management guidance for all relevant resource programs administered by the BLM within the planning area. Various combinations of special designations are analyzed under the alternatives.

Alternatives Analyzed

1. Alternative A (no action) presents the continuation of current management.
2. Alternative B emphasized land tenure adjustment by acquisition primarily through exchanges for resource enhancing for public purposes.
3. Alternative C was to optimize opportunities for the long term retention, protection, and special management of public lands identified as having critical resource values or uses.
4. The RMP is a refinement of Alternative C, with consideration given to public comments and clarification. The RMP would designate 11 ACECs. The special management designations are summarized in the accompanying table.

This action is announced pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, and 43 CFR part 1610. The RMP is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5-2. Protests must be received by the Director (760), BLM, 18th and C Streets NW., Washington, DC 20240, within 30 days after the date of publication of the Notice of Availability for the final EIS in the *Federal Register* by the Environmental Protection Agency.

Dated: December 3, 1990.

James M. Parker,
State Director.

PROPOSED ACEC DESIGNATIONS

Area Name	Critical Concerns	Acres
Red Bluff.....	Endangered plant species (Dwarf bear poppy); Colorado River salinity control (saline soils).	6,010
Warner Ridge—Fort Pearce.....	Endangered plant species (Dwarf bear poppy, Siler cactus); Colorado River salinity control (saline soils); riparian system; Candidate animal species (Spotted bat).	3,690
Santa Clara River—Gumlock Section.....	Riparian system; cultural resources (Virgin Anasazi and Paiute riverine sites); wildlife habitat; candidate fish species (Virgin River spinedace).	1,790
Santa Clara River—Land Hill.....	Riparian system; cultural resources (Virgin Anasazi and Paiute riverine sites); wildlife habitat; candidate fish species (Virgin River spinedace); petroglyphs.	1,770
Lower Virgin River.....	Riparian system; endangered fish (Woundfin minnow) and (Virgin River chub); cultural resources (Virgin Anasazi riverine sites); wildlife habitat.	1,460
Little Creek Mountain.....	Cultural resources (Virgin Anasazi upland sites).	18,455
Canaan Mountain.....	National scenic resources.	31,870
Red Mountain.....	National scenic resources.	5,480
Beaver Dam Slope.....	Threatened animal species (Desert tortoise); National Natural Landmark.	26,960
City Creek.....	Threatened animal species (Desert tortoise); community watershed; wildlife habitat.	2,595

PROPOSED ACEC DESIGNATIONS—Continued

Area Name	Critical Concerns	Acres
Upper Beaver Dam—Wash.....	Watershed, riparian, and wildlife values.....	30,360

[FR Doc. 90-28750 Filed 12-6-90; 8:45 am]
BILLING CODE 4310-DQ-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the One Hundred and Third Meeting of the Board for International Food and Agricultural Development (BIFAD) on December 19, 1 p.m. to 4 p.m.

The purpose of the Meeting is to address university-A.I.D. relationships, including Program Support Grants, the proposed University Development Linkage Project and other such mechanisms to achieve closer and more effective university cooperation in development activities.

The Meeting will be held in the Department of State, room 1107, Main State Department Building. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent time available for the meeting permits.

The Bureau for Diplomatic Security has implemented new procedures for being in the Department of State building. All persons, visitors and employees, are required to wear proper identification or a visitor's pass at all times while in the building.

Please let the BIFAD Staff know (tel. nos. 663-2585 or 663-2578) that you expect to attend the meeting. Provide your full name, name of employing company or organization, address and telephone number not later than Friday, December 14, 1990.

A BIFAD Staff member will meet you at the South Entrance of the Department of State at 2201 C Street with your visitor's pass.

Visitors who are not pre-cleared will have to wait in line and present valid identification with photograph to the receptionist before they can be admitted to the building.

Curtis Jackson, Bureau of Science and Technology, Office of Research and University Relations, Agency for International Development is designated

as A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, room 309, SA-18, Washington, DC 20523, or telephone him on (703) 875-4005.

Dated: December 3, 1990.
Stuart Callison,
Acting Executive Director, BIFAD.
[FR Doc. 90-28709 Filed 12-6-90; 8:45 am]
BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice to hereby given that on October 26, 1990 a proposed Consent Decree in *United States et al. v. Miller Metals Product Corporation*, Civil Action No. G-89-40461-CA, was lodged with the United States District Court for the Western District of Michigan. The proposed Consent Decree concerns Defendant's violation of the Clean Air Act at its plant located in Grand Rapids, Michigan. The proposed Consent Decree requires defendant to comply with the requirements of regulations issued pursuant to the Clean Air Act. Additionally, defendant is required to pay as a civil penalty \$75,000 to the United States and \$75,000 to the State of Michigan.

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. Comment should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States et al. v. Miller Metal Product Corporation*, D.J. Ref. 90-5-2-1-1226.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of Michigan, 399 Federal Building, Grand Rapids, Michigan 49503, and at the Region V Office of the Environmental Protection Agency, 111 West Jackson Street, Chicago, Illinois 60604. The

proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202/347-2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$5.75 (25 cents per page reproduction cost), payable to Consent Decree Library.

Richard B. Stewart,
Assistant Attorney General, Environment and Natural Resources Division.
[FR Doc. 90-28611 Filed 12-6-90; 8:45 am]
BILLING CODE 4410-01-M

Bureau of Prisons

Intent To Prepare Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correctional Institution in San Joaquin County, CA

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The U.S. Department of Justice, Federal Bureau of Prisons has determined that a new Federal correctional institution with an adjacent satellite prison camp is needed in its system. A 200 acre tract of land located approximately 5 miles west of the City of Tracy will be evaluated. The proposal calls for the construction of a 750 bed facility to house medium security inmates and a 250 bed camp to house minimum security inmates.

Approximately 150 of the 200 acres would be used for road access, inmate housing, administration and program spaces and service and support facilities. In addition, exercise areas would be included in the needed acreage.

The Process

In the process of evaluating the tract of land, several aspects will receive a detailed examination including: Utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternatives

In developing the DEIS, the options of no action and alternative sites for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at a location convenient to the citizens of Tracy. The meeting will open with the showing of a 22 minute videotape titled "A Federal Prison in your Community". The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of informal meetings will be held by representatives of the Bureau of Prisons with interested community leaders and officials.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DEIS can be answered by: Patricia K. Sledge, Site Acquisition Coordinator, Office of Facilities Development and Operations, Administration Division, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, Telephone: (202) 514-6470.

William J. Patrick,

Chief, Facilities Development and Operations, Federal Bureau of Prisons, Department of Justice.

[FR Doc. 90-28703 Filed 12-6-90; 8:45 am]

BILLING CODE 4410-05-M

Federal Prison Industries, Inc.

[RFP 1PI-0003-91]

Market Study Consulting Service; Request for Proposals

AGENCY: Federal Prison Industries, Inc.; Bureau of Prisons, DOJ

ACTION: Notice.

SUMMARY: The following request for proposal (RFP) for consulting service to provide an independent market study of Federal Prison Industries, Inc. operations was published in the Commerce Business Daily on Friday, November 30, 1990. In the interest of making this information more widely available to the public, the RFP is being announced in this issue of the Federal Register.

Request for proposal: Consulting Service, to provide an independent market study of Federal Prison Industries, Inc. (FPI) operations, with study results to be reported to Congress by August, 1991. The study is to review five areas of interest: (1) Potential new product lines for prison-made products; (2) Analyze the impact that FPI has had on certain private sector industries; (3) Provide, after consulting with the Department of Labor and the Department of Commerce, an estimate of the number of jobs displaced in the private sector by the operation of FPI; (4) Analyze whether Federal departments and agencies should consider placing limits on the market share that FPI can obtain in specific products or product lines; (5) Determine whether the current law governing Federal procurement from FPI should be retained or revised.

DATES: Deadline for submission is January 18, 1991.

ADDRESSES: UNICOR, Federal Prison Industries, Inc., Financial Management and Procurement Division, 320 First Street, Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Jack Riggsby, (202) 508-8492.

Dated: December 4, 1990.

Ira Kirschbaum,

General Counsel, Federal Prison Industries, Inc.

[FR Doc. 90-28768 Filed 12-6-90; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

BACKGROUND: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

LIST OF RECORDKEEPING/REPORTING REQUIREMENTS UNDER REVIEW: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of

the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the

recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

COMMENTS AND QUESTIONS: Copies of the recordkeeping/reporting

requirements may be obtained by calling the Departmental Clearance Officer,

Paul E. Larson, telephone (202) 523-6331. Comments and questions about the

items on this list should be directed to Mr. Larson, Office of Information

Management, U.S. Department of Labor, 200 Constitution Avenue NW., room N-

1301, Washington, DC 20210. Comments should also be sent to the Office of

Information and Regulatory Affairs,

Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/

PWBA/VETS, Office of Management and Budget, room 3208, Washington, DC

20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/

reporting requirement which has been submitted to OMB should advise Mr.

Larson of this intent at the earliest possible date.

New

Departmental Management—Office of the Assistant Secretary for Administration and Management,

Directorate of Personnel Management. DOL Exit Survey

Individuals or households. 400 respondents; 15 minutes per response; 100 hours; 1 form.

The survey is designed to collect data on reasons why employees leave the

Department of Labor (DOL) which can be analyzed to targeted groups; and to

identify the most effective recruitment efforts. About 400 former DOL

employees annually will be affected and their participation is voluntary

Revision
Employment Standards Administration.
Report of Construction Contractor's
Wage Rates.
 1215-0046; WD-10.
 On occasion.
 Businesses or other for profit; small
 businesses or organizations 37,500
 respondents; 25,000 total hours; .333
 hr. per response; 1 form.
 Form WD-10 is used by the U.S.
 Department of Labor to elicit
 construction project data from
 contractor associations, contractors and
 unions. The wage data is used to
 determine locally prevailing wage rates
 under the Davis Bacon and Related
 Acts.
 Occupational Safety and Health
 Administration.

Respirator Standard.
 1218-0099.
 No reporting.
 Business or other for-profit; small
 business or organizations.
 0 respondents; 0 Burden Hours; 0 hours
 per response.
 As a result of the February 21, 1990,
 Supreme Court Decision, 110 S. Ct. 929,
 58 U.S.L.W. 4200, OSHA is no longer
 seeking Office of Management and
 Budget (OMB) clearance for those
 paperwork activities involving the
 employer and the third party (employee)
 disclosure.
 OSHA had previously requested
 clearance from OMB on the following
 respirator standard §§ 29 CFR:
 1910.134(b)(1) Standard Operating
 Procedures; 1910.134(e)(3) Emergency
 Procedures; 1910.134(f)(2)(iv) Inspection

Records; and 1910.134(f)(5)(i) labeling
 requirements. These sections ensure
 that employers develop, provide, or
 make available to employees
 information documenting that
 respirators will provide the necessary
 protection in case of emergencies, as
 well as, proper usage of respirators.
 Since employers are disclosing
 information to employees, OMB review
 under the Paperwork Reduction Act
 (PRA) is no longer applicable. While
 these sections are no longer subject to
 OMB review under PRA, employers
 must continue to comply with the
 aforementioned respirator requirements
 as required by the Occupational Safety
 and Health Act.
 Bureau of Labor Statistics
 Census of Fatal Occupational Injuries
 1120-0133; BLS-CFOI

Form	Affected public	Respond-ents	Fre-quency	Average time per response
BLS-CFOI.....	All	2500	once	20 minutes
Source documents.....	Federal, State, local agencies.....	.165	106	10 minutes
3750 total hours				

The Census of Fatal Occupational Injuries will provide policymakers and the public with a comprehensive, accurate, and timely measure of work-injury fatalities. The system will collect demographic information about the deceased, characteristics of the employer, and information concerning the incident.

Extension
Mine Safety and Health Administration
Petitions for Modification of Mandatory
Safety Standards
 1219-0065
 On occasion
 Businesses and other for profit; small
 businesses or organizations
 232 respondents; 40 hours per response;
 9,280 total burden hours
 Provides guidance for mine operators or
 representatives of miners for filing
 petitions for modification of
 mandatory safety standards.
 Occupational Safety and Health
 Administration
 1218-0104
Inorganic Arsenic
 On Occasion
 Business or other for-profit; small
 businesses or organizations
 42 respondents; 85 burden hours; 1.7
 hours per response; 0 form
 The Inorganic Arsenic standard and
 its information collection requirements
 provide protection for employees from
 adverse health effects associated with
 occupational exposure to Inorganic

Arsenic. The standard requires
 employees to notify OSHA Area Offices
 of regulated areas and changes to
 regulated areas. The standard also
 requires that OSHA have access to
 various records to ensure that
 employees are complying with
 disclosure provisions of the Inorganic
 Arsenic standard.

Information collection activity	Pro-posed total burden hours
Regulated Areas.....	84
Federal Records Access and Transfer	1
Total.....	85

Coke Oven Emissions
 1218-0128
 On Occasion
 Business or other for-profit; small
 business or organizations.
 Respondents 1; 1 total hour; 1 hour per
 response; 0 form
 The purpose of this standard and its
 information collection requirements is to
 provide protection for employees from
 adverse health effects associated with
 occupational exposure to Coke Oven
 Emissions. The standard requires that
 OSHA have access to various records to
 ensure that employers are complying
 with disclosure provisions of the Coke
 Oven Emissions standards.

Reinstatement
 Bureau of Labor Statistics
 National Longitudinal Survey of Work
 Experience of Young Women
 (Was 1220-0110)
 Annually
 Individuals of households
 3,508 responses; 3,249 hours; 2 forms
 The information provided in this
 survey will be used by the Department
 of Labor and other government agencies
 to help understand and explain the
 employment, unemployment, and
 related problems faced by women 37-47.
 These women were 14-24 years of age
 when this longitudinal survey began in
 1968.

Signed at Washington, DC this 4th day of
 December, 1990.
 Paul E. Larson,
 Departmental Clearance Officer.
 [FR Doc. 90-28762 Filed 12-6-90; 8:45 am]
 BILLING CODE 4510-26-M

Employment and Training
Administration
Job Training Partnership Act:
Employment and Training Assistance
for Dislocated Workers; Reallocation
of Title III Funds
AGENCY: Employment and Training
 Administration, Labor.
ACTION: Notice.

SUMMARY: The Department of Labor is publishing for public information the Job Training Partnership Act title III (Employment and Training Assistance for Dislocated Workers) funds identified by States for reallocation, and the amount to be reallocated to eligible States.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Worker Retraining and Adjustment Programs, Employment and Training Administration, Department of Labor, room N-4703, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202-535-0577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to title III of the Job Training partnership Act (JTPA or the Act), as amended by the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA), the Secretary of Labor (Secretary) is required to recapture funds from States identified pursuant to section 303(b) of the Act, and reallocate such funds by a Notice of Obligation (NOO) adjustment to current year funds to "eligible States" and "eligible high unemployment

States" as set forth in section 303 (a), (b), and (c) of JTPA. 29 U.S.C. 1653. The basic reallocation process was described in Training and Employment Guidance Letter No. 4-88, dated November 25, 1988, Subject: Reallocation and Reallocation of Funds under title III of the Job Training Partnership Act (JTPA), as amended, 53 FR 43737 (December 2, 1988). The reallocation process for Program Year (PY) 1990 was described in Training and Employment Information Notice No. 7-90, dated August 10, 1990, Subject: Reallocation of Job Training Partnership Act (JTPA) Title III Funds During Program Year (PY) 1990.

NOO adjustments are being issued to adjust the PY 1990 (July 1, 1990-June 30, 1991) formula allotments in accordance with expenditure reports submitted to the Secretary by the States.

Pursuant to the provisions of section 303(b) of JTPA, the funds reallocated are an amount equal to the sum of unexpended funds in excess of 20 percent of the PY 1989 formula allotments and all unexpended funds made available by formula for PY 1988.

29 U.S.C. 1653(b). Such reallocated funds are from PY 1990 allotments made available by formula and, as stated above, result in either upward or downward adjustments to PY 1990 allotments.

Unemployment Data

The unemployment data used in the formula for reallocations, relative numbers of unemployed, and relative numbers of excess unemployed were for the July 1989 through June 1990 period. Long-term unemployment data used were for calendar year 1989. The determination of "eligible high unemployment States" for the reallocation of excess unexpended funds was also based on unemployment data for the period July 1989 through June 1990, with all average unemployment rates rounded to the nearest tenth of one percent. The unemployment data were provided by the Bureau of Labor Statistics, based upon the Current Population Survey.

The table below is a distribution of the net changes to PY 1990 formula allotments.

BILLING CODE 4510-30-M

-4-

U.S. DEPARTMENT OF LABOR - EMPLOYMENT AND TRAINING ADMINISTRATION
 PY 1990 JTPA TITLE III REALLOTMENT TO STATES
 24-Oct-90

	COL 1	COL 2	COL 3	COL 4	COL 5	COL 6
Alabama	6.8	0	49,476	49,476	23,837	73,313
Alaska	6.9	0	7,230	7,230	3,483	10,713
Arizona	5.1	0	18,464	0	8,996	8,896
Arkansas	6.8	0	30,122	30,122	14,513	44,635
California	5.1	247,884	182,427	0	87,892	(159,992)
Colorado	5.2	0	24,207	0	11,663	11,663
Connecticut	4.5	463	14,271	0	6,875	6,407
Delaware	3.8	0	2,258	0	1,088	1,088
District of Columbia	5.3	0	4,300	0	2,072	2,072
Florida	5.7	811,273	0	0	0	(811,273)
Georgia	5.4	0	45,049	0	21,704	21,704
Hawaii	2.5	0	2,209	0	1,064	1,064
Idaho	5.3	0	6,467	0	3,116	3,116
Illinois	6.0	0	126,077	126,077	60,743	186,820
Indiana	5.2	0	35,781	0	17,239	17,239
Iowa	4.3	0	14,188	0	6,836	6,836
Kansas	3.9	105,047	0	0	0	(105,047)
Kentucky	5.9	72,763	0	0	0	(72,763)
Louisiana	6.9	0	58,241	58,241	28,060	86,301
Maine	4.3	1,803	4,456	0	2,147	344
Maryland	3.5	0	14,684	0	7,075	7,075
Massachusetts	4.9	0	30,631	0	14,758	14,758
Michigan	7.5	0	142,050	142,050	68,439	210,489
Minnesota	4.3	0	19,087	0	9,196	9,196
Mississippi	7.2	0	34,040	34,040	16,400	50,440
Missouri	5.4	0	43,451	0	20,934	20,934
Montana	5.5	0	6,661	6,661	3,209	9,870
Nebraska	2.7	38,906	0	0	0	(38,906)
Nevada	4.8	0	6,270	0	3,021	3,021
New Hampshire	4.5	0	4,131	0	1,990	1,990
New Jersey	4.6	0	34,518	0	16,631	16,631
New Mexico	6.3	0	15,807	15,807	7,616	23,423
New York	5.1	0	119,806	0	57,722	57,722
North Carolina	3.5	0	20,413	0	9,835	9,835
North Dakota	4.2	0	2,719	0	1,310	1,310
Ohio	5.7	349,910	104,179	104,179	50,193	(195,538)
Oklahoma	5.3	84,155	23,089	0	11,124	(73,031)
Oregon	5.3	0	22,409	0	10,796	10,796
Pennsylvania	5.0	0	70,642	0	34,035	34,035
Puerto Rico	14.3	0	82,137	82,137	39,573	121,710
Rhode Island	5.7	0	7,557	7,557	3,641	11,198
South Carolina	4.7	0	18,710	0	9,014	9,014
South Dakota	3.9	86,538	0	0	0	(86,538)
Tennessee	5.0	281	30,651	0	14,768	14,487
Texas	6.4	0	192,028	192,028	92,517	284,545
Utah	4.5	0	6,698	0	3,227	3,227
Vermont	4.0	0	2,130	0	1,026	1,026
Virginia	3.9	0	22,159	0	10,676	10,676
Washington	5.8	270	42,785	42,785	20,614	63,129
West Virginia	8.0	0	29,543	29,543	14,234	43,777
Wisconsin	4.4	0	20,616	0	9,933	9,933
Wyoming	5.8	0	4,474	4,474	2,156	6,630
NATIONAL TOTAL	5.4	1,799,298	1,799,298	932,407	866,891	0

Explanation of Table

Column 1: This column shows each State's unemployment rate for the twelve months ending June 1990.

Column 2: This column shows the amount of excess funds (unexpended PY 1989 funds in excess of 20 percent of the State's PY 1989 allotment and/or unexpended PY 1988 formula-allotted funds), which are subject to reallocation. PY 1990 funds in an amount equal to the excess funds identified will be recaptured from such States and distributed as discussed below.

Column 3: This column shows total excess funds distributed among all "eligible States" by applying the regular Title III formula. "Eligible States" are those with unexpended PY 1989 funds at or below the level of 20 percent of their PY 1989 formula allotment.

Column 4: Eligible States with unemployment rates higher than the national average, which was 5.4 percent for the 12-month period, are "eligible high unemployment States." These eligible high unemployment States received amounts equal to their share of the excess funds (the amounts shown in column 3) according to the regular title III formula. This is Step 1 of the reallocation process. These amounts are shown in column 4.

Column 5: The sum of the remaining shares of available funds (\$866,891) for eligible States with unemployment rates less than or equal to the national average is distributed among all eligible States, again using the regular title III allotment formula. This is Step 2 of the reallocation process. These amounts are shown in column 5.

Column 6: Net changes in PY 1990 formula allotment are presented. This column represents the decreases in title III funds shown in column 2, and the increases in title III funds shown in columns 4 and 5. NOOs in the amounts shown in column 6 are being issued to the States listed.

Equitable Procedures

Pursuant to section 303(d) of the Act, Governors of States required to make funds available for reallocation shall prescribe equitable procedures for making funds available from the State and substate grantees. 29 U.S.C. 1653(d).

Distribution of Funds

Funds are being reallocated by the Secretary in accordance with section 303(a), (b), and (c) of the Act, using the factors described in section 302(b) of the Act. 29 U.S.C. 1652(b) and 1653(a), (b), and (c). Distribution within States of funds allotted to States shall be in accordance with section 302(c) and (d)

of the Act (29 U.S.C. 1652(c) and (d)), and the JTPA regulation at 20 CFR 631.12(d), 54 FR 39118, 39140 (September 22, 1989).

Signed at Washington, DC, this 16th day of November 1990.

Roberts T. Jones,
Assistant Secretary of Labor.

[FR Doc. 90-28521 Filed 12-6-90; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division**Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (48 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large

volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Florida, FL90-17 (Jan. 5, 1990)	p. 143, p. 144.
Georgia:	
GA90-1 (Jan. 5, 1990)	p. 213, p. 214.
GA90-3 (Jan. 5, 1990)	p. 217, pp. 218-220b.
GA90-9 (Jan. 5, 1990)	p. 233.
GA90-12 (Jan. 5, 1990)	p. 241, p. 242.
GA90-23 (Jan. 5, 1990)	p. 263, p. 264.
GA90-32 (Jan. 5, 1990)	p. 280a, p. 280b.

Virginia:

- VA90-15 (Jan. 5, 1990)..... p. 1243, pp. 1244-1245.
 VA90-20 (Jan. 5, 1990)..... p. 1261, p. 1262.
 West Virginia, WV90-2 (Jan. 5, 1990)..... p. 1391, p. 1395.

Volume II

- Iowa, IA90-2 (Jan. 5, 1990).... p. 23, p. 24.
 Illinois:
 IL90-1 (Jan. 5, 1990)..... p. 59, p. 69.
 IL90-2 (Jan. 5, 1990)..... p. 87, pp. 92-93, 103.
 IL90-3 (Jan. 5, 1990)..... p. 105, p. 107.
 IL90-4 (Jan. 5, 1990)..... p. 111, p. 113.
 IL90-5 (Jan. 5, 1990)..... p. 117, pp. 118-119.
 IL90-6 (Jan. 5, 1990)..... p. 123, pp. 124-125.
 IL90-7 (Jan. 5, 1990)..... p. 127, p. 130.
 IL90-8 (Jan. 5, 1990)..... p. 135, pp. 138, 140.
 IL90-9 (Jan. 5, 1990)..... p. 143, p. 144.
 IL90-11 (Jan. 5, 1990)..... p. 153, pp. 156, 158.
 IL90-12 (Jan. 5, 1990)..... p. 161, pp. 163-164.
 IL90-13 (Jan. 5, 1990)..... p. 173, p. 178.
 IL90-14 (Jan. 5, 1990)..... p. 185, p. 188.
 IL90-15 (Jan. 5, 1990)..... p. 195, p. 198.
 IL90-16 (Jan. 5, 1990)..... p. 205, p. 208.
 Michigan, MI90-4 (Jan. 5, 1990)..... p. 471, p. 474.
 Nebraska:
 NE90-1 (Jan. 5, 1990)..... p. 717, p. 718.
 NE90-3 (Jan. 5, 1990)..... p. 725, p. 726.
 NE90-5 (Jan. 5, 1990)..... p. 731, p. 732.
 NE90-11 (Jan. 5, 1990)..... p. 743, p. 744.

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- Arizona, AZ90-2 (Jan. 5, 1990)..... p. 15, p. 19.
 California:
 CA90-1 (Jan. 5, 1990)..... p. 31, pp. 32-33, 35, pp. 36, 38-40b.
 CA90-2 (Jan. 5, 1990)..... p. 41, pp. 42-66.
 Colorado:
 CO90-1 (Jan. 5, 1990)..... p. 107, pp. 108-109.
 CO90-4 (Jan. 5, 1990)..... p. 125, p. 128.
 CO90-5 (Jan. 5, 1990)..... p. 132a, p. 132b.
 CO90-6 (Jan. 5, 1990)..... p. 132e, p. 132f.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest,

since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 30th day of November 1990.

Alan L. Moss,
 Director, Division of Wage Determinations.
 [FR Doc. 90-28594 Filed 12-6-90; 8:45 am]
 BILLING CODE 4510-27-M

Occupational Safety and Health Administration

[Docket No. NRTL-2-88]

Dash, Straus and Goodhue, Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of request for expansion of recognition as a Nationally Recognized Testing Laboratory.

SUMMARY: This notice announces the application of Dash, Straus and Goodhue, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATES: The last date for interested parties to submit comments is January 7, 1991.

ADDRESSES: Send comments to: NRTL Recognition Program, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

Notice of Application

Notice is hereby given that Dash, Straus and Goodhue, Inc., (DS&G), which previously made application pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 9-83 (48 FR 35763), and 29 CFR 1910.7 for

recognition as a Nationally Recognized Testing Laboratory (see 53 FR 50603, 12/16/88), and which was so recognized (see 54 FR 25643, 6/16/89), has made application for an expansion of its current recognition, for the equipment or materials listed below.

The address of the concerned laboratory is:

Dash, Straus and Goodhue, Inc., 593 Massachusetts Avenue, Boxborough, Massachusetts 01719.

Expansion of Recognition

Dash, Straus and Goodhue, Inc., (DS&G) submitted an application for expansion of its current recognition (Exhibit 10A), to include the following test standards, which are appropriate within the meaning of 29 CFR 1910.7(c):
 UL 1244—Electrical and Electronic Measuring and Testing Equipment.
 ANSI/UL 1262—Laboratory Equipment.

The NRTL Recognition Program staff made an in-depth study of the details of DS&G's application and supplementary material and its original recognition and determined that DS&G had the staff capability and the necessary equipment to conduct testing of products using the proposed test standards. The NRTL staff determined that an additional on-site review was not necessary since the proposed additional test standards were closely related to DS&G's current areas of recognition. A report on the "Expansion of Dash, Straus and Goodhue, Incorporated's Recognition Under the NRTL Program", dated November 6, 1990, was prepared (see Exhibit 10B).

Preliminary Finding

Based upon a review of the details of DS&G's recognition and an evaluation of its present application including details of necessary test equipment, procedures, and special apparatus or facilities needed, and the NRTL staff's report on the expansion of DS&G's recognition, the Assistant Secretary has made a preliminary finding that the equipment and expertise required to certify products using the two aforementioned standards are within the capabilities of the laboratory, and that the proposed additional test standards can be added to DS&G's recognition.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the expansion of the current recognition of Dash, Straus and Goodhue, Inc., as required by 29 CFR 1910.7.

Submission of pertinent written documents and exhibits shall be made no later than January 7, 1991, and must

be addressed to the NRTL Recognition Program, Office of Variance Determination, room N 3653, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, DC 20210.

Copies of all pertinent documents (Docket No. NRTL-2-88), are available for inspection and duplication at the Docket Office, room N 2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

Signed at Washington, DC this 3rd day of December, 1990.

Gerard F. Scannell,
Assistant Secretary.

[FR Doc. 90-28763 Filed 12-6-90; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-254 and 50-265]

Commonwealth Edison Company; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of 10 CFR part 50, appendix A, General Design Criterion 17, to Commonwealth Edison Company (CECo or the licensee) for the Quad Cities Nuclear Power Station (Units 1 and 2) located in Rock Island County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an Exemption from certain requirements of General Design Criterion (GDC) 17 of appendix A to 10 CFR part 50. More specifically, the Low Pressure Coolant Injection (LPCI) swing bus design does not meet the single failure criterion or the independence requirements of GDC 17.

The Need for the Proposed Action

The LPCI swing bus design was found acceptable in the Quad Cities Safety Evaluation Report (SER), issued August 25, 1971. This SER acknowledged that this design did not meet GDC 17, but no Exemption was issued at that time or with the issuance of the licenses for Quad Cities, Units 1 and 2.

The staff reexamined the design and again found it acceptable in NUREG-0138, issued November 1976. NUREG-0138 states that the staff does not consider a change in the LPCI swing bus design to satisfy GDC 17 justifiable as

substantial additional protection required to protect the public health and safety.

Environmental Impacts of the Proposed Action

The proposed Exemption merely acknowledges a design that has been in place since the Quad Cities units have been operating. Thus, this Exemption will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Nor would it result in an increase in individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed Exemption.

With regard to potential nonradiological impacts, the proposed Exemption involves features located entirely within restricted areas as defined by 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed Exemption.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement (construction permit and operating license) for Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Alternatives to the Proposed Action

Since the Commission has concluded there are no measurable environmental impacts associated with the proposed Exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the Exemption would be to require rigid compliance with the requirements of GDC 17 of appendix A to 10 CFR part 50. Such action would not enhance the protection of the environment and would result in unwarranted licensee expenditures of engineering and construction resources, as well as associated capital costs.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's design 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 Exemptions.

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.

For further details with respect to this proposed action, see the Quad Cities Safety Evaluation Report, dated August 25, 1971 and NUREG-0138, "Staff Discussion of Fifteen Technical Issues Listed in Attachment to November 3, 1976 Memorandum from Director, NRR to NRR Staff," published November 1976. These documents are available for public inspection at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 29th day of November 1990

For the Nuclear Regulatory Commission.

Richard J. Barrett,

Director, Project Directorate III-2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 90-28714 Filed 12-6-90; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28667; File No. SR-CSE-90-09]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to Reduction of Exposure Time of Agency Orders

On May 8, 1990, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-CSE-90-09) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") that amends CSE's Rule 11.9(c) reducing from 30 seconds to 15 seconds the exposure period during which agency orders are exposed to Approved Dealers.¹ On May 23, 1990, the

¹ On the CSE, orders are executed automatically through its National Securities Trading System ("NSTS"). The NSTS is a fully automated, electronic trading system that permits CSE members to enter agency or principal orders into the system through remote terminals. Once entered, orders are stored, queued, and executed by the system according to price/time and agency/principal priorities. Market making support for securities traded in the NSTS is provided by competitive market makers. In addition, each security traded in the system has an assigned designated dealer who is responsible, among other things for the automatic execution of

Continued

Commission received a letter amendment from the CSE requesting a six-month renewal of its expired pilot program to allow the Exchange and the Commission additional time to evaluate the effectiveness of the reduced "flash" time.²

On May 29, 1990, the Commission published notice of the proposed rule change and granted partial accelerated approval to an additional pilot program testing the shortened exposure period in Securities Exchange Act Release No. 28064 (May 29, 1990), 55 FR 22980. In the release the Commission requested that the CSE submit a report detailing its experience under the renewed pilot program.³ The Commission received no comments on the proposal. This order approves the proposal.

Originally, the Exchange requested and received Commission approval to reduce, on a pilot basis, the processing period for public and professional agency orders by lowering the exposure period from thirty seconds to fifteen seconds.⁴ In File No. SR-CSE-90-09, the

public agency market orders and marketable limit orders of up to 2,099 shares at the Intermarket Trading System ("ITS") best bid and offer.

Upon entry into the system, a public agency market order is priced at the ITS best bid or offer and exposed to the CSE market by executing it against any matching contra interest in the system's central limit order book. The remainder is then automatically executed against the designated dealer for up to 2,099 shares, and any balance is further exposed to all approved dealers for execution via a "flash" on NSTS terminals for 15 seconds. Finally, any unexecuted remainder is reformatted into an ITS commitment and transmitted to whichever ITS participant is displaying the best bid or offer. With the exception that it does not receive a guaranteed execution against the designated dealer, a professional agency market order is processed in the same manner. See File No. SR-CSE-88-03.

² See letter from Craig R. Carberry, Vice President—Market Regulation, CSE, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated May 23, 1990.

³ The CSE submitted a letter to the Commission addressing the following issues: (1) The number of orders where the execution price was better than the existing consolidated best bid or offer at the time of order entry over a one-week period; (2) the relative reduction in executions that trade-through other ITS participants resulting from using the 15 second "flash" time as opposed to 30 seconds; and (3) a comparative analysis of the extent to which the CSE's reduced processing time resulting from the 15 second order exposure period equalizes the order processing time of other exchanges and the extent to which such an equalization results in a better execution on the CSE. See letter from Kevin S. Fogarty, Vice President—Market Regulation, CSE, to Christine Sakach, Branch Chief, Division of Market Regulation, SEC, dated September 28, 1990.

⁴ See Securities Exchange Act Release No. 25955 (August 1, 1988), 53 FR 29537 (August 5, 1988) ("August Order") (order approving File No. SR-CSE-88-03). The original six month pilot expired February 1, 1989.

CSE proposed to implement an additional six-month pilot program and to amend Rule 11.9(o) to permanently reduce the exposure period after an agency order has interacted with the CSE book from thirty seconds to fifteen seconds.

In its original submission, the CSE stated that the application of the fifteen second flash requirement is an adequate time period for approved dealers to respond to the interest being "flashed" and lessens the instances of executions which trade-through other ITS participants. Furthermore, the CSE stated that it believes the proposed change serves to equalize the total CSE time necessary to execute orders in NSTS with other exchanges' execution times, thereby removing the competitive disadvantage to CSE members and giving them the ability to better meet their fiduciary obligation to obtain best execution for their customers. As an automated exchange, no specific order exposure period is needed for price improvement since market-makers must always display the best quotes at which they are willing to trade.

To clarify in what ways the CSE's proposal would achieve these goals, the Commission requested that the CSE submit a letter elaborating on the rationale in the original filing. In response, the CSE submitted a letter to the Commission describing its experience with the reduced exposure period.⁵ To respond to the Commission's request, the CSE studied two one-week periods, one of which was a week during which the longer 30-second flash period was in effect and the other was a week during which the 15-second flash period was in effect. The CSE noted that the flash period did not result in an improved execution for the orders flashed during either week examined. Thus, the length of the flash period did not affect the likelihood that an order would receive an improved execution. In addition, the CSE noted that its designated dealers believe that the reduced flash period improves customer service by reducing delay. Finally, the CSE stated that by reducing the flash period, total processing time for orders sent to the NSTS would be equivalent to that on other exchanges, thus enabling the CSE to more effectively compete for orders. In response to a Commission question on how the reduced processing time results in a better execution, CSE noted that their study showed that a longer flash period did not result in an appreciable increase in the chance that an order would receive a better

execution and that the customer thus benefits by receiving an execution at the best bid or offer in a shorter period of time.

The CSE further believes the proposed rule as amended, is consistent with, and furthers the purposes of, those provisions of sections 6(b)(5) and 11A of the Act⁶ which provide for fair competition among market centers and the perfection of the national market system.

As stated in the release originally approving the CSE's pilot program, the Commission continues to recognize the importance of creating an effective balance between a customer's need to receive the best possible execution price and the need for timely execution.⁷ A reduced flash period did not seem to adversely affect the likelihood that an order would receive an improved execution. In addition, it is clearly in the customers' interest to receive a quick execution. The alternative of an increased order exposure period of 30 seconds may result in imposing a costly (and illusory) requirement on market participants to attempt to achieve price improvement in a moving market.

The proposed rule change should increase the efficiency with which NSTS transactions are executed, without sacrificing the opportunity for an improved execution during the exposure period. These were the same considerations that led the Commission to approve similar proposals by the Midwest and Pacific Stock Exchanges.⁸ Thus, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act⁹ which provides, in part, that the rules of the exchange be designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and to protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act¹⁰ that File No. SR-CSE-90-09 be, and hereby is, approved.

⁶ 15 U.S.C. 78f(b)(5) and 78k-1 (1982).

⁷ See August Order at 29537.

⁸ See Securities Exchange Act Release No. 27727 (February 22, 1990), approving a reduction in the exposure periods for the MSE's MAX system and the PSE's SCOREX system.

⁹ 15 U.S.C. 78e (1982).

¹⁰ 15 U.S.C. 78s(b)(2) (1982).

⁵ See *supra* n.3.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: November 30, 1990.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-28696 Filed 12-6-90; 8:45am]

BILLING CODE 8010-01-M

[Rel. No. IC-17892; 812-7590]

**IDS Life Insurance Co., et al.;
Application for Exemption**

November 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: IDS Life Insurance Company ("IDS Life"), IDS Life Insurance Company of New York ("IDS Life of New York"), IDS Life Variable Account for Shearson Lehman (the "Shearson Account"), IDS Life of New York Account 7 (the "Shearson Account of New York") (collectively, the "Shearson Accounts"), Shearson Lehman Series Fund (the "Shearson Fund") and IDS Life Series Fund, Inc. (the "IDS Life Fund").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 17(b) from section 17(a) and approval requested under section 26(b).

SUMMARY OF APPLICATION: Applicants seek an Order under section 26(b) of the 1940 Act approving the substitution of shares of the IDS Life Fund for shares of the Shearson Fund held by the Shearson Accounts. Applicants also seek an Order under sections 17(a) and 17(b) of the 1940 Act exempting certain purchase and sale transactions between the Shearson Fund and the IDS Life Fund in connection with the substitution.

FILING DATE: The application was filed on September 11, 1990 and amended on November 29, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 26, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the

date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, IDS Tower 10, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney, (202) 272-3045, or Heidi Stam, Assistant Chief, (202) 272-2060 (Office of Insurance Products and Legal Compliance, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. IDS Life is a stock life insurance company organized under the laws of Minnesota. It is a wholly-owned subsidiary of IDS Financial Corporation ("IDS") which, in turn, is a wholly-owned subsidiary of the American Express Company. IDS Life of New York is a wholly-owned subsidiary of IDS Life and is a stock life insurance company organized under the laws of New York.

2. The Shearson Account was established by IDS Life as a separate account under Minnesota law to fund single premium variable life insurance policies (the "Policies") issued by IDS Life. The Shearson Account of New York was established by IDS Life of New York as a separate account under New York law to fund Policies issued by IDS Life of New York. The Policies have not been offered since December of 1988. The Shearson Accounts are registered as unit investment trusts under the 1940 Act. The Shearson Accounts are each divided into five sub-accounts that invest in shares of a corresponding portfolio of the Shearson Fund.

3. The IDS Life Variable Life Separate Account (the "IDS Life Account") was established by IDS Life as a separate account under Minnesota law to fund variable life insurance policies issued by IDS Life. The IDS Life of New York Account 8 (the "IDS Life of New York Account") (collectively, the "IDS Life Accounts") was established by IDS Life of New York as a separate account under New York law to fund variable life insurance policies issued by IDS Life of New York. The IDS Life Accounts are registered as unit investment trusts under the 1940 Act. The IDS Life Accounts are each divided into five sub-accounts that invest in shares of a

corresponding portfolio of the IDS Life Fund.

4. Shares of the Shearson Fund are currently held by the Shearson Accounts. The Shearson Fund was formed as a Massachusetts business trust and is registered under the 1940 Act as a diversified, open-end management investment company. The Shearson Fund is comprised of five portfolios: the Money Market Portfolio, the Government Securities Portfolio, the High Income Bond Portfolio, the Appreciation Portfolio, and the Total Return Portfolio. The Bernstein-McCauley division of Shearson Lehman Hutton Inc. serves as investment adviser to the Money Market, Government Securities and High Income Bond Portfolios. The Shearson Asset Management division of Shearson Lehman Hutton Inc. serves as investment adviser to the Appreciation Portfolio. The Boston Company Advisers, Inc. serves as investment adviser to the Total Return Portfolio and also is administrator to each of the portfolios.

5. Shares of the IDS Life Fund are currently held by the IDS Life Accounts. The IDS Life Fund was incorporated under Minnesota law and is registered under the 1940 Act as a diversified, open-end management investment company. The IDS Life Fund is comprised of five portfolios: the Money Market Portfolio, the Government Securities Portfolio, the Income Portfolio, the Equity Portfolio, and the Managed Portfolio. IDS Life is investment manager of the IDS Life Fund. IDS Life and IDS have an investment advisory agreement under which IDS Life pays IDS a fee for investment advice about IDS Life Fund's portfolios. The investment objectives and policies of the IDS Life Fund portfolios are generally comparable to those of the corresponding Shearson Fund portfolios.

6. Applicants propose substituting shares of the IDS Life Fund portfolios for shares of the corresponding Shearson Fund portfolios held by the Shearson Accounts. Accordingly, shares of the Money Market Portfolio of the IDS Life Fund would be substituted for shares of the Money Market Portfolio of the Shearson Fund; shares of the Government Securities Portfolio of the IDS Life Fund would be substituted for shares of the Government Securities Portfolio of the Shearson Fund; shares of the IDS Life Fund's Income Portfolio would be substituted for shares of the Shearson Fund's High Income Bond Portfolio; shares of the IDS Life Fund's Equity Portfolio would be substituted for

shares of the Shearson Fund's Appreciation Portfolio; and shares of the IDS Life Fund's Managed Portfolio would be substituted for shares of the Shearson Fund's Total Return Portfolio.

Given the Shearson Fund's relatively small asset size and high level of expenses, the Boards of Directors of IDS Life and IDS Life of New York have determined that investment in the Shearson Fund is no longer appropriate and that existing Policy owners would benefit by the substitution. Sales of the Policies were discontinued in 1988 after amendments to the tax law made purchase of the Policies less advantageous. Consequently, no additional Policy premiums are available for purchase of Shearson Fund shares. In contrast, the asset size of the IDS Life Fund is expected to continue to increase since shares of the IDS Life Fund are sold to fund benefits under variable universal life insurance policies that continue to be issued by IDS Life and IDS Life of New York. The larger asset base of the IDS Life Fund also affords the IDS Life Fund's portfolio managers increased flexibility. Finally, the actual operating expenses of the Shearson Fund generally have been higher than those of the IDS Life Fund and it is expected that they will remain relatively higher because the Policies are no longer offered for sale. In light of these factors, and pursuant to authority granted to them under the Policies, the Boards of Directors of IDS Life and IDS Life of New York propose substituting shares of the IDS Life Fund for shares of the Shearson Fund held by the Shearson Accounts. The Board of Trustees of the Shearson Fund approved the proposed substitution on January 7, 1990.

7. It is intended that the substitution would be effected by exchanging an interest in the Shearson Fund for an interest of equal value in the IDS Life Fund. The Shearson Accounts would redeem the shares they hold of the Shearson Fund and receive in-kind payment of the portfolio securities of the Shearson Fund. The Shearson Accounts would sell such securities to the IDS Life Accounts for a cash receivable. The Shearson Accounts would then use this cash receivable to purchase the corresponding shares of the IDS Life Fund.¹ Similarly, the Shearson Fund would also transfer to the IDS Life Fund any remaining assets and liabilities including dividend and interest receivables, accrued fee expenses, cash, and any other receivables and liabilities of the Shearson Fund as of the

substitution date. These transactions will occur simultaneously at the current market price of the securities involved calculated in accordance with rule 22c-1 under the 1940 Act. Any costs that may be associated with the transaction, such as custodial transaction charges or any costs of selling portfolio securities acquired by the IDS Life Fund as a result of the substitution to meet diversification requirements or the investment strategies of the portfolio managers, will be paid by IDS Life and IDS Life of New York.²

8. Applicants represent that the proposed substitution is fair to policy owners. Any expenses of the substitution with respect to the Policies will be borne by IDS Life and IDS Life of New York and not by Policy owners. Any expenses incurred in winding down the Shearson Fund will be borne by the investment advisers and administrators to the Shearson Fund portfolios. Applicants believe that the proposed substitution will have no federal income tax consequences for Policy owners. In addition, the substitution will not alter the Policy values, insurance benefits to Policy owners or the contractual obligations of IDS Life or IDS Life of New York. The voting rights of Policy owners will be the same before and after the substitution. The fees and charges paid by Policy owners will not increase as a result of the substitution. Policy owners will have prior knowledge regarding the proposed substitution in the form of a notice letter and prospectus mailed approximately 10 days before the substitution. For a period of one year after the date of the mailing of such notice, Policy owners would be permitted to make one reallocation of Policy value to the IDS Life Fund portfolios of their choice pursuant to Policy transfer privileges. This reallocation of Policy value will not count toward the number of transfers allowed annually under the Policy and will not generate any transfer fees.

9. Applicants also request an Order pursuant to section 17(b) of the 1940 Act approving certain sale and purchase transactions between the Shearson Fund and the IDS Life Fund (collectively, the "Funds") in connection with the proposed substitution. The Order would permit substitution of shares of the IDS Life Fund for shares of the Shearson Fund held by the Shearson Accounts without incurring brokerage or transaction expenses.

10. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a

registered investment company, or an affiliated person of an affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company.

11. The Funds may be deemed to be affiliated persons, or an affiliated person of an affiliated person, of each other or of other Applicants, under section 2(a)(3) of the 1940 Act, and the proposed substitution may be deemed to entail one or more purchases or sales of securities or property between and among certain Applicants.

12. Section 17(b) of the 1940 Act provides that the SEC may grant an Order exempting transactions prohibited by section 17(a) of the 1940 Act upon application if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(b) The proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

13. The Funds represent that the terms of the proposed substitution, including any consideration paid or received, are reasonable and fair and do not involve overreaching on the part of any person.

14. The investment objectives and policies of the portfolios of the Funds involved in the transaction are generally comparable. Thus, the purchase and sale transactions are consistent with the objectives, policies and restrictions of the Funds.

15. The proposed substitution is consistent with the general purposes of the 1940 Act, as enunciated in the Findings and Declaration of Policy in section 1 of the 1940 Act. The proposed transaction does not present any of the issues or abuses that the 1940 Act is designed to prevent. The proposed substitution will be effected in a manner consistent with the public interest and protection of Policy owners. The Policy owners will be fully informed of the terms of the proposed substitution and will have an opportunity to reallocate Policy value following the substitution.

16. The Funds also note in support of their request for an Order under section 17(b) that the proposed substitution falls within the intent of, but not the literal

¹ Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

² Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

requirements of rule 17a-7 under the 1940 Act. That Rule generally exempts from section 17(a) certain purchase and sale transactions between registered investment companies, or separate series, of registered investment companies, which are affiliated persons of each other, provided certain enumerated conditions are met. The Funds represent that, as a condition to any Order under section 17(b), they will comply with the conditions set forth in subparagraphs (b), (c), (d) and (e) of rule 17a-7, namely, that: (b) The transactions will be effected at the independent current market price of the securities; (c) the transactions are consistent with the policy of the Funds and the Policies involved in the proposed substitution, as recited in the applicable registration statements and reports filed under the 1940 Act; (d) no brokerage commission, fee (except for customary transfer fees), or other remuneration will be paid in connection with the transactions; and (e) the Boards of Directors or Trustees of the Funds, including a majority who are not interested persons, (1) have adopted procedures pursuant to which such purchase or sale transactions may be effected, which are reasonably designed to provide that all the conditions of paragraph (b) through (d) of rule 17a-7 are complied with, and (2) will determine that the purchases or sales are effected in compliance with such procedures.

17. The Funds cannot, however, meet the conditions of subparagraphs (a) and (f) of rule 17a-7. Subparagraph (a) requires the transaction be "for no consideration other than cash payment." The Funds cannot comply with subparagraph (a) because the consideration involved in the transaction will be a cash receivable rather than cash payment. If cash, instead of a cash receivable, were used to pay the Shearson Fund for its portfolio securities, unnecessary brokerage expenses would be incurred to the detriment of Policy owners. Subparagraph (f) requires the Funds to: (1) Maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph (e) of rule 17a-7, and (2) maintain and preserve for a period not less than six years, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or materials upon which the

determinations described in paragraph (e) of rule 17a-7 were made. Since subparagraph (f) contemplates that each party will have continuing operations after a transaction pursuant to rule 17a-7 (in order to be able to satisfy the record-keeping requirements) the Shearson Fund will not be able to comply. However, the IDS Life Fund represents that it will comply with such requirements. The Funds submit that lack of a cash payment and the fact that the Shearson Fund is discontinuing operations after the substitution is completed, under the circumstances, do not give rise to the type of potential abuse rule 17a-7 was designed to guard against. Rather, rule 17a-7 was designed to permit investment companies to sell securities between themselves at current market prices without necessarily incurring costs, including brokerage costs, to the detriment of Policy owners. Here the transactions involved will be effected at current market price, and thus, in substance, are of the type ordinarily exempted by rule 17a-7.

18. Applicants submit, for all the reasons set forth above, that the requested order under section 26(b) of the 1940 Act is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants further submit that the requested Order under sections 17(a) and 17(b) of the 1940 Act is reasonable and fair, is consistent with the policies of the registered investment companies, and is consistent with the general purposes of the 1940 Act, the public interest, and the protection of investors.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-28693 Filed 12-6-90; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-17891; File No. 812-7607]

Keystone Provident Life and Insurance Co., et al.; Application for Exemption

November 30, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Keystone Provident Life Insurance Company ("Keystone Provident"), KMA Variable Account ("KMA Account"), Keystone Provident Variable Account I ("Variable Account I"), SteinRoe Variable Investment Trust

("SteinRoe Trust") and Stein Roe & Farnham Incorporated ("Stein Roe").

RELEVANT 1940 ACT SECTIONS:

Exemption requested under section 17(b) or, alternatively, under section 6(c) of the 1940 Act, from section 17(a) and approval requested under section 26(b) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order approving the substitution of shares of the Mortgage Securities Income Fund ("MSIF") for shares of the Government Guaranteed Securities Fund ("GGSF") and the substitution of shares of the Cash Income Fund ("CIF") for shares of the Government Securities Zero Coupon Fund ("GSZCF") each of which are portfolios of the SteinRoe Trust (the "Substitution") and, an exemption to the extent necessary to permit the transfer of unit values among the sub-accounts of the KMA Account and the Variable Account I.

FILING DATE: The application was filed on October 4, 1990 and amended on November 27, 1990.

HEARING OR NOTIFICATION OF HEARING:

If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on December 26, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Robert R. Baird, Esq., Keystone Provident Life Insurance Company, 99 High Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Bisset, Staff Attorney, at (202) 272-2058, or Heidi Stam, Assistant Chief, at (202) 272-2060, Office of Insurance Products and Legal Compliance (Divisions of Investment Management).

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations

1. Keystone Provident is a stock life insurance company, and is a wholly-owned indirect subsidiary of Liberty Mutual Insurance Company ("Liberty Mutual"). Among Liberty Mutual's other indirect subsidiaries is the investment advisory firm of Stein Roe, adviser to SteinRoe Trust. Keystone Provident writes fixed individual life insurance and individual and group fixed and variable immediate and deferred annuity contracts on a non-participating basis.

2. The Accounts are segregated investment accounts registered under the 1940 Act as unit investment trusts. Each Account is further divided into sub-accounts ("Sub-accounts") that correspond to the portfolios of the SteinRoe Trust, including MSIF, GGSF, CIF and GSZCF. KMA Account serves as the funding medium for certain flexible premium variable annuity contracts (the "Contracts") and Variable Account I was established to fund certain single person variable life insurance policies (the "Policies").

3. The current Contracts offered by the KMA Account provide for investment in the Sub-accounts that invest in the portfolios of the SteinRoe Trust except for GSZCF. Only Contracts designed for use in connection with retirement plans defined as qualified plans or receiving special income tax treatment under sections 401, 403, 408, 457 and similar provisions of the Internal Revenue Code of 1986, as amended ("Code"), may invest in the Sub-account that invests in GGSF. The Policies previously offered by Variable Account I provide for investment in the Sub-accounts that invest in each of the portfolios of the SteinRoe Trust, including GSZCF.

4. Keystone Provident is no longer actively offering the Policies primarily as a result of provisions of the Technical and Miscellaneous Revenue Act of 1988 ("Act") that applies to all single premium life insurance policies, including the Policies. These provisions limit the marketability of the Policies, and have adverse tax consequences for the Policy Owners (Policy Owners and Contract Owners are hereinafter collectively referred to as "Owners"). In addition, investment in GGSF and GSZCF has been limited to the Policies and to the Contracts offered in connection with Qualified Plans since 1986, consistent with Department of the Treasury Regulations.

5. The SteinRoe Trust is a series type investment company which has eleven investment portfolios (referred to as "Fund" or "Funds") that have differing

investment objectives, policies and restrictions.

6. On August 31, 1990 there were only 439 Owners (314 Contract Owners and 125 Policy Owners) participating in GGSF representing assets of approximately \$6,700,000 of total assets of \$20,350,618 and only 19 Policy Owners participating in GSZCF representing assets of approximately \$440,000 of total assets of \$576,259. The other assets of GGSF and GSZCF, approximately \$13,550,000 and \$134,000 respectively, are attributable to Keystone Provident's "seed money" investments.

7. Keystone Provident on its own behalf and on behalf of the Accounts proposes to effect a Substitution of shares of MSIF and CIF for all shares of GGSF and GSZCF, respectively, attributable to the Contracts and Policies. Keystone Provident will schedule the Substitution to occur as soon as practicable following the issuance of the order so as to maximize the benefits to be realized from the Substitution. Keystone Provident will pay all expenses and transaction costs of the Substitution. Within five days after the Substitution, Keystone Provident will send to Owners written notice of the Substitution ("Notice") that identifies the shares that have been eliminated and the shares of the Fund that have been substituted, and will also include the prospectus for the SteinRoe Trust and supplements to the prospectuses of the Accounts that describe the Substitution. Keystone Provident has sent letters and supplements to the prospectuses for the Accounts, dated October 25, 1990, to Owners advising them of the proposed substitution.

8. Owners will be advised in the Notice that for a period of thirty days from the mailing of the Notice, Owners may transfer all assets, as substituted, to any other available Sub-account, without limitation and without charge. Any such transfer, and any transfer from GGSF and GSZCF prior to the Substitution (during the period from the date of the supplements to the date of the Substitution), will not be counted toward the current limitations on transfers under the Contracts and Policies. Following the Substitution, Owners will be afforded the same contract rights as they currently have. Immediately following the Substitution, Keystone Provident for administrative purposes, will treat, as single Sub-accounts of its Accounts, the Sub-accounts invested in shares of GGSF and GSZCF and the continuing Sub-accounts invested in MSIF and CIF, respectively. This treatment will be

reflected in all disclosure documents filed by the Accounts.

9. Keystone Provident will redeem for cash and securities all shares it currently holds on behalf of the Accounts at the close of business on the date selected for the Substitution. All shares held by the Accounts are attributable to Owners. Keystone Provident's redemption of shares of GSZCF will be entirely for cash which will then be invested in CIF. The redemption of shares of GGSF will be effected partly for cash and partly for securities as a "redemption-in-kind." Prior to effecting the Substitution, the SteinRoe Trust will take all actions necessary to comply with the requirements of section 18(f) of the 1940 Act and rule 18f-1 thereunder. The securities redeemed-in-kind will be used together with the cash proceeds to purchase the shares of MSIF. Applicants have determined that effecting the redemption of shares of GGSF in-kind is appropriate based on the current similarity of the portfolio investments of GGSF and MSIF. Such similarity does not exist as between the portfolio investments of GSZCF and CIF. In all cases, Keystone Provident on behalf of the Accounts will simultaneously place the redemption requests with GGSF and GSZCF and the purchase orders with MSIF and CIF, so that the purchases will be for the exact amounts of the redemption proceeds. As a result, at all times, monies attributable to the Owners currently invested in GGSF and GSZCF will be fully invested.

10. Keystone Provident's "seed money" investment in the SteinRoe Trust is held directly in its General Account and not through the Accounts or any other separate account. On the business day following the Substitution or as soon thereafter as consistent with the purpose explained below, Keystone Provident will redeem entirely for cash the shares of GGSF and GSZCF held by its General Account. By effecting the redemptions in the order described, Keystone Provident is providing the mechanism whereby it assumes all of the transaction costs relating to the Substitution. The full net asset value of the redeemed shares held by the Accounts will be reflected in the Owners' accumulation unit values following the Substitution. Any direct or indirect costs of liquidating the assets of GGSF and GSZCF will be reflected in the net asset value at which Keystone Provident subsequently redeems its shares.

11. Stein Roe has been fully advised of the terms of the Substitution and will effect the trading of portfolio securities

and adjust the maturities of GGSF and GSZCF to provide for the anticipated redemptions of shares held by the Accounts and Keystone Provident.

12. The purpose of section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate the shares of a particular issuer and to prevent unscrutinized substitutions which might, in effect, force shareholders dissatisfied with a substituted security to redeem their shares, thereby incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

13. The purposes, terms and conditions of the Substitution are consistent with the principles and purposes of section 26(b) and do not entail any of the abuses section 26(b) is designed to prevent. The Substitution is an appropriate solution to the limited owners interest and investment in GGSF and GSZCF resulting from changes in the Code. The Substitution is proposed to provide a consolidation of assets of Funds that, therefore, currently and in the future may be expected to be of insufficient size to promote positive investment performance or to reduce operating expenses.

14. The Substitution will not result in the type of costly forced redemption that section 26(b) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons: (1) The Substitution is of shares of Funds of the SteinRoe Trust whose objectives, policies and restrictions are sufficiently similar to those of the substituted Funds so as to continue fulfilling the Owner's objectives and expectations; (b) Owners will have prior notice of the Substitution and have the opportunity to reallocate their investment without charge or other restriction from the date of the prospectus supplement until thirty days after the Substitution; (c) the Substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge; (d) Keystone Provident has undertaken to assume the expenses and transaction costs, including among others, legal and accounting fees and

any brokerage commissions relating to the Substitution and is effecting the redemption of shares of GGSF and GSZCF in a manner that attributes all transaction costs to Keystone Provident; (e) the Substitution will not be counted against the number of allowable transfers; (f) the Substitution in no way will alter the insurance benefits to Owners or the contractual obligations of Keystone Provident; (g) the Substitution in no way will alter the tax benefits to Owners; (h) Owners may choose to withdraw amounts credited to them following the Substitution under the conditions that currently exist; and (i) the Substitution is expected to confer certain modest economic benefits to Owners by virtue of the enhanced asset size of the Funds.

15. Keystone Provident has determined that it is in the best interests to Owners to substitute shares of MSIF and CIF for shares of GGSF and GSZCF, respectively, based on the following facts and circumstances. Each of the Funds is an existing portfolio of the SteinRoe Trust and managed by Stein Roe. The Custodian, Independent Accountants, distributor and administrator are the same entities for each Fund. The investment objectives and related investments of MSIF are significantly similar to those of GGSF and the investment objective and related investments by CIF are compatible with those of GSZCF. GSZCF is unique in its investment objective, and no alternative investment portfolio will approximate the characteristics of investment in zero coupon Treasury securities. However, CIF does provide a reasonable alternative by virtue of its investment objective. A money market portfolio, such as CIF, moreover provides less volatility and investment risk than any other portfolio of investments available in the SteinRoe Trust.

The SteinRoe Trust's adviser and administrator have voluntarily agreed to reimburse the Funds for operating expenses in excess of certain specific percentages. The expenses as a percentage of average net assets before the reimbursement are slightly higher for GGSF than for MSIF and considerably greater for GSZCF as compared to CIF. In any event, the current undertaking to cap expenses at 1.00% applies to each Fund, but only extends to April 30, 1991. It is not known at this time whether a further undertaking to cap expenses will be made. Thus, Owners will not be exposed to higher expenses following the Substitution and may in fact benefit from the lower expense ratio after

reimbursements cease. Further, the management fee component of such expenses is the same for GGSF and MSIF. Although the management fee component is .10% higher for CIF than for GSZCF, Owners will benefit immediately from CIF's lower overall expense ratio. It is also expected that the consolidation of assets of the Funds as a result of the Substitution will lead to modest economies of scale and reduced operating expenses.

16. Immediately following the Substitution, Keystone Provident will treat, as single Sub-accounts of its Accounts, the Sub-accounts invested in shares of the substituted Funds and the continuing Funds. The Commission has taken the interpretive position that sub-accounts of a registered separate account are to be treated as separate investment companies in connection with substitution transactions. The transfer of unit values between Sub-accounts could be said to involve purchases and sale transactions between sub-accounts, that are affiliated persons. The Sub-accounts investing in GGSF and GSZCF could be said to be selling shares of such Funds to the Sub-accounts investing in MSIF and CIF in return for units of such Sub-accounts. Conversely, it could be said that the Sub-accounts investing in MSIF and CIF were purchasing shares of GGSF and GSZCF. The sale and purchase transactions between Sub-accounts could be said to come within the scope of sections 17(a)(1) and 17(a)(2) of the 1940 Act.

17. In addition, the Substitution may be deemed to entail one or more purchases or sales of securities between and among certain Applicants as a result of the purchase of certain shares of MSIF with the securities received by the Accounts as a redemption-in-kind of shares of GGSF. Although SteinRoe Trust has established procedures pursuant to rule 17a-7 under section 17 of the 1940 Act, rule 17a-7 may not be applicable as the affiliations between the accounts and the Funds do not arise solely by reason of having a common investment adviser, common directors and common officers. Therefore Applicants seek an exemption from section 17(a) of the 1940 Act pursuant to section 17(b) of the 1940 Act, as a result of the redemptions-in-kind.

18. All valuation procedures have been established and approved by the Board of the SteinRoe Trust. Such procedures, including procedures established pursuant to rule 17a-7 with regard to equity securities, will be followed in connection with the

Substitution. Debt securities will be valued based upon bid prices or pricing services, as necessary to preserve the respective net asset values of each Fund and avoid disparities of valuation between the Funds. The Board of the SteinRoe Trust has determined that such procedures are in the best interests of all Owners.

19. The transactions effecting the Substitution including the redemption of the shares of GGSF and GSZCF and the purchase of shares of MSIF and CIF will be effected in conformity with section 22(c) of the 1940 Act and rule 22c-1 thereunder. Moreover, the redemption-in-kind of shares of GGSF will be effected in conformity with section 18(f) under the 1940 Act and rule 18f-1, thereunder. Owner interests in practical economic terms, will not differ in any measurable way from such interests immediately prior to the Substitution. Keystone Provident believes, based on its review of existing federal income tax laws and regulations and advice of counsel, that the Substitution will not give rise to any taxable income for Owners.

20. The investment objectives of the Funds to be substituted are sufficiently similar to the investment objectives of the substituted Funds. In this regard, the Substitution is consistent with Commission precedent pursuant to section 17.

21. The proposed transactions do not present any of the issues or abuses that the 1940 Act is designed to prevent. Moreover, the proposed transactions will be effected in a manner consistent with the public interest and the protection of investors, as required by section 6(c) of the 1940 Act. Owners will be fully informed of the terms of the Substitution through the Supplements to the prospectuses of the Accounts, the Prospectuses for the SteinRoe Trust and the Notice and will have an opportunity to reallocate investments following the Substitution. Applicants represent that the terms of the proposed transactions as described in the application and for the reasons set forth herein, are reasonable and fair, including the consideration to be paid and received; do not involve overreaching; are consistent with the policies of the Funds and are consistent with the general purposes of the 1940 Act.

22. Applicants submit, for all of the reasons stated herein, that their requests meet the standards set out in sections 6(c), 17(b) and 26(b) of the 1940 Act and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-28694 Filed 12-6-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 35-25198]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 30, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 24, 1990 to the Secretary, Securities and Exchange Commission, Washington DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Indeck Energy Service, Inc. (31-845)

Indeck Energy Services, Inc. ("Indeck"), 1130 Lake Cook Road, Suite 300, Buffalo Grove, Illinois 60089, has filed an application for an order granting an exemption under section 3(a)(5) from all provisions of the Act, except section 9(a)(2).

Indeck is a privately-held Illinois corporation principally engaged in the design, development, ownership, operation and maintenance of industrial energy projects. Through various wholly owned subsidiary companies, Indeck owns and operates cogeneration facilities in Corinth, Iliion, Oswego and Tonowanda, New York that are

qualifying facilities under the Public Utility Regulatory Policies Act of 1978. Neither Indeck nor any corporation owned or controlled by Indeck is a "public-utility company," a "holding company" or an "affiliate" of a holding company within the meaning of the Act.

Indeck seeks to invest in an independent power producer ("IPP") project consisting of a cogeneration facility at Windsor, (Quebec) Canada. Indeck intends to establish a new subsidiary under Canada law ("IPP Subsidiary") to be a general partner in a limited partnership that will own and operate the Canadian IPP.

Indeck, through its ownership of the voting securities of the IPP Subsidiary, and IPP Subsidiary itself, as general partner of the limited partnership that will own the Canadian IPP, will be holding companies as defined by section 2(a)(7)(A) of the Act and will thus be subject to regulation under the Act, unless an exemption is obtained.

Indeck states that it will not become a company the principal business of which within the United States is that of a public utility, after consummation of the Proposed Investment, and it will not derive any material part of its income, directly or indirectly, from any one or more subsidiary companies the principal business of which within the United States is that of a public utility.

American Electric Power Company, Inc. (70-5943)

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, has filed a post-effective amendment to its declaration under section 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By orders dated January 3, 1986 (HCAR No. 23980) and December 18, 1987 (HCAR No. 24534), the Commission authorized AEP to issue and sell, from time-to-time through December 31, 1990, up to 44 million shares of its authorized but unissued shares of common stock, \$6.50 par value ("Common Stock"), pursuant to its Dividend Reinvestment and Stock Purchase Plan ("Plan").

AEP now proposes to extend the time period during which the shares of Common Stock previously authorized may be issued and sold pursuant to the Plan, from December 31, 1990 to December 31, 1993.

The Southern Company, et al. (70-7532)

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, and its wholly owned service company subsidiary, Southern Company

Services, Inc. ("Services"), both at 64 Perimeter Center East, Atlanta, Georgia 30346, have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and Rule 45 thereunder.

By order dated November 23, 1988 (HCAR No. 24757) ("Order"), the Commission authorized Southern from time-to-time through December 31, 1990, to incur indebtedness in an aggregate amount up to \$75 million at any time outstanding pursuant to either short-term borrowings from banks through the issuance of notes ("Notes"), or the issuance of notes ("Additional Notes") to Southern, or any combination thereof. The Commission, by that same Order, also authorized Southern to guaranty Service's Notes and to acquire Service's Additional Notes.

The Notes that Services proposed to issue under the Order would have maximum maturities of nine months, would be at rates per annum not in excess of the prime rate, the CD rate plus ¼% and LIBOR plus 1%. Compensation for the credit facilities, not to exceed ½ of 1% per annum of the amount of the facilities, is expected to be provided by balances or comparable fees in lieu of balances.

The Additional Notes that Services proposed to issue under the Order would bear interest at a rate equal to the average effective interest cost of Southern's outstanding obligations for borrowed money on the date of issue, as authorized by the Commission, or, if no such obligations are outstanding at the time, at the rate or rates at which Southern may borrow under its existing lines of credit as authorized by order dated April 26, 1990 (HCAR No. 25077). Services and Southern now request that such authority be extended through December 31, 1995.

The Washington Water Power Company (70-7782)

The Washington Water Power Company ("WWP"), E. 1411 Mission Avenue, Spokane, Washington 99202, has filed an application under section 3(b) of the Act and Rule 10 thereunder, in connection with the participation by WWP and certain affiliated companies in a proposed electric generating project in British Columbia.

WWP is an electric and gas utility company providing service to portions of the states of Washington, Idaho and Montana. WWP is not presently a "holding company" or an "affiliate" as these terms are defined in the Act.

WWP is participating with certain parties in Canada and the United States in a joint venture known as NW Energy

Corporation ("NW Energy"), a Canadian corporation. NW Energy proposes to construct a 55-60 megawatt electric generating plant in Williams Lake, British Columbia (the "Williams Lake Project"). The Williams Lake Project will provide additional low-cost generating capacity to the British Columbia Hydro and Power Authority ("BC Hydro"). Construction of the Williams Lake Project is expected to begin in March 1991, with commercial operations to commence in April 1993.

WWP will participate in the joint venture through its wholly-owned subsidiary, Pentzer Corporation ("Pentzer"), a Washington corporation which owns substantially all of WWP's non-regulated businesses. Pentzer, in turn, owns all of the common stock of WP Energy Canada, Ltd. ("WP Canada"), a Canadian corporation. WP Canada owns 33 ⅓% of the common stock of NW Energy. It is anticipated that NW Energy will establish a corporate subsidiary or limited partnership (the "Generating Company") to hold legal title to the electric generating facilities of the Williams Lake Project during construction thereof and throughout commercial operation.

Once the electric generating facilities are operational, the Generating Company will be an "electric utility company" as defined in section 2(a)(3) of the Act. WWP, Pentzer, WP Canada and NW Energy will each be a "holding company" as defined in section 2(a)(7) of the Act, with respect to the Generating Company, and the Generating Company will be a direct or indirect "subsidiary company" of each of these companies, as defined in section 2(a)(8) of the Act.

WWP seeks an unqualified order of exemption under section 3(b) of the Act for the Generating Company. WWP asserts that the Generating Company will derive no material part of its income, directly or indirectly, from sources within the United States, and, further, that the Generating Company will not operate, nor will it have any subsidiary operating, as a public-utility company within the United States.

Upon issuance of such order, WWP will claim exemption pursuant to Rule 10 under the Act, for itself, Pentzer, WP Canada, NW Energy and any other related entity that will be a statutory holding company solely by reason of such company having as a subsidiary the Generating Company.

Jersey Central Power & Light Company, et al. (70-7805)

Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey

07960, Metropolitan Edison Company, P.O. Box 16001, Reading, Pennsylvania 19640 and Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907 (collectively, "GPU Companies"), electric public-utility subsidiary companies of General Public Utilities Corporation, a registered holding company, have filed an application under section 12(b) of the Act and Rule 45 thereunder.

The GPU Companies are each parties, along with other public-utility companies (collectively, "PJM Companies"), to the Pennsylvania-New Jersey-Maryland Interconnection Agreement, dated September 26, 1956, as amended and supplemented ("PJM Agreement"). Pursuant to the PJM Agreement, the PJM Companies have established and leased the PJM Interconnection Office ("PJM Office") located in Valley Forge, Pennsylvania. In order to renovate and expand the PJM Office, and extend the 1969 lease ("Lease") for the PJM Office to not later than January 1, 2017, the lessor will require each PJM Company to now become jointly and severally liable for the obligations of the PJM Companies under the lease. Therefore, the GPU Companies propose to become jointly and severally liable for up to an aggregate amount of \$20 million, under the terms of the Lease.

Energy Initiatives, Inc., et al. (70-7809)

Energy Initiatives, Inc. ("EII") and its wholly-owned subsidiary, Hunterdon Energy Corporation ("HEC"), both located at One Gatehall Drive, Parsippany, New Jersey 07054, each a subsidiary of General Public Utilities Corporation, a registered holding company, 100 Interspace Parkway, Parsippany, New Jersey 07054, have filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and Rule 45 thereunder.

Pursuant to the Commission's orders dated April 16, 1987 (HCAR No. 24373) and September 16, 1988 (HCAR No. 24718), EII acquired 100 shares of common stock, no par value for \$1000, of HEC, a New Jersey corporation. HEC is organized solely for the purpose of developing a proposed qualifying cogeneration facility, as defined in the Public Utility Regulatory Policies Act of 1978 and the regulations thereunder, to be located in Clinton, New Jersey ("Facility"). EII also formed Hunterdon Energy Limited Partnership ("Partnership"). The Partnership is a Delaware limited partnership formed solely for the purpose of developing, financing, constructing and operating the Facility.

In connection with the development of the Facility, EII proposes to sell, and HEC proposes to acquire, all of EII's 100% general partnership interests and all of EII's 99% limited partnership interest in the Partnership. The remaining 1% of the limited partnership interest in the Partnership will temporarily be held of record by an individual, pending eventual acquisition by the Facility's other equity investor(s), as part of the project construction financing.

EII and HEC also propose to guaranty either directly or indirectly or, alternately, become obligated under a Repayment Agreement for a letter of credit of up to a \$300,000 maximum amount to be obtained by the Partnership to secure its liquidated damage obligations under a long-term agreement ("Power Purchase Agreement") for the Facility entered into on February 27, 1990 with Jersey Central Power & Light ("JCP&L"), a wholly owned public-utility subsidiary of GPU. The Power Purchase Agreement provides for the sale to JCP&L of the Facility's net electrical energy and capacity. EII and HEC would not guarantee or incur any such repayment obligation maturing more than 10 years from issuance or bearing interest at a rate in excess of 125% of the prime rate or comparable rate as in effect from time-to-time.

Alternatively, EII seeks authority to make capital contributions to HEC of up to \$300,000 which HEC, in turn, would contribute to the Partnership to provide for such security. The Partnership would deposit such funds in escrow or, pursuant to a similar arrangement, secure its liquidated damage obligations to JCP&L under the Power Purchase Agreement.

Entergy Power, Inc. (70-7810)

Entergy Power, Inc. ("Entergy Power"), 425 West Capitol Avenue, Little Rock, Arkansas 72201, a wholly owned electric public-utility subsidiary company of Entergy Corporation ("Entergy"), a registered holding company, has filed an application-declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By order dated August 27, 1990 (HCAR No. 25136), the Commission authorized, among other things, Entergy Power to issue and sell, and Entergy to acquire, up to 1,000 shares of Entergy Power common stock, at a price of \$5 dollars per share, and up to \$200 million of unsecured notes ("Notes").

Entergy Power now requests authority, through December 31, 1991, to issue and sell fixed or flexible rate debt securities ("New Debt") in the aggregate

principal amount of up to \$175 million, expected to mature not earlier than January 1, 1997 and not later than December 31, 2005, under a new indenture, or other form of security agreement. The proceeds derived from the New Debt will be used to refund all or a portion of the approximately \$174 million of Notes and to provide working capital. The New Debt may be subject to optional prepayment prior to maturity, in whole or in part, subject to certain restrictions, at prepayment prices not less than the principal amount of the New Debt being prepaid and not greater than such principal amount plus an amount not to exceed the initial annual interest on such New Debt.

Entergy Power proposes to issue the New Debt under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder. Entergy Power requests authorization to begin negotiations for the terms and conditions of the New Debt. It may do so.

Entergy Power further proposes to issue and sell unsecured short-term debt ("Short-Term Debt") through December 31, 1991 to specified lenders pursuant to a revolving credit facility ("Facility") in an amount not to exceed \$50 million. It is contemplated that the Facility would have a term of three years, renewable annually for one additional year. The Short-term Debt would mature at the then current termination date, or at the end of interest period of 30, 60, or 90 days, and proceeds will be used for working capital. The Short-Term Debt would bear interest at either the banks base or prime rate, a eurodollar rate, a CD rate, or a federal funds rate, in each case plus a percentage not in excess of two percent.

Energy Initiatives, Inc., et al. (70-7815)

Energy Initiatives, Inc. ("EII"), Camchino Energy Corporation ("Camchino"), OLS Power Limited Partnership ("OLS"), OLS Energy-Chino ("Chino") and OLS Energy-Camarillo ("Camarillo"), each located at One Gatehall Drive, Parsippany, New Jersey 07054, and each an indirect subsidiary of General Public Utilities Corporation ("GPU"), a registered holding company, have filed an application under sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

By order dated August 1, 1989 (HCAR No. 24931), the Commission authorized, among other things, OLS, of which EII, through Camchino, holds a 50% partnership interest, to acquire, through a wholly-owned subsidiary, all of the outstanding common stock of Chino, Camarillo and OLS Energy-Berkely ("Berkely"). Chino, Camarillo and

Berkely are each the lessee, pursuant to leases ("Leases") with a wholly-owned subsidiary of General Electric Capital Corporation ("GECC"), a nonassociate company, of an operating cogeneration facility located in California, each of which is a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978.

By order dated February 9, 1990 (HCAR No. 25038) ("February 1990 Order"), Chino, Camarillo and Berkely were authorized to amend their outstanding Revolving Credit Agreements, dated December 30, 1987 ("Credit Agreements"), with GECC providing for the short-term working capital requirements of their QF's. Chino, Camarillo and Berkely have issued to GECC their secured promissory notes ("Notes") evidencing their borrowings under the Credit Agreements. The Chino and Camarillo Credit Agreements also provide for the issuance by GECC of letters of credit ("LOC's") as security for the respective obligations of Chino and Camarillo to pay for natural gas supplied to their QF's.

A notice of the filing, by post-effective amendment in File No. 70-7725, of a proposal by Chino, Camarillo and Berkeley to extend to December 31, 1992 the time during which they may make borrowings under their respective Credit Agreements and Notes, and, in the case of Chino and Camarillo, the time during which LOC's may be outstanding under their respective existing Credit Agreements, was issued by the Commission on November 23, 1990 (HCAR No. 25192).

Chino and Camarillo now propose to restructure their respective Leases, energy services agreements and related financing agreements for their QF's. It is proposed that OLS make, from time-to-time through December 31, 1991, subordinated loans of up to \$150,000 to each of Chino and Camarillo, for an aggregate of 300,000, to fund expenses incurred by Chino and Camarillo in connection with the proposed restructuring ("OLS Loans"). The OLS Loans shall be evidenced by unsecured promissory notes issued by each of Chino and Camarillo to OLS ("OLS Notes"), which would bear interest at a rate of 10% per annum, payable semi-annually. The principal amount of the OLS Notes will be repayable only in such events and from such funds as may be available therefor after payment of other specified obligations, and they will mature no later than December 31, 2007.

In order to fund the OLS Loans, EII proposes to make capital contributions or make loans to Camchino which, in

turn, would make capital contributions or loans to OLS from time-to-time through December 31, 1991, in an aggregate amount of up to \$300,000.

Chino and Camarillo propose to enter into amendments to their respective existing Credit Agreements to provide for a loan facility ("Overhaul Loan Facility") with GECC, subject to the satisfaction of certain conditions precedent, and for each to borrow thereunder from time-to-time prior to December 31, 2007 up to \$1 million at any time outstanding and issue to GECC their respective promissory notes evidencing such borrowings. The funds derived from the Overhaul Loan Facility will be used to fund the cost of major repairs, non-routine maintenance activities and overhauls of their respective QF's; provided that the initial advance under the Overhaul Loan Facility may be used to pay certain project operating and maintenance expenses. Borrowings under the Overhaul Loan Facility: (1) May be made from time-to-time during the respective terms of the restructured Leases, which would expire in 2007; (2) will bear interest at an annual rate of prime, as defined, plus 2%; and (3) will be repayable on a fixed amortization schedule (determined at the time each loan is made) over the lesser of (a) five years or (b) the remaining term of the respective lease.

Chino and Camarillo also propose to extend the time during which borrowings may be made under their respective existing Credit Agreements to the end of their respective Leases, December 31, 2007, and provide for an origination fee of \$5,000 for the issuance of LOC's in replacement of those presently outstanding thereunder, plus an annual fee of 1% per annum of the face amount of any such replacement LOC.

Upon issuance of an order granting the authority requested, Chino and Camarillo will relinquish any remaining authority granted by the February 1990 Order, and by any authority subsequently granted by orders issued in File No. 70-7725.

New England Electric System (70-7816)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a declaration pursuant to section 12(b) of the Act and Rule 45 thereunder.

By orders dated January 16, 1990 and June 21, 1990 (HCAR Nos. 25025 and 25103, respectively) ("1990 Orders"), NEES was authorized to make capital contributions to its wholly owned subsidiary companies ("Subsidiaries")

through December 31, 1990 of up to \$50 million to Massachusetts Electric Company ("Mass-Elec") and \$20 million to The Narragansett Electric Company ("Narragansett"), and up to \$3 million to Granite State Electric Company ("Granite State") through December 31, 1991.

NEES now proposes to make, from time to time through December 31, 1992, one or more capital contributions ("Capital Contributions") not to exceed an aggregate of \$40 million for Mass-Elec, \$40 million for Narragansett, and \$2 million for Granite State. NEES states that it will consider the authorization previously granted in the 1990 Orders to Mass-Elec and Narragansett to be superceded by the new order under which NEES proposes to make the Capital Contributions.

The Subsidiaries will apply the funds received from the Capital Contributions for general corporate purposes including, but not limited to, the reimbursement of the treasury for, or the payment of short term borrowings incurred for, capital additions and improvements to plant and property.

Central Power and Light Company, et al. (70-7817)

Central Power and Light Company, 539 North Carancahua Street, Corpus Christi, Texas 78401, Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119, Southwestern Electric Power Company, 428 Travis Street, Shreveport, Louisiana 71156, and West Texas Utilities Company, 301 Cypress, Abilene, Texas 79601, (collectively, the "CSW Companies"), each an electric public-utility subsidiary of Central and South West Corporation, a registered holding company, have filed an application-declaration pursuant to sections 9(a), 10 and 12(c) of the Act and Rule 42 thereunder.

By orders dated October 23, 1986 (HCAR No. 24219) and October 12, 1988 (HCAR No. 24726), the Commission authorized each of the CSW Companies to acquire and retire up to 20% of the par value of its preferred stock and 10% of the aggregate principal amount of its first mortgage bonds issued and outstanding on September 30, 1986 and June 30, 1988, respectively. Authority under the existing order (HCAR No. 24726) expires December 31, 1990.

The CSW Companies are each requesting to extend this authority, through December 31, 1992, to purchase and retire up to 20% of the par value of its preferred stock and 10% of the aggregate principal amount of its first mortgage bonds issued and outstanding on September 30, 1990, in open market

and negotiated transactions at prices not exceeding the then current general redemption prices for such securities. Purchases would be made only if the issuer of the security in question determined that it would be in the best interest of the issuer to do so based on, among other things, the interest or dividend rates of the securities, the issuer's financing plans and capital structure and the issuer's then current cash position. Funds for such purchases will be made available from internally generated funds or short-term borrowings.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-28695 Filed 12-6-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 3, 1990.

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 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Self-Administered

Questionnaire to Assess Taxpayer Attitudes Towards Joint Electronic Filing.

Description: The self-administered questionnaires are necessary to obtain public input on the merits of a joint federal/state electronic filing program along with suggestions on improving the system from the taxpayer's perspective. Affected public is 200 participants.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: One-time self-administered questionnaire.

Estimated Total Reporting Burden: 33 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, 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. 90-28710 Filed 12-6-90; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: December 3, 1990.

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 Office 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 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0913.

Form Number: None.

Type of Review: Extension.

Title: Below-Market Loans.

Description: Section 7872

recharacterizes a below-market loan as a market rate loan and an additional transfer by the lender to the borrower equal to the amount of imputed interest. The regulation requires both the lender and the borrower to attach a statement to their respective income tax returns for years in which they have either imputed income or claim imputed deductions under section 7872.

Respondents: Individuals or households, Businesses or other for profit, Small businesses or organizations.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear, (202) 535-4297, 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. 90-28711 Filed 12-6-90; 8:45 am]

BILLING CODE 4830-01-M

Customs Service

[T.D. 90-96]

Revocation of IPIC, Ltd., To Gauge Imported Petroleum and Petroleum Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of approval of a commercial gauger.

SUMMARY: Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), the approval to gauge imported petroleum and petroleum products granted to IPIC, Ltd, formerly located at 1234 West 8th Street, Los Angeles, California 90801 has been revoked with prejudice for failure to meet bonding requirements and provisions contained in the Commercial Gauger Agreement.

Accordingly, the approval of IPIC, Ltd., to gauge imported petroleum and petroleum products in all Customs districts is revoked.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT:

Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, room 7113, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-2446).

Dated: December 4, 1990.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 90-28754 Filed 12-6-90; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on December 12 & 13, 1990. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue,

NW., Washington, DC. The meeting will begin at 8:30 a.m. on Wednesday, December 12 and 8:30 a.m. on Thursday, December 13, 1990. The agenda will include the following topics:

Wednesday, December 12, 1990

IRS Ethics and Integrity
Circular 230 Proposed Amendment
Project

Statistics of Income

Report on Coordinated Examination
Program

Development of Tax Forms & Pubs
Wage Reporting: Standards for
Electronic Receipt of Information
Documents

Report to the Commissioner on
Modernization

Electronic Filing for AARP

Thursday, December 13, 1990

Small Business Concerns—Reporting
Burdens

QIP Team Report on Powers of Attorney
Follow-up, Q & A, and News Items

Note: Last minute changes to the day or order of topic discussion are possible and could prevent effective advance notice.

The meeting, which will be open to the public will be in a room that accommodates, approximately 50 people, including members of the Commissioner's Advisory Group and IRS officials. Due to the limited conference space, notification of intent to attend the meeting must be made with Raiford Gaffney, Senior Program Analyst no later than December 3, 1990. Ms. Gaffney may be reached on (202) 566-3161 (not toll-free).

If you would like to have the committee consider a written statement, please call or write Raiford Gaffney, Senior Program Analyst, Executive Secretariat, C:ES room 3308, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Raiford Gaffney, Senior Program Analyst, (202) 566-3161 (Not toll-free).

Fred T. Goldberg, Jr.,

Commissioner.

[FR Doc. 90-28684 Filed 12-6-90; 8:45 am]

BILLING CODE 4830-01-M

Office of Thrift Supervision

First Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform,

Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings Association, Las Vegas, New Mexico, on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28729 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

San Jacinto Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for San Jacinto Savings Association, Bellaire, Texas, Docket No. 6321, on November 30, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28730 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

Atascosa Savings, a F.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Atascosa Savings, a F.S.B., Jourdanon, Texas, Docket No. 7258, on November 30, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28722 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

Equitable Federal Savings Bank, Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301

of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision had duly appointed the Resolution Trust Corporation as sole Receiver for Equitable Federal Savings Bank, Fremont, Nebraska, Docket No. 4379, on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28723 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

Community Federal Savings Bank; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Community Federal Savings Bank, East Moline, Illinois, Docket No. 8784, with the Resolution Trust Corporation as sole Receiver for the Association on November 2, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28716 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

Fidelity Federal Savings Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Fidelity Federal Savings Association, Galesburg, Illinois, Docket No. 8698, with the Resolution Trust Corporation as sole Receiver for the Association on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28719 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

First American Federal Savings Bank; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First American Federal Savings Bank, Santa Fe, New Mexico with the Resolution Trust Corporation as sole Receiver for the Association on November 29, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28717 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Las Vegas; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Las Vegas, Las Vegas, New Mexico, Docket No. 3100, on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28724 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

Heritage Federal Savings Bank of Omaha; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Heritage Federal Savings Bank of Omaha, Omaha, Nebraska with the Resolution Trust Corporation as sole Receiver for the Association on November 15, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28718 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**Hiawatha Federal Savings Association;
Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for The Hiawatha Federal Savings Association, Hiawatha, Kansas, Docket No. 8770, with the Resolution Trust Corporation as sole Receiver for the Association on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28725 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**Nassau Savings and Loan Association,
F.A.; Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Nassau Savings and Loan Association, F.A., Brooklyn, New York, Docket No. 8809, with the Resolution Trust Corporation as sole Receiver for the Association on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28720 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**Parish Federal Savings and Loan
Association; Replacement of
Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Parish Federal Savings and Loan Association, Denham Springs, Louisiana with the Resolution Trust Corporation as sole Receiver for the Association on November 29, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28726 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**Resource Savings Association;
Appointment of Receiver**

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Resource Savings Association, Denison, Texas, Docket No. 0033, on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28731 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**Security Federal Savings Bank;
Replacement of Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in subsection (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation for Security Federal Savings Bank, Carlsbad, New Mexico, New Mexico.

Docket No. 8813, with the Resolution Trust Corporation as sole Receiver for the Association on November 16, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28727 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**Sun State Savings and Loan
Association, F.S.A.; Replacement of
Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Sun State Savings and Loan Association, F.S.A., Scottsdale, Arizona, with the Resolution Trust Corporation as sole Receiver for the Association on November 29, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28728 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

**St. Charles Federal Savings
Association; Replacement of
Conservator With a Receiver**

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for St. Charles Federal Savings Association, St. Charles, Illinois, Docket No. 8729, with the Resolution Trust Corporation as sole Receiver for the Association on November 29, 1990.

Dated: December 4, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-28721 Filed 12-6-90; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register

Vol. 55, No. 236

Friday, December 7, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2:00 p.m., Tuesday, December 11, 1990.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Reloadable Tube Aerial Shell Fireworks.

The staff will brief the Commission on a notice of proposed rulemaking concerning certain reloadable tube aerial shell fireworks devices.

For a Recorded Message Containing the Latest Agenda Information, Call: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Dated: December 4, 1990.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 90-28886 Filed 12-5-90; 1:39 pm]

BILLING CODE 6355-01-M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m. (Continue at 2:00 p.m. if necessary), Thursday, December 13, 1990.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. FY 91 Operating Plan

The Commission will consider issues related to the Operating Plan for Fiscal year 1991.

2. Art Materials Labeling

The staff will brief the Commission on proposed guidelines and criteria for assessing chronic hazards under the Federal Hazardous Substances Act as required by the Labeling of Hazardous Art Materials Act.

For a Recorded Message Containing the Latest Agenda Information, Call: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Dated: December 4, 1990.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 90-28887 Filed 12-5-90; 1:39 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, December 11, 1990, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Personnel actions regarding appointments, promotions, administrative pay increases,

reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: December 4, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 90-28836 Filed 12-5-90; 9:50 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, December 11, 1990, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which amendments would ensure that limits are placed on the amount of purchased mortgage servicing rights that State nonmember banks and savings associations can recognize for regulatory capital purposes.

Memorandum and resolution re: Proposed amendment to the Corporation's rules and regulations in the form of a new Part 334, entitled "Contracts Adverse to Safety and Soundness of Insured Depository Institutions," which would implement section 225 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by prescribing regulations to prevent any depository institution insured by the Corporation from contracting for goods, products or services in a way that would adversely affect the safety and soundness of that institution.

Memorandum re: Agreement between the United States and Republic of the Federated States of Micronesia.

FDIC study of the feasibility of establishing a risk-based deposit insurance premium rate structure.

Corporation's 1991-1992 Business Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: December 4, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-28837 Filed 12-5-90; 9:50 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION**Notice of Agency Meeting**

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:02 p.m. on Tuesday, December 4, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Recommendation regarding assistance agreements with depository institutions.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: December 5, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90-28898 Filed 12-5-90; 2:02 pm]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, December 12, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:**Summary Agenda**

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Cost of Federal Reserve notes in 1991.
2. Proposed 1991 Federal Reserve Bank of St. Louis Employee Salary Structure Adjustments.
3. Proposed 1991 Federal Reserve Bank of Minneapolis Employee Salary Structure Adjustments.
4. Proposed amendments to the Board's Rules Regarding Delegation of Authority to delegate to Federal Reserve Banks authority to approve issuance and redemption of capital notes, and investment in bank premises, by State member banks.

5. Determination with respect to Germany under the Primary Dealers Act of 1988.

Discussion Agenda

6. Proposed 1991 Federal Reserve Bank budgets.

7. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-28852 Filed 12-5-90; 11:10 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: Approximately 11:00 a.m., Wednesday, December 12, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-28853 Filed 12-5-90; 11:10 am]

BILLING CODE 6210-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, December 13, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, December 13

9:00 a.m.

Periodic Meeting with Advisory Committee
on Nuclear Waste (ACNW) (Public
Meeting)

10:30 a.m.

Affirmation/Discussion and Vote (Public
Meeting)

a. Final Rule, Part 20—Revised Standards
for Protection Against Radiation
(Tentative)

Note: Affirmation sessions are initially
scheduled and announced to the public on a
time-reserved basis. Supplementally notice is
provided in accordance with the Sunshine
Act as specific items are identified and added
to the meeting agenda. If there is no specific
subject listed for affirmation, this means that
no item has as yet been identified as
requiring any Commission vote on this date.

To verify the Status of Meetings Call
(Recording)—(301) 492-0292

**CONTACT PERSON FOR MORE
INFORMATION:** William Hill (301) 492-
1661.

Dated: December 3, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90-28859 Filed 12-5-90; 1:38 pm]

BILLING CODE 7590-01-M

Forest Service Federal Register

Friday
December 7, 1990

Part II

Department of Agriculture

Forest Service

36 CFR Part 223

Forest Service Timber Sale Contract
Financial Initiatives; Notice, Final Rule,
Proposed Rule and Notice of Proposed
Policy

DEPARTMENT OF AGRICULTURE

Forest Service

Timber Sale Contracting Initiatives

AGENCY: Forest Service, USDA.

ACTION: Notice; summary of rules and policies published in this Part II.

SUMMARY: In response to law and the requirements of sound business management, the Forest Service has identified a number of objectives and actions it needs to accomplish to deter speculation and prevent default and,

thus, ensure orderly sale and harvesting of National Forest System timber. This Part II contains three Forest Service documents which address these objectives—a final rule establishing market-related contract term additions; a proposed rule to revise downpayment and periodic payment requirements; and a proposed policy to establish additional financial security measures on timber sale contracts to protect the Government from damages arising from default. To assist reviewers in understanding the relationship between the documents and how they would

contribute to achieving the agency's broad objectives, the Forest Service has prepared a chart that appears at the end of this notice showing the objectives, actions, and codifications of the three documents. This chart is provided for information only.

FOR FURTHER INFORMATION CONTACT: Allan McCombie, Timber Management Staff (2300), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090. Telephone: (202) 447-6862.

Dated: October 3, 1990.
George M. Leonard,
Associate Chief.

CHART OF CHANGES TO TIMBER SALE FINANCIAL SECURITY PROCEDURES

Action Proposed	Objective/Benefit of Action	Codification	Document
1. Increase minimum bid guarantee from 5 to 10 percent of advertised value.	Provides greater incentive to high bidder to execute contract. Ensures financial ability of potential purchasers.	FSH 2409.18, Sec. 56.4. (Forest Service Handbook).	Proposed policy; financial security of NFS timber sale contracts.
2. Change procedure for determination of damages for purchaser's failure to honor bid and consummate the contract.	Deter speculative bidding; assess damages on actual resale basis; ensure that bidder in inadvertent breach is charged actual damages; provide for uniform treatment for all failures to complete contracts.	FSH 2409.18, Sec. 73. (Forest Service Handbook).	Proposed policy; financial security of NFS timber sale contracts.
3. Remove \$500,000 cap on performance bonds. The minimum bond will be 10 percent of bid value.	Ensures equal treatment of performance bonds on all sales. Deter speculation by increasing capital requirements; provides additional security for default collection. Increases financial ability screening prospective purchasers.	FSH 2409.18, Sec. 54.1. (Forest Service Handbook).	Proposed policy; financial security of NFS timber sale contracts.
4. Discontinue discount test in western R-6 and R-5 national forests; allow discounting servewide under certain conditions.	Eliminates needless benefit given reduced sale volumes on affected forests. Provides an administrative mechanism to allow discounting when in public interest.	FSH 2409.18, Sec. 54.4. (Forest Service Handbook).	Proposed policy; financial security of NFS timber sale contracts.
5. Increase downpayment amount to 10 percent of advertised value plus 20 percent of bid premium.	Eliminates administrative complexity of calculation; provides additional security.	36 CFR 223.49	Proposed rule; Downpayment and Periodic Payments.
6. Change basis of release of downpayment from 25 percent of volume removed to 25 percent of stumpage value charged.	Makes requirement uniform; bases release on value (receipts) which is better protection for government.	36 CFR 223.49	Proposed rule; Downpayment and Periodic Payments.
7. Grant chief authority to extend retention of down payment.	Deters speculation; increases government financial security and collection potential.	36 CFR 223.49	Proposed rule; Downpayment and Periodic Payments.
8. Increase midpoint payment to 35 percent of total contract value or 50 percent of bid premium, whichever is greater.	Provides for orderly harvest, evenflow of receipts, increased financial security.	36 CFR 223.50	Proposed rule; Downpayment and Periodic Payments.
9. Require additional periodic payment to equal 75 percent of bid value on longer contracts.	Provides for orderly harvest, evenflow of receipts, increased financial security.	36 CFR 223.50	Proposed rule; Downpayment and Periodic Payments.
10. Provides a mechanism for contract term addition when a drastic reduction in wood product prices has occurred.	Facilitates orderly harvest and averts contract defaults.	36 CFR 223.52	Final rule; Market-related contract term addition.

[FR Doc. 90-28676 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

RIN 0596-AA33

Sale and Disposal of National Forest Timber; Market-related Contract Term Additions

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts a mechanism for granting extensions of National Forest System timber sales contracts during adverse market conditions. The intended effect is to have in place an administrative mechanism for responding to any future downturns in the forest products market that will enable purchasers to fulfill their contract obligations without undue financial hardship and that will facilitate continuation of the orderly harvest and payment for National Forest timber.

EFFECTIVE DATE: This rule is effective January 7, 1991.

FOR FURTHER INFORMATION CONTACT:

Allan B. McCombie, Timber Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090, (202) 475-3757.

SUPPLEMENTARY INFORMATION:

Background

Prior to 1980, purchasers of National Forest timber defaulted very few timber sale contracts. Cyclic fluctuations in forest products markets occurred but were of comparatively short duration and limited impact. Prior to 1980, Forest Service timber sale contract terms were of a longer duration and, thus, were able to overlap the market price cycles. Prior to 1980, it also was believed that the long-term projection for forest products prices indicated a continuing trend of price increases. Therefore, under those circumstances, a purchaser could usually schedule a sale's harvest for a time when the markets were good or were at least good enough that the purchaser would not lose more money operating a sale than would be lost in a default.

However, beginning in 1980, the forest products market began a serious and dramatic decline, leaving a large number of purchasers with timber sales bid at prices far higher than the market was bringing.

In response, the Chief of the Forest Service granted timber sale contract extensions in 1980, 1981, 1982, and 1983 based on findings of substantial, overriding public interest. The intent of

these extensions was to provide purchasers additional contract time until the markets improved. Unfortunately, the adverse market conditions continued. Faced with the likelihood of massive defaults and attendant adverse economic impacts on industry and dependent communities, Congress took emergency action and enacted the Federal Timber Contract Payment Modification Act (16 U.S.C. 618). This act allowed purchasers of Federal timber to return certain sales to the Government upon payment of a "buy-out charge" and, thus, avoid default. Both the Congress and the Administration viewed this legislation as an extraordinary measure to respond to a one-time crisis and recognized the need to develop a mechanism to avoid such a crisis in the future.

On November 6, 1987 (52 FR 43020), the Forest Service published a proposed rule to establish procedures under the Federal Timber Contract Payment Modification Act for extending contract termination dates in response to adverse conditions in the timber market. This rule was published as part of a larger proposal that included rules for implementing the periodic payments and downpayment procedures as required by the Federal Timber Contract Modification Act. This final rulemaking deals only with procedures for extending contract terms. A new proposed rule for periodic payments and downpayments is set out in this part as a separate rulemaking.

Experience has shown the market declines necessary to cause a market-related contract term addition generally coincide with national economic recessions and are indicative of substantial economic dislocation in the wood products industry. Such economic distress broadly affects community stability and the ability of industry to supply construction lumber and other products for public use and threatens the maintenance of plant capacity necessary to meet future needs of the Nation for wood products from domestic sources. Accordingly, in order to insure the retention of a viable established industry capable of supplying the wood fiber needs of the public for housing and other products, the Chief of the Forest Service has determined that if there is a drastic reduction in wood product prices sufficient to trigger the market-related contract term addition being adopted by this rule, it would be in the substantial overriding public interest to extend the contract term (36 CFR 223.115(b)).

The finding that the overriding public interest would best be served by the contract term addition in the event of such a drastic market decline is based

on the following. First, contract term addition would help avoid financial hardship on purchasers and ensure that the federal government will receive payments due from purchasers by reducing the likelihood of default. Second, by reducing the likelihood of default, a contract term addition would help ensure that receipts to States and counties from timber sales are not adversely affected. Additionally, contract term addition would help promote stability in the wood products industry. This in turn would help ensure community stability, competition, employment, investment, productivity, innovation and the ability of United States-based enterprises to compete with foreign-based enterprises in both domestic and export markets.

A market-related contract term addition cannot be granted to contracts previously extended under the Multi-Sale Extension Policy pursuant to the Federal Timber Contract Payment Modification Act. The Federal Timber Contract Payment Modification Act, 16 U.S.C. 618(b)(1), prohibits any additional extensions for timber sale contracts bid prior to January 1, 1982.

Under the proposed rule, the agency proposed to use various producer price indices prepared by the Department of Labor and Bureau of Labor Statistics to determine whether a drastic reduction in wood product prices has occurred. Under the proposal, each producer price index would be adjusted to a constant dollar base through division by the Bureau of Labor Statistics—All Commodities—Producer Price Index, Commodity Code 00000000. Producer price indexes would be assigned by Forest Service region or subregion as follows:

Forest service region	Bureau of Labor Statistics; producer price index	Commodity code
Northern (1)	Other Species, Dressed.	081103
Rocky Mountain (2).....	Other Species, Dressed.	081103
Southwestern (3).....	Other Species, Dressed.	081103
Intermountain (4).....	Other Species, Dressed.	081103
Pacific Southwest (5).....	Other Species, Dressed.	081103
Pacific Northwest (6):		
Westside.....	Douglas Fir, Dressed.	081101
Eastside.....	Other Species, Dressed.	081103
Southern (8):		
Primarily Hardwood NF's.	Hardwood Lumber.	0812
Primarily Softwood NF's.	Southern Pine, Dressed.	081102
Eastern (9):		

Forest service region	Bureau of Labor Statistics; producer price index	Commodity code
Primarily Hardwood NF's.	Hardwood Lumber.	0812
Primarily Softwood NF's.	Other Species, Dressed.	081103
Alaska (10)	Other Species, Dressed.	081103

Regional Foresters for those Regions with more than one producer price index to be used for each National Forest.

Under the proposed rule, the Forest Service would conclude that a drastic reduction in wood product prices has occurred where, for two or more consecutive calendar quarters after contract award, the applicable adjusted index is less than 80 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the initial qualifying quarter.

If, within the contract period there were two consecutive qualifying quarters, the Forest Service upon the purchaser's written request, would add 1 year to the contract's term; and for each additional consecutive qualifying quarter, the Forest Service would add an additional 3 months to a contract's term.

Under the proposed rule, the amount of time that could be added to any contract term as a result of a market-related contract term addition would be limited to (1) no more than twice the original contract length or (2) a maximum of 3 years, whichever is less. The proposed rule contained an additional limitation on granting term addition that no contract period could exceed 10 years.

Where a contract was lengthened as a result of market conditions, any periodic payment dates of the contract would be recalculated by the Forest Service, if requested by the purchaser.

If a contract included timber subject to rapid deterioration, such as salvage timber, or if it were necessary for another reason to require that included timber be removed early in the contract period, the contract would specify an early removal date for the applicable timber. In addition, other contract provisions, such as those applying to timber cut during road construction, could specify when the timber must be removed.

In these cases, if such specified timber was not removed by the contractual removal date, significant damage could occur to National Forest resources. In the event such timber was not removed by the contract removal date, the proposed rule provided that the Forest

Service would not extend the contractual removal dates under the market-related contract term addition procedures.

Response To Public Comments

The comment period on the proposed rule closed January 5, 1988, but was subsequently extended to February 19, 1988 (53 FR 519). The majority of the 27 comments received were related to downpayment and periodic payments. Thirteen respondents addressed the market-related contract term addition proposal. The 13 comments came from private citizens (2), timber purchasers (6), timber purchaser associations (4), and the USDA Office of Inspector General (1). Seven of the comments came for the Northwest, two from the Intermountain area, and four from the East.

The following summarizes the major comments and suggestions received and the agency's response to these in the final rule.

Comments

Fifty-four percent of the respondents expressed support for the market-related contract term additions proposal either in its entirety or with suggested modifications to strengthen it. The remaining 46 percent did not support any part of the proposal.

Three respondents objected to the language that distinguished between contracts with road construction and those without road construction. The Department agrees there is no need for this distinction and has revised the rule accordingly.

Four respondents felt the proposal would lead to speculative bidding. The primary reason given was the belief that because the proposal would permit delays in contract performance, purchasers would be tempted to increase bids in the hope that market prices would improve by the time the timber had to be cut and paid for. The Department agrees in part. The contract term addition provision would be activated when there is a drastic reduction in wood product prices after contract award. The conditions that produce a drastic reduction in wood product prices would normally meet the criteria for extension under substantial overriding public interest, as set forth in 36 CFR 223.115(b), so the amount of speculation resulting from this rule should be minimal. Nevertheless, this rule might cause some speculative bidding due to the added financial protection provided. However, this potential will not be addressed in this rulemaking. Instead, to provide additional protection against

speculative bidding, the agency is proposing a new rule addressing periodic payments, which also appears in this part.

One respondent was concerned about the rule being too complex and costly. The primary purpose of the rule is to allow the orderly removal of timber from National Forest System lands without requiring legislation to prevent default in the event of adverse market conditions in the future. In comparing the cost and complexity to past extension and buy-out policies, the Department believes this final rule will indeed be more efficient and effective than past procedures. With a mechanism in place to address severe market slumps, the agency can proceed in an orderly and efficient way to prevent default. Thus, the rule will improve the orderly removal of timber from National Forest System lands without undue hardship to the timber purchasers.

One respondent suggested that the rule be modified to provide that the additional time authorized for each additional consecutive qualifying quarter be added within the normal operating season. This respondent observed that if a contract expires on December 31 and qualifies for 15 months of additional time based on 3 qualifying quarters, the language of the proposed rule would add the last 3 months of that time in the winter when operations are not likely to occur. By adding the time in the next operating season, the purchaser would get the relief when operations take place. The Department agrees and has incorporated the change in the final rule in paragraph (c)(1).

In addition, the Department, on further consideration, has clarified in paragraph (c) what a qualifying quarter is. A qualifying quarter is now defined as a quarter where the applicable adjusted index is more than 20 percent below the average of such index for the 4 highest of the previous 8 calendar quarters. Qualifying quarter calculations will be made using the applicable adjusted Producer Price Indexes for the months of March, June, September, and December.

The Department is also adding a new paragraph (b)(3) to the rule for consistency. This paragraph clarifies the authorization for the market-related term addition by incorporating the finding of a substantial overriding public interest in the event of a drastic reduction in wood product prices. A discussion of this was included in the preamble to the proposed rule.

Summary

Having fully considered the comments received on the proposed rule, the Department is adopting a final rule to permit the Forest Service to extend the terms of contracts that have periodic payment provisions when adverse market conditions indicate a need to do so. Under the rule, the Forest Service shall maintain and use regional producer price indexes for wood products as prepared by the Department of Labor and Bureau of Labor Statistics, adjusted to a constant dollar base to determine whether a drastic reduction in wood product prices has occurred. The Forest Service will monitor the various indexes and determine that a drastic reduction in wood product prices has occurred when, for two or more consecutive quarters after contract award, the applicable adjusted price index is less than 80 percent of the average of such adjusted index for 4 of the 8 calendar quarters immediately prior to the initial qualifying quarter. If a drastic reduction in wood prices has occurred during the contract period, the Forest Service will notify purchasers and, upon purchaser's written request, will add 1 year to the contract term. For each additional consecutive quarter a contract qualifies for term addition, the Forest Service will, upon written request, add an additional 3-month period to the operating season of the contract. The granting of periods of contract term addition may not exceed twice the contract length or 3 years whichever is less. Revised contract terms cannot exceed 10 years.

This final rule is one of three initiatives the Department is undertaking for timber sale contracting. The other initiatives are a proposed rule to 36 CFR 223.49 and 36 CFR 223.50, and a proposed policy to increase financial security of timber sale contracts. To assist readers in understanding the various actions being taken and proposed, a notice and chart are set out at the beginning of the part.

Regulatory Impact

This action has been reviewed pursuant to E.O. 12291, and it has been determined that this regulation is not a major rule.

While the rule would allow extension of time for purchasers to cut and pay for the timber, the rule would not change the amount of money the purchasers would pay for their sales, except as provided under existing escalation provisions of the contract. Escalation provisions allow rates to vary in response to market changes over time. Extending the contract term allows the

use of additional future indexes in calculating payment rates for stumpage. This is a procedural rule, the intent of which is to avoid financial hardship on purchasers, and, thus, ensure that the Federal Government will receive payments due from purchasers. This in turn will ensure that receipts to States and counties from timber sales are not adversely affected. The final rule also would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In fact, the rule should have a stabilizing effect on the wood products industry.

Moreover, the Department has determined that this final rule would not have a significant economic impact on a substantial number of small entities. The rule will have a positive effect on counties and local communities that receive payments based on the sale of National Forest timber by avoiding timber sale defaults. The extensions are available to timber purchasers of all size classes.

The provisions of this rule are limited to administrative and business practice related to contract administration and, therefore, have no effect on forest resources. Each timber sale is subject to analysis of its environmental effects before it is sold. This rule is intended to have positive economic and social effects by averting default, maintaining Treasury receipts, and helping stabilize industry and timber-dependent communities in adverse market situations. As such, this rule is strictly procedural and would have no impact on the quality of the human environment, individually or cumulatively. Therefore, documentation of analysis of environmental effects of this rule in an environmental assessment or an environmental impact statement is not required. Furthermore, the final rule would not result in additional procedures, paperwork, or other information collection not already required by law and approved for use. To utilize the features of the rule, all a purchaser has to do is make a written request under the provision of a timber sale contract for extension. The burden of determining if a request is justified is imposed on the agency not the purchaser, who does not have to provide any evidence or documentation in support of a request. Therefore, review of the rule under the Paperwork Reduction Act (44 U.S.C. 3507) is not necessary.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

Therefore, for the reasons set forth above, part 223 of chapter II of title 36 of the Code of Federal Regulations is amended as follows:

PART 223—[AMENDED]

1. The authority citation for part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; unless otherwise noted.

Subpart B—[Amended]

2. Add a new § 223.52 to read as follows:

§ 223.52 Market-related term additions.

(a) *Contract provision.* Each timber sale contract that contains periodic payment requirements shall contain a provision allowing the addition of time to the contract term if the Forest Service determines that adverse wood products market conditions have resulted in a drastic reduction in wood product prices. Such extension must be requested by the purchaser in writing.

(b) *Determination of drastic wood product price reductions.* (1) The Forest Service shall maintain and use producer price indexes for wood products as prepared by the Department of Labor and Bureau of Labor Statistics adjusted to a constant dollar base, to determine whether a drastic reduction in wood product prices has occurred. Where there is more than one producer price index for a Region, the Regional Forester shall determine the index to be used for each National Forest based on the characteristics of the volume being harvested on the Forest.

(2) The agency shall determine that a drastic reduction in wood product prices has occurred when, for two or more consecutive quarters, the applicable adjusted price index is less than 80 percent of the average of such adjusted index for the 4 highest of the 8 calendar quarters immediately prior to the initial qualifying quarter. A qualifying quarter is a quarter where the applicable adjusted index is more than 20 percent below the average of such index for the 4 highest of the previous 8 calendar quarters. Qualifying quarter determinations will be made using the Producer Price Indexes for the months of March, June, September, and December.

(3) A determination that a drastic reduction in wood product prices, as defined in paragraphs (b) (1) and (2) of

this section, has occurred shall constitute a finding that the substantial overriding public interest justifies the contract term addition.

(c) *Granting contract term additions.* Purchasers shall receive appropriate notice whenever the Regional Forester determines that a drastic reduction in wood product prices has occurred. When the Forest Service determines a drastic reduction in wood product prices has occurred after contract award and before contract termination, the Forest Service, upon a purchaser's written request, will add 1 year to the contract's term, except as provided in paragraphs (c)(1)-(3) of this section. This 1-year

addition includes time outside of the normal operating season.

(1) For each additional consecutive quarter, in which a contract qualifies for a term addition, the Forest Service will, upon the purchaser's written request, add an additional 3 months during the normal operating season to the contract.

(2) No more than twice the original contract length or 3 years, whichever is less, shall be added to a contract's term by market-related contract term addition.

(3) In no event shall a revised contract term exceed 10 years as a result of market-related contract term additions.

(d) *Recalculation of periodic payments.* Where a contract is lengthened as a result of market conditions, any subsequent periodic payment dates shall be recalculated using the new termination dates, and the payment dates shall be delayed accordingly; however, no periodic payment may be delayed beyond a contract's revised termination date.

Dated: November 29, 1990.

Clayton Yeutter,
Secretary.

[FR Doc. 90-28877 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 223**

RIN 0596-AA33

Sale and Disposal of National Forest Timber; Downpayment and Periodic Payments

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase and revise downpayment requirements and implement periodic payment requirements pursuant to the Federal Timber Contract Payment Modification Act. The intended effect is to clarify downpayment requirements and to encourage orderly harvest of National Forest timber sales.

DATES: Comments must be received in writing by January 7, 1991.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect all written submissions received on this proposal during regular business hours in the office of the Director, Timber Management Staff, Third Floor, Northwest Wing, Auditors Building, 201 14th Street SW., Washington, DC. To facilitate entrance into building, visitors are encouraged to call ahead (447-6893).

FOR FURTHER INFORMATION CONTACT: Allan B. McCombie, Timber Management Staff (202) 447-6862.

SUPPLEMENTARY INFORMATION: Section 2(d) of the Federal Timber Contract Payment Modification Act of October 16, 1984 (98 Stat. 2213; 16 U.S.C. 618(d)), requires that "(I)n any contract for the sale of timber from the National Forests, the Secretary of Agriculture shall require a cash downpayment at the time the contract is executed and periodic payments to be made over the remaining period of the contract."

To implement these payment requirements as well as to implement the bid monitoring provisions of the act, the Department of Agriculture published a proposed rule in the *Federal Register* of January 17, 1985 (50 FR 2591).

Substantial opposition was received on the proposal for periodic payments, primarily due to the requirement that they be made annually. Timber purchasers felt the annual payment would reduce flexibility in operations which, in turn, could increase operational costs and could result in environmental damage. Others felt that periodic payments would add to the

complexity of purchasing National Forest timber.

After the initial public comments were analyzed, the Department of Agriculture published a final rule on October 11, 1985 (50 FR 41498), implementing only those provisions of the Federal Timber Contract Payment Modification Act (FTCPMA) that require: (1) Purchasers to make a downpayment for the sale of National Forest timber (36 CFR 223.49); and (2) the Secretary of Agriculture to monitor bidding patterns on timber sale contracts and to take action to discourage speculative bidding (36 CFR 223.51). The rule also required a midpoint payment on sales with contract periods exceeding 1 year (36 CFR 223.50).

In publishing this final rule, the Department also stated that it would offer a revised proposed rule implementing periodic payments in timber sale contracts. New proposed rules were published on November 6, 1987 (52 FR 43020), to establish procedures for periodic payments as well as new rules for adding to the length of the contract terms in response to adverse conditions in the timber market. In addition, the Forest Service proposed to make clarifying amendments to the downpayment requirement (36 CFR 223.49) in order to minimize possible inconsistencies in the implementation of that requirement. The comment period was extended to February 19, 1988 (53 FR 519). Twenty-seven respondents commented on the proposed rule. Comments were received from timber sale purchasers (63 percent), trade associations (26 percent), private citizens (7 percent), and other Government agencies (4 percent). Approximately, three-fourths of the respondents were from the West.

Many of the comments received (52 percent) addressed only the proposals for downpayments and periodic payments. Fewer than 12 percent of the respondents favored the proposal for downpayments and periodic payments. Nearly 33 percent stated that they supported the concept but favored a system that was less complicated and simpler to administer. An additional 48 percent of the respondents stated that they felt the existing payment requirements were sufficient to encourage the orderly harvest of National Forest timber sales. These respondents did not favor additional changes at this time.

As a result of the input received, the Forest Service is proposing a new rule concerning downpayment and periodic payment requirements to fulfill the requirement for periodic payments as

specified in the Federal Timber Contract Payment Modification Act of 1984.

Section-by-Section Analysis

Proposed changes to the downpayment requirement. The current provisions of 36 CFR 223.49(c) require that the minimum cash downpayment be the equivalent of 10 percent of the total bid value of each sale. Under 36 CFR 223.49(c)(1), for sales on National Forests where average bid ratios have exceeded 1.6 in the previous year or where the bid ratio on a significant number of timber sales exceeds a 1.6 ratio and the average bid premium is at least \$25 per thousand board feet or equivalent, the amount of the downpayment will be equal to 10 percent of the advertised value plus 20 percent of the total bid premium, unless increased by the Chief of the Forest Service where the Chief determines such increase is necessary to deter speculation. In calculating bid ratios and bid premiums for the downpayment requirement, the Forest Service does not use the portion of the bid premium that offsets ineffective purchaser credit for road construction.

Under § 223.49(d), a purchaser cannot apply the amount deposited as a downpayment to cover other payments due on that sale until 25 percent of the advertised timber volume has been scaled and paid for on scaled sales or until 25 percent of the advertised timber volume is shown on the timber sale statement of account to have been cut, removed, and paid for on tree measurement sales.

An explanation of the proposed changes to these current provisions follows.

1. In the proposed rule, all references to the bid ratio in § 223.49 would be removed. The downpayment requirements would be changed to require 10 percent of the advertised value of each sale, plus 20 percent of the bid premium for all sales except as otherwise provided to deter speculation. This change would simplify the calculation of the downpayment amount by providing one set of calculation procedures for determining the amount of the downpayment. The current procedures apply one calculation method for sales on forests with bid ratios less than 1.6 and another method for sales on forests where bid ratios exceed 1.6. Using one calculation basis would reduce confusion about which method is in effect for a particular forest or sale. The change in calculating procedure also would increase the amount of financial security for sales on forest where the bid ratio is less than

1.6. The amount of the downpayment would be calculated uniformly and equally for all sales. The amount of downpayment would be directly proportional to the amount of bid premium for each sale.

2. Under the proposed rule, a purchaser would not apply the amount deposited as a downpayment to cover other payments due on that sale until stumpage value representing 25 percent of the original bid value has been charged and paid for on scaled sales or until stumpage value representing 25 percent of the original bid value is shown on the timber sale statement of account to have been cut, removed, and paid for on tree measurement sales. Current release requirements are based on removal of 25 percent of the advertised volume. Bid values vary greatly by species, in some cases, by as much as \$400 per thousand board feet (MBF); therefore, release of the downpayment on a volume basis may have little or no relationship to the value of the sale. If harvesting takes place in low value timber, the downpayment may be released with very little of the value of the sale being paid for. Conversely, for harvesting done in high-value species, the downpayment may not be released until a large share of the sale value has been removed. Use of sale value rather than sale volume for determining when the downpayment amount is released would provide additional security to the Government that the contract will be completed and would provide equitable treatment between sales for release of the downpayment.

3. Under the proposed rule, § 223.49 would be further amended to authorize the Chief of the Forest Service to increase the period of retention of the downpayment to deter speculative bidding on Forest Service timber sales. The Chief has the authority to increase the amount of the downpayment to deter speculation under current regulations in § 223.49(c). Increasing the retention period for the downpayment would provide an additional complementary deterrent to speculation by extending the period the funds are encumbered. Thus, extending the retention period would increase the Government's financial security. When speculation occurs, the resulting high-bid values increase both the potential for default and the amount of the potential financial damages the Government could sustain in event of default. Longer retention of the downpayment amount provides the Government greater access to funds for the collection of default damages. A decision to increase the retention period

would be based on the scope of the speculative bidding situation and the amount of the Government's increased exposure to loss from default.

4. The proposed rule would provide that the downpayment will not be retained on lump sum sales after the sale is paid for. Lump sum sales are premeasured sales where the entire value of the sale is paid for in advance. Under the payment provisions of the lump sum contract, the total value of the sale is required at the time of release for cutting; therefore, it is not reasonable or necessary to require an additional downpayment requirement when the Forest Service has already collected the full value of the sale.

Proposed changes to midpoint payment requirements. Currently 36 CFR 223.50 requires the following:

(1) Timber sale contracts must include provisions requiring a midpoint payment for all timber sales with 1 year or more between the bid date and termination date. Midpoints are determined on the basis of the timber sale contract period remaining after the specified road completion date.

(2) The amount of payments or deposits at midpoint of the contract term must equal at least 25 percent of the total contract value, total contract value includes required deposits in effect at the bid date or 50 percent of the amount of the bid premium, whichever is higher.

The proposed rule would increase the periodic payment at midpoint to 35 percent of the total contract value at bid date, exclusive of required deposits (specific rates for slash disposal and/or road maintenance) or 50 percent of the bid premium, whichever is greater. Also, the proposed rule would require periodic payment at midpoint on sales exceeding one full operating season. The procedure for determining midpoint would remain unchanged. The increase in the midpoint periodic payment to 35 percent of contract value provides a better balance of required payment in relation to the period allowed for harvesting.

Revisions to periodic payment requirement. Under the proposed rule, 36 CFR 223.50 would be revised to add a requirement for an additional periodic payment in the amount of 75 percent of the bid value due not later than the midpoint of the last normal operating season or 12 months from the midpoint payment, whichever date is first. This additional periodic payment would be required on all contracts exceeding two or more full operating seasons. When calculations indicate the midpoint payment and/or the additional periodic payment would fall due at other than normal billing dates, the payment date

would be extended to the next closest billing date.

The proposed rule would also revise the procedures for determining periodic payments. For the midpoint payment and the additional periodic payment, the Forest Service would compare the purchaser's deposits for timber charges with the amount of the periodic payment required to have been made at that time. If the purchaser's deposits were less than the amount of the periodic payment due, the purchaser would have to make a payment equal to the difference between the deposits and the amount of the periodic payment. If the purchaser's deposits equaled or exceeded the sum of the scheduled payments, an additional payment would not be needed. In addition, the Forest Service would reduce the amount of a periodic payment due if the payment would result in the purchaser's credit balance for timber charges exceeding the current contract value.

Under the proposed rule at 36 CFR 223.50(f), the Chief of the Forest Service could authorize Contracting Officers to establish, prior to timber sale advertisement, alternative periodic payment schedules to provide additional incentives for harvest early in the contract period for salvage or other types of timber sales, where another periodic payment schedule would better meet sale objectives.

Finally, the Forest Service proposes that if a purchaser has qualified for a contract term adjustment or market-related contract term addition, the Forest Service, upon the purchaser's written request, would recalculate the contract's periodic payment dates based on the adjusted termination date and the amount of the normal operating season lost for the causes that resulted in the contract term adjustment or term addition. The procedure for changing the midpoint date pursuant to a contract term adjustment is already in effect; however, the proposed rule would add a requirement at § 223.50(e) to conform to common contracting practice that the purchaser must initiate a written request to have the dates changed under contract term adjustment and that the adjustment procedures will also apply to both periodic payment dates as applicable. The proposal also specifies that the dates would change to reflect time granted for the market-related contract term addition in conformance with changes being made in a separate rule on market-related contract term additions.

The purpose of these proposed changes to the periodic payment requirement is to increase the

government's financial security. By knowing in advance that such periodic payments are required during the life of a timber sale contract, it is believed that speculative bidding will be reduced. Additionally, in the event the purchaser is unwilling or unable to operate the timber sale, the government can go ahead and hold the sale in default instead of having to wait until the expiration of the contract term.

Conclusion

The proposal strengthens the current downpayment requirement by increasing both the amount and the period of retention for certain sales. The proposal also would fully implement the periodic payment requirement of the Federal Timber Contract Payment Modification Act by increasing the amount of the midpoint payment and providing for an additional payment. The agency has structured the periodic payment requirements to reflect the progression of normal harvest operation. The payment period considers the fact that purchasers must build roads before harvest can begin; therefore, the midpoint is halfway through the harvest period. Increasing the midpoint to 35 percent of sale value similarly recognizes normal harvest scheduling. The Forest Service is also proposing to eliminate the use of periodic payments on sales having less than one operating season. The agency has determined that requirements for a downpayment, immediate harvest, and advance deposits made the periodic payment redundant for sales of such short duration. The proposal authorizes the agency to establish alternative periodic payment schedules to facilitate early harvest and meet special sale objectives.

The agency has considered the total effects of both the downpayment and the periodic payment in this proposal. The new proposed rule combines various financial requirements to meet the intent of the act. In so doing, the agency believes this proposal will also encourage the prompt and orderly harvest of timber, ensure an orderly flow of revenues from timber sales, and increase financial security during the contract period. Public comments are invited and will be considered in adoption of a final rule.

Regulatory Impact

This action has been reviewed pursuant to Executive Order 12291 and Department of Agriculture procedures, and it has been determined that this regulation is not a major rule. It implements the requirement of the Federal Timber Contract Payment

Modification Act (FTCPMA) requiring the Secretary of Agriculture to provide for downpayments and periodic payments for Forest Service timber sale contracts. While the rule would change when certain purchasers would pay for timber, the rule would not change the total amount of money that purchasers would pay for their sales. Exclusive of the statutory requirements, this rule would not have an annual effect on the economy of \$100 million or more and would not result in a major increase in costs for consumers, individual industries, Federal, State, local Government agencies, or geographic regions. The rule also would not result in significant adverse effects on competition, employment, investment, productivity, innovation, and the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposed rule should strengthen the United States forest products industry by implementing Congressional direction to promote orderly harvest and payment for National Forest timber and to deter speculation on Forest Service timber sales and, thereby, should help to preserve the structure of the industry and the employment generated by it.

It has also been determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. The periodic payments are required by statute and will not adversely affect those small entities who harvest their National Forest timber sales in a timely manner.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. The rule involves business procedures under a Federal contract. Therefore, it is determined to be categorically excluded from documentation in either an Environmental Assessment or an Environmental Impact Statement (40 CFR 1508.4) Furthermore, the proposed rule would not result in additional procedures or paperwork or other information collection not already required by law and approved for use. Therefore, review pursuant to 44 U.S.C. 3507 is not required.

Lists of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

Therefore, for the reasons set forth above, subpart B of part 223, chapter II of title 36 of the Code of Federal

Regulations, is proposed to be amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618; unless otherwise noted.

Subpart B—Timber Sale Contracts

2. Revise § 223.49 to read as follows:

§ 223.49 Downpayment.

(a) For the purposes of this section, the terms listed in this paragraph shall have the following meaning:

(1) Total bid value is the sum of the products obtained by multiplying the rate the purchaser bid for each species by the estimated volume listed in the contract.

(2) Ineffective purchaser credit is that portion of the credit earned, pursuant to a specific Forest Service timber sale contract for construction of specified roads, or for other purposes in such contract, that exceeds the current contract value, minus base rate value as defined in that contract and, thus, is an amount that cannot be applied toward stumpage charges.

(3) Bid premium is the amount in excess of the advertised value that a purchaser bids for timber offered.

(4) Lump sum timber sales are premeasured sales where the entire value of the sale is paid in one payment at time of release for cutting.

(c) The minimum downpayment shall be equivalent to 10 percent of the total bid value of each sale, plus 20 percent of the bid premium, except in those geographic areas where the Chief of the Forest Service determines that it is necessary to increase the amount of the downpayment in order to deter speculation. To determine the amount of the downpayment due on a sale where the timber is measured in units other than board feet, the Forest Service shall convert the measure to board feet, using appropriate conversion factors with any necessary adjustment.

(d) On scaled sales, a purchaser cannot apply the amount deposited as a downpayment to cover other obligations due on that sale until stumpage value representing 25 percent of the bid value of the sale has been charged and paid for. On tree measurement sales, a purchaser cannot apply the amount deposited as a downpayment to cover other obligations due on that sale until stumpage value representing 25 percent of the bid value of the sale is shown on

the timber sale statement of account to have been cut, removed, and paid for. For lump sum sales, the downpayment amount may be released when payment for release of the single payment unit has been received. The Chief of the Forest Service may increase the period for retention of the downpayment for future contracts when the Chief determines it is necessary to deter speculation.

3. Revise § 223.50 to read as follows:

§ 223.50 Periodic payments.

(a) For the purposes of this section, the following terms have the meaning given:

(1) Total contract value of a contract without stumpage rate adjustment is the same as the total bid value, which is the product of the advertised volume of the sale times the rates bid by the purchaser.

(2) The total contract value of a sale with stumpage rate adjustment is the product of the advertised volume of the sale and the current contract rates as of the periodic payment date.

(3) Normal operating season is the period so specified in a timber sale contract.

(4) Periodic payment(s) are payment(s) specified in a timber sale contract that must be made by the specified date(s). Periodic payments shall consist of a payment at the midpoint of the contract or a combination of the payment at midpoint and an additional periodic payment, depending on the number of full normal operating seasons contained in a timber sale contract.

(5) A periodic payment determination date is a date specified in a timber sale

contract upon which the Forest Service will compare the amount deposited by the timber sale purchaser for timber charges with the sum of the periodic payments required as of that date in the contract.

(6) Stumpage rate adjustment is a process authorized in most Forest Service timber sale contracts in the western National Forests which permits the price paid for timber under the contract to fluctuate, within stated limits, in response to established market indicators.

(b) Except for lump sum sales, each timber sale contract of more than one full normal operating season shall provide for periodic payments. The number of periodic payments required will be dependent upon the number of normal operations seasons within the contract, but shall not exceed 2 such payments during the course of the contract. Periodic payments must be made by the date specified in a contract, unless an amount of timber whose value is equal to the amount of the periodic payment has been removed and paid for by the periodic payment determination date. Should the payment fall due on a date other than normal billing dates, the contract shall provide that the payment date will be extended to coincide with the next timber sale statement of account billing date.

(1) At a minimum, each such contract shall require a periodic payment at the midpoint between the specified road completion date and the termination date, unless a different payment schedule is authorized pursuant to paragraph (f) of this section. If there is no road construction requirement, payments shall be due at the midpoint

between award date and the termination date.

(2) For contracts exceeding two or more full operating seasons, contracts shall require an additional periodic payment to be due no later than the midpoint of the last normal operating season or 12 months from the midpoint payment whichever date is first.

(3) The amount of the additional periodic payment will be determined at the time of contract award and will be based on total contract value.

(c) The amount of payments or deposits at the midpoint of the contract term must equal at least 35 percent of the total contract value at the bid date, exclusive of other required deposits, or 50 percent of the bid premium, whichever is greater.

(d) Where an additional periodic payment is required, the amount of payment or deposits at the time the additional payment is due must equal at least 75 percent of the total contract value.

(e) Upon written request of the purchaser, periodic payment dates may be adjusted when contract term adjustments are authorized under 36 CFR 223.46 or market-related term additions are authorized under 36 CFR 223.52.

(f) The Chief of the Forest Service may authorize Contracting Officers to establish, prior to timber sale advertisement, alternative periodic payment schedules to meet uncommon sale objectives.

Dated: October 3, 1990.

George M. Leonard,

Associate Chief,

[FR Doc. 90-28678 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

RIN 0596-AB18

Financial Security of National Forest System Timber Sale Contracts

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: The Forest Service is proposing additional measures and changes to existing policy related to timber sale contract financial security. The changes being proposed are to increase the amount of the bid guarantee, revise the method for determining damages for failure to consummate a contract, and eliminate the performance bond ceiling and the sale discounting procedures. The intended effect is to better protect the public's financial interest in the sale of National Forest System timber by reducing the opportunities for speculative bidding and defaulting contract obligations.

DATES: Comments must be received in writing January 7, 1991.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090. The public may inspect comments received on this rule in the office of the Director, Timber Management Staff, Third Floor Northwest Wing, Auditors Building, 201 14th Street, SW. To facilitate entrance into the building, visitors are encouraged to call ahead (447-6893).

FOR FURTHER INFORMATION CONTACT: Allan B. McCombie, Timber Management Staff, (202) 447-6862.

SUPPLEMENTARY INFORMATION: After the timber market collapse of 1981, an unprecedented number of National Forest System timber sale contracts became unprofitable. Some contracts were defaulted and others were "bought out" by the Government under the Federal Timber Contract Payment Modification Act. The market decline during the 1980 period exposed a number of potential long-term difficulties with National Forest System timber sale procedures which, if not remedied, could result in speculative bidding and increase the potential for contract defaults in the future.

In 1982, the Forest Service began implementing a number of contract reforms to reduce speculative and unsound bidding, to provide for an even flow of timber receipts into the Treasury, and to prevent sale defaults. The following changes or additions to financial requirements on National Forest System sales were made:

(1) The timber sale bid guarantee was raised to 5 percent of the advertised value of the contract;

(2) A cash deposit was required. The initial deposit requirement was for 5 percent of the bid value of a sale; this was later increased to 10 percent;

(3) The maximum amount of the performance bond was changed from \$200,000 to \$500,000; and

(4) A midpoint payment to the Government was required to provide additional incentive for timely timber removal.

These changes in timber sale financial requirements have been somewhat successful in stabilizing timber sale contracting by encouraging performance; discouraging speculation; and more adequately securing contract performance. However, additional changes are needed to further enhance financial security of timber sale contracts and to protect the taxpayer from repudiation of bids and default of contracts.

In recent months, the prices being bid for Forest Service timber have risen substantially over the advertised rates established by the agency's appraisal of the fair market value of the timber. The agency uses the selling value of lumber and other forest products in determining the appraised value. When bid values far exceed advertised values and lumber values retain constant or rise minimally, the potential for purchaser financial loss increases. Thus, based on bidding practices in recent months, the Forest Service believes that the public and the Government could be facing additional repudiations of bids and defaults of contracts if lumber prices do not keep pace with bid values and if additional financial security requirements are not instituted. Accordingly, the agency believes it is essential to take additional steps to protect the public's financial interests in timber sale contracts that will assure timely execution and completion of contracts, and minimize the financial risk to the Government.

The additional financial security measures now being proposed are as follows:

1. *Eliminate the present \$500,000 performance guarantee ceiling and set the minimum performance guarantee based on 10 percent of the bid value.* Timber sale contracts generally require the purchaser to furnish a performance guarantee for satisfactory compliance with its terms (36 CFR 223.35). Most of the timber sale contracts sold within the last 15 years have required a performance guarantee that was equivalent to 10 percent of the bid value subject to certain maximum amounts. The maximum performance guarantee

for sales sold prior to the spring of 1982 was \$200,000. The maximum performance guarantee for sales sold since the spring of 1982 has been \$500,000.

Removal of the \$500,000 ceiling would insure that the performance guarantee amount would be applied equally to all sales. In the face of existing bids, the current ceiling could result in less secure guarantees that purchasers of high-priced sales will perform their contracts. Removal of the ceiling on performance guarantees should not affect many of those purchases that ordinarily bid on National Forest timber sales. The removal of the cap would only affect sales with more than \$5 million bid value. Very few sales are this size and few small businesses buy timber sales that are this expensive. Therefore, the change would not stifle or constrain competition. What the removal of the ceiling will do is help to deter speculation by increasing capital requirements and, thus, increase bidder financial liability in the event of default.

2. *Increase the amount of the bid guarantee on timber sales to 10 percent of the advertised sale value.* In order to bid on Forest Service timber sales, all prospective purchasers must now supply a bid guarantee in the amount of 5 percent of the advertised sale value. The bid guarantee provides incentive for a purchaser to consummate the contract. It also provides a source of funds to satisfy the Government's losses if the contract is repudiated. The bid guarantee also has the secondary benefit of establishing a minimum level of bidder responsibility. A bidder who has demonstrated the ability to supply a bid guarantee is more likely to be able to meet the requirements necessary for award. However, there are still occasions when a high bidder does not take the steps necessary to be awarded the contract. This failure to consummate the contract is especially onerous when the high bidder, after seeing the bid of competitors, repudiates the bid because of the amount of the bid difference. The Government is then forced to reoffer the sale, conduct another bid opening, and complete collection action on the bid guarantee. Therefore, the Forest Service proposes to require a bid guarantee equal to 10 percent of the advertised value.

Under the present security requirements, the purchaser has to provide a performance bond and a cash deposit within 30 days of notification of award, each of which must equal 10 percent of the total bid value. A prospective purchaser who could not get a bid guarantee equal to 10 percent of

the advertised value would be unlikely to be able to provide a performance guarantee and a cash deposit each at 10 percent of the bid value.

3. *Assess damages in the same manner that is prescribed under the current contract provision C(T)9.4 for Failure to Cut Timber.* This contract provision ordinarily establishes damages by offering uncut timber for resale. If the resale bid price does not exceed the original purchaser's price plus certain additional costs (e.g., interest and the cost of resale), damages are assessed at the amount of the deficiency. Using the terms contained in provision C(T)9.4 for bid repudiations would provide the Forest Service the option of retaining the timber and establishing damages for this breach based on appraisal rather than resale, if resale cannot be accomplished in the immediate future or if no bids are received at resale. Due to timing considerations, it is highly unlikely that a resale would not be used in most cases of repudiation. Damages assessed in the manner provided under C(T)9.4 closely resemble a common law damage assessment where the injured party goes out into the market and "covers" the breach by attempting to resell. Application of damage assessment in the same manner as under the Failure to Cut provision would not "punish" the defaulting purchaser but would merely provide a means to quantify damages that are otherwise difficult to measure. Additionally, this method of damage assessment is likely to deter repudiation because a bidder who greatly outbids the competition and then repudiates would incur a greater liability for substantial damages. On the other hand, a high bidder who simply fails to meet the deadline for executing a contract is likely not to have greatly outbid the competition. Thus, resale of the timber by the Government would greatly reduce the amount of the damages in this instance compared to the present system of withholding the bidder's 10 percent guarantee which could be many times the actual damages caused by the inadvertent breach. Any bidder who repudiates a contract has breached its contract and is subject to exclusion from bidding on the resale under 36 CFR 223.86(A)(1).

In addition to the foregoing financial security measures, the Forest Service also plans to eliminate the timber sale discounting procedure implemented on a test basis on some National Forests in western Washington, Oregon, and Northern California in 1982 (47 FR 16181). The discounting procedure was implemented to provide an incentive to

encourage purchasers to remove timber promptly after award of the contract. An additional objective of discounting was to provide an even flow of receipts to the United States and the local governments.

Discounting of payment rates for early harvest is authorized for scaled sales that extend over 3 years between bid and the termination dates. Rates are discounted by a percentage factor based upon a combination of the interest rate being paid on money being borrowed by the Treasury at the time of advertisement and the length of time before the sale termination date that material is cut and scaled. No discount applies for material scaled during the 12 months before termination of the sale. For material scaled 12 to 24 months before the termination date, the Forest Service calculates the discount factor by taking 50 percent of the Treasury rate stated in the advertisement. For material scaled 24 to 36 months before the termination date, the discount factor is calculated by taking 100 percent of the Treasury rate. For material scaled 36 months to 48 months the agency uses 150 percent; for 48 months to 60 months, 200 percent; and 60 months to 72 months, 250 percent of the Treasury rate. However, in no case can the discount factor exceed 25 percent.

In 1982 when the discount procedure was established, timber sale volumes under contract exceeded 3 years annual production in areas where discounting was authorized. Current inventories under contract on most western forests have fallen to 1 year's timber volume under contract. Therefore, there is no longer a need to provide an incentive for removal, because purchasers are removing sale volumes immediately to meet saw mill production needs. Also use of discount procedures in conjunction with periodic payments in the same timber sale contract would be redundant and unnecessarily complicated. Under the current market and inventory situation, the discounting procedure serves no purpose; therefore, the Forest Service intends to stop the discount procedure test.

Although the agency intends to discontinue the discount test, it is considering applying the current discounting procedures on an individual sale basis when timber characteristics support a need for immediate harvesting. Establishing an economic incentive for early removal for fire-damaged, insect-damaged, and windthrown timber through sale discounting would support the accomplishment of land management

objectives and provide for optimal utilization of salvage timber.

In addition, the Forest Service proposes to provide for use of discounting upon request of the Regional Forester when market conditions warrant discounting. Under the proposal, authorization of discounting could be considered when remaining volume under contract in an area exceeds 3 times the Allowable Sale Quantity (ASQ) or exceeds 3 or more years of sold volume whichever is greater. Consideration would also be given to volume inventories held by area purchasers. The determination of a need to provide a discounting incentive would be based on the need for increasing or providing an even flow of timber receipts to the Government. The public is invited to suggest additional criteria that the agency should consider.

The objectives of these various changes in the proposal are to assure timely execution and completion of timber sale contracts, maintain competition by qualified bidders, to discourage speculation, and to minimize the financial risk to the Government in instances where purchasers do not complete contracts. The Forest Service wants to increase financial security requirements at this time to reflect the additional risk resulting from the large increase in bid values.

Comments received from the public on these proposed policy changes will be analyzed and considered in developing a final policy. Federal regulations at 36 CFR part 223 set forth rules and regulations for sale and disposal of timber from National Forests. Timber sale policies and procedures stated in Forest Service Manual, title 2400, implement those rules and regulations. The revised procedures will be implemented by appropriate amendments to the Forest Service Manual. Notice of adoption of the final policy will be published in the *Federal Register*.

Regulatory Impact

This action has been reviewed under USDA procedures and Executive Order 12291 on Federal Regulations. It has been determined that this policy is not a major rule. The procedures implemented by this policy will not have an effect of \$100 million or more on the economy, substantially increase prices or costs for consumers, industry, State, or local governments, nor adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets. In short, little or no effect on the National

economy will result from this notice of policy change. This action consists of administrative changes to policy for timber sale contract financial security. In the removal of the bond maximum, very few sales are over \$5 million in value, therefore, few sales or purchasers are involved. The change in liability for repudiation of contract (by failing to: Provide the necessary bond; execute the contract; or make the required cash deposit) will only have an effect on purchasers who do not consummate their contracts. These purchasers are few in number. All prospective purchasers must submit a bid guarantee with their bids. The guarantee is returned to the unsuccessful bidders after completion of the bid opening procedures. Only the high bidder is required to maintain the bid guarantee until the contract is consummated. Under existing procedures, the successful purchaser would have to

provide a performance bond equal to 10 percent of the bid value and, in addition, make a minimum cash deposit equal to 10 percent of the bid value within 30 days after notification of award. In view of existing requirements, increasing the bid guarantee to 10 percent of the advertised value should have minimal effects on purchasers.

Moreover, this policy has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and it has been determined that this act will not have a significant economic impact on a substantial number of small entities. These policies will preserve the long-range revenues to affected counties and will reduce the adverse economic impacts these entities would experience in the event of sale defaults.

This policy will not result in additional paperwork not already required by law or not already approved for use. Therefore, the review provisions

of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and implementing regulations at 5 CFR part 1320 do not apply.

Finally, based on both experience and environmental analysis, this proposed policy will have no significant effect on the human environment, individually or cumulatively. This policy deals with business practices related to timber sale contracts and, as such, has no direct effect on amount, location, or manner of timber offered for purchase. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4; 7 CFR 1b.3).

Dated: October 3, 1990.

George M. Leonard,

Associate Chief.

[FR Doc. 90-28679 Filed 12-6-90; 8:45 am]

BILLING CODE 3410-11-M

Friday
December 7, 1990

NOTICE

Part III

**Department of
Transportation**

Federal Aviation Administration

**14 CFR Part 71
Proposed Alteration of the St. Louis
Terminal Control Area, MO; Supplemental
Notice of Proposed Rulemaking**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 90-AWA-3]

RIN 2120-AD61

Proposed Alteration of the St. Louis Terminal Control Area; MO**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Supplemental notice of proposed rulemaking.

SUMMARY: This supplemental notice proposes to amend an earlier notice that proposed to establish a modification to the St. Louis, MO, Terminal Control Area (TCA). One mistake was discovered and it is as follows: The word "and" was inadvertently omitted from Area A of the official description of the TCA which would incorrectly depict the circle that was intended for Area A. This action would correct this mistake. This action also proposes to modify the earlier notice by lowering the departure/arrival areas of Area F from 5,000 feet MSL to 4,500 feet MSL. The purpose of this modification is to contain heavy jets within the TCA while in a climb or descent profile. Flight simulation tests of the TCA indicated this change was necessary to improve safety for all aircraft operating within the St. Louis terminal airspace.

DATES: Comments must be received on or before January 7, 1991.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-10], Airspace Docket No. 90-AWA-3, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holiday, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AWA-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

On September 13, 1990, the FAA proposed to modify the St. Louis, MO, TCA (55 FR 37834). This proposal would maintain the altitude of the upper limit of the TCA at 8,000 feet mean sea level (MSL) and redefine several existing subareas to improve air traffic procedures and simplify visual flight rules (VFR) operations outside the TCA. The primary air of this modification to the TCA is to improve the degree of safety while providing the most efficient use of the terminal airspace. This action would improve the flow of traffic and increase safety in the St. Louis terminal area.

Availability of NPRM's

Any person may obtain a copy of this Supplemental Notice of Proposed Rulemaking (SNPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must

identify the notice number of this SNPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the St. Louis TCA located at the Lambert-St. Louis International Airport (STL), St. Louis MO. This supplemental notice proposes to amend the earlier proposal by changing the description of Area A of the TCA so that the area would be described as a complete circle, maintaining the current altitudes from the surface to 2,000 feet MSL. In Areas F of the TCA, we have determined that the altitudes should be changed from 5,000 feet to 8,000 feet MSL, to 4,500 feet to 8,000 feet MSL. Further study has determined that the lower altitude is necessary to contain heavy departure/arrival jets. These actions are necessary to increase aircraft safety within the TCA. Section 71.401(b) of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

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

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

§ 71.401(b) [Amended]

2. Section 71.401(b) is amended as follows:

St. Louis, MO [Amended]

By removing Area A and substituting the following:

Area A. That airspace extending from the surface up to and including 8,000 feet MSL within a 6-mile radius of the Lambert-St.

Louis International Airport, excluding that airspace south of Interstate 70 and west of Interstate 270; and west of the west bank of the Missouri River from Interstate 70 clockwise to the point where the river intersects with the 6-mile arc, directly north of the Lambert-St. Louis International Airport.

In Area F, by removing the words "5,000 feet MSL to and including 8,000 feet MSL"

and substituting the words "4,500 feet MSL to and including 8,000 feet MSL"

Issued in Washington, DC, on November 20, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-28733 Filed 12-6-90; 8:45 am]

BILLING CODE 4910-13-M

Friday
December 7 1990

FRONTIER

Part IV

**Department of the
Interior**

Bureau of Indian Affairs

**List of Rejected Statute of Limitations
Claims; Notice of Rejected Claims**

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****List of Rejected Statute of Limitations Claims**

November 28, 1990.

AGENCY: Bureau of Indian Affairs, Interior.**ACTION:** Notice of rejected claims.

SUMMARY: This notice lists certain potential pre-1966 Indian damage claims which have been rejected for litigation by the Secretary of the Interior pursuant to the Indian Claims Limitation Act of 1982. This notice also contains a list of claims which the Bureau of Indian Affairs considers resolved.

DATES: To file an action in court, on any claim contained on the list of rejected claims, tribes, groups, and individual Indians must file such action no later than December 9, 1991.

FOR FURTHER INFORMATION CONTACT:

Aberdeen Area Director, Bureau of Indian Affairs, 115 4th Avenue SE., Aberdeen, South Dakota 57401-4382, Telephone (605) 226-7343;

Albuquerque Area Director, Bureau of Indian Affairs, 615 1st Street, NW., Box 26567, Albuquerque, New Mexico 87125-6567, Telephone (505) 766-3170;

Anadarko Area Director, Bureau of Indian Affairs, WCD Office Complex, Box 368, Anadarko, Oklahoma 73005-0368, Telephone (405) 247-6673;

Billings Area Director, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana 59101-1397, Telephone (406) 657-6315;

Eastern Area Director, Bureau of Indian Affairs, 3701 N. Fairfax Drive, suite 260/ Mailroom, Arlington, VA 22203 Telephone (703) 235-2571;

Juneau Area Director, Bureau of Indian Affairs, Federal Building, P.O. Box 3-8000, Juneau, Alaska 99802-1219, Telephone (907) 586-7177;

Minneapolis Area Director, Bureau of Indian Affairs, 15 South 5th Street—10th Floor, Minneapolis, Minnesota 55401-1020, Telephone (612) 349-3631;

Muskogee Area Director, Bureau of Indian Affairs, 5th & West Okmulgee; Muskogee, OK 74401-4898, Telephone (918) 687-2296;

Navajo Area Director, Bureau of Indian Affairs, P.O. Box M, Window Rock, Arizona 86515-0714, Telephone (505) 863-9501;

Phoenix Area Director, Bureau of Indian Affairs, 1 North First Street, P.O. Box 10, Phoenix, Arizona 85001-0010, Telephone (602) 241-2305;

Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Ave., Portland, OR 97232-4169, Telephone (503) 231-6702;

Sacramento Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825-1884, Telephone (916) 978-4691.

SUPPLEMENTARY INFORMATION: The Indian Claims Limitation Act of 1982, Public Law 97-394 (96 Stat. 1966, 1976) extends the statute of limitations governing pre-1966 Indian damage claims (28 U.S.C. 2415) which was due to expire on December 31, 1982. A claim subject to the statute of limitations is an Indian claim for money damages which arose prior to July 18, 1966. Claims against the United States are not governed by this law, only money damage claims against persons, corporations, states, or any other entities except the Federal Government. Claims for title to land are also not governed by this statute of limitations. This notice is required by section 5(c) of the Act.

Pursuant to sections 3 and 4 of the Indian Claims Limitation Act of 1982, lists of all potential Indian damage claims, which had at any time been identified by or submitted to the Bureau of Indian Affairs under the Department of the Interior's Statute of Limitations Program, were published in the Federal Register at 48 FR 13698, on March 31,

1983, amended at 48 FR 15008, on April 6, 1983; and at 48 FR 51204, on November 7, 1983, amended at 49 FR 518, on January 4, 1984. Excluded from these lists were claims which were erroneously identified as claims and those which had no legal merit whatsoever.

When rejecting any claim or category of claims included on the published lists, the Secretary must send a report to the appropriate tribe whose rights or the rights of whose members could be affected by the rejection. The report must identify each separate claim being rejected, list the names of potential plaintiffs and defendants, if known or reasonably ascertainable, and briefly set forth the reason or reasons for rejection. A written notice of rejection must be sent to individual Indian claimants if their identities and addresses are known or reasonably ascertainable from Bureau of Indian Affairs records. After a report has been forwarded to a tribe, the Secretary must publish a notice in the Federal Register identifying the claims covered in the report. By the terms of the Indian Claims Limitation Act of 1982, any right of action on any claim appearing on the following list of claims, which have been rejected and reported accordingly by the Secretary, shall be barred unless a complaint is filed in accordance with date established in the "DATE" section of this notice. A list of claims which the Bureau of Indian Affairs considers resolved follows the list of rejected claims.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. **Eddie F. Brown,**
Assistant Secretary—Indian Affairs.

BILLING CODE 4910-02-M

MINNEAPOLIS AREA REJECTED CLAIMS:

F55-430-0059	F55-430-0091	F55-431-0047	F55-435-0031	F55-435-0032
F55-430-0074	F55-430-0094	F55-431-0073		

MUSKOGEE AREA REJECTED CLAIMS:

G03-906-0001	G03-906-0060	G06-930-0014	G07-908-0067	
G03-906-0003	G03-906-0061	G06-930-0045	G07-908-0068	G07-908-0140
G03-906-0004C	G03-906-0062	G06-930-0047	G07-908-0069	G07-908-0141
G03-906-0004D	G03-906-0063	G06-930-0048	G07-908-0070	G07-908-0142
G03-906-0004E	G03-906-0064	G07-908-0001	G07-908-0072	G07-908-0143
G03-906-0004F	G03-906-0065	G07-908-0003	G07-908-0073	G07-908-0144
G03-906-0005	G03-906-0066	G07-908-0006	G07-908-0074	G07-908-0145
G03-906-0006	G03-906-0067	G07-908-0008	G07-908-0075	G07-908-0146
G03-906-0007	G03-906-0068	G07-908-0009	G07-908-0076	G07-908-0147
G03-906-0008	G03-906-0069	G07-908-0010	G07-908-0077	G07-908-0148
G03-906-0012	G03-906-0070	G07-908-0011	G07-908-0079	G07-908-0149
G03-906-0013	G03-906-0071	G07-908-0012	G07-908-0081	G07-908-0150
G03-906-0014	G03-906-0072	G07-908-0013	G07-908-0083	G07-908-0151
G03-906-0016	G03-906-0073	G07-908-0015	G07-908-0086	G07-908-0152
G03-906-0017	G03-906-0074	G07-908-0016	G07-908-0088	G07-908-0153
G03-906-0018	G03-906-0075	G07-908-0017	G07-908-0089	G07-908-0154
G03-906-0019	G03-906-0076	G07-908-0018	G07-908-0090	G07-908-0155
G03-906-0020	G03-906-0077	G07-908-0019	G07-908-0093	G07-908-0156
G03-906-0021	G03-906-0078	G07-908-0020	G07-908-0094	G07-908-0157
G03-906-0023	G03-906-0079	G07-908-0021	G07-908-0095	G07-908-0158
G03-906-0024	G03-906-0080	G07-908-0022	G07-908-0096	G07-908-0159
G03-906-0025	G03-906-0082	G07-908-0023	G07-908-0098	G07-908-0160
G03-906-0026	G03-906-0083	G07-908-0024	G07-908-0099	G07-908-0161
G03-906-0028	G03-906-0084	G07-908-0025	G07-908-0100	G07-908-0162
G03-906-0029	G03-906-0085	G07-908-0026	G07-908-0101	G07-908-0163
G03-906-0030	G03-906-0086	G07-908-0028	G07-908-0105	G07-908-0164
G03-906-0033	G03-906-0087	G07-908-0030	G07-908-0107	G07-908-0165
G03-906-0034	G04-920-0001	G07-908-0032	G07-908-0108	G07-908-0166
G03-906-0035	G04-920-0002	G07-908-0033	G07-908-0110	G07-908-0167
G03-906-0039	G04-921-0001	G07-908-0034	G07-908-0112	G07-908-0168
G03-906-0040	G04-922-0001	G07-908-0035	G07-908-0113	G07-908-0169
G03-906-0041	G04-922-0002	G07-908-0037	G07-908-0114	G07-908-0170
G03-906-0042	G04-922-0003	G07-908-0041	G07-908-0115	G07-908-0171
G03-906-0043	G04-922-0004	G07-908-0042	G07-908-0116	G07-908-0172
G03-906-0044	G04-922-0005	G07-908-0043	G07-908-0117	G07-908-0173
G03-906-0045	G04-922-0008	G07-908-0045	G07-908-0118	G07-908-0174
G03-906-0046	G04-923-0001	G07-908-0046	G07-908-0119	G07-908-0175
G03-906-0047	G04-923-0002	G07-908-0047	G07-908-0120	G07-908-0176
G03-906-0048	G04-923-0003	G07-908-0048	G07-908-0121	G07-908-0177
G03-906-0049	G04-924-0001	G07-908-0049	G07-908-0122	G07-908-0178
G03-906-0050	G04-925-0001	G07-908-0051	G07-908-0128	G07-908-0179
G03-906-0051	G04-926-0002	G07-908-0052	G07-908-0129	G07-908-0180
G03-906-0052	G06-930-0003	G07-908-0055	G07-908-0132	G07-908-0181
G03-906-0053	G06-930-0005	G07-908-0056	G07-908-0133	G07-908-0182
G03-906-0054	G06-930-0006	G07-908-0057	G07-908-0134	G07-908-0183
G03-906-0055	G06-930-0007	G07-908-0058	G07-908-0135	G07-908-0184
G03-906-0056	G06-930-0008	G07-908-0059	G07-908-0136	G07-908-0185
G03-906-0057	G06-930-0009	G07-908-0061	G07-908-0137	G07-908-0186
G03-906-0058	G06-930-0010	G07-908-0063	G07-908-0138	G07-908-0187
G03-906-0059	G06-930-0011	G07-908-0066	G07-908-0139	G07-908-0188

MUSKOGEE AREA REJECTED CLAIMS (CONTINUED):

G07-908-0189	G07-908-0243	G08-905-0006	G08-905-0169	G08-905-0285
G07-908-0190	G07-908-0244	G08-905-0022	G08-905-0172	G08-905-0289
G07-908-0191	G07-908-0245	G08-905-0023	G08-905-0173	G08-905-0291
G07-908-0192	G07-908-0246	G08-905-0025	G08-905-0175	G08-905-0292
G07-908-0193	G07-908-0247	G08-905-0028	G08-905-0190	G08-905-0296
G07-908-0194	G07-908-0248	G08-905-0029	G08-905-0196	G08-905-0297
G07-908-0195	G07-908-0249	G08-905-0029A	G08-905-0199	G08-905-0298
G07-908-0196	G07-908-0250	G08-905-0030	G08-905-0226	G08-905-0299
G07-908-0197	G07-908-0251	G08-905-0030A	G08-905-0227	G08-905-0302
G07-908-0198	G07-908-0252	G08-905-0032	G08-905-0229	G08-905-0304
G07-908-0199	G07-908-0253	G08-905-0033	G08-905-0230	G08-905-0305
G07-908-0200	G07-908-0254	G08-905-0035	G08-905-0231	G08-905-0310
G07-908-0201	G07-908-0255	G08-905-0041	G08-905-0232	G08-905-0311
G07-908-0202	G07-908-0256	G08-905-0043	G08-905-0233	G08-905-0312
G07-908-0203	G07-908-0257	G08-905-0044	G08-905-0234	G08-905-0313
G07-908-0204	G07-908-0258	G08-905-0045	G08-905-0235	G08-905-0315
G07-908-0205	G07-908-0259	G08-905-0046	G08-905-0236	G08-905-0321
G07-908-0206	G07-908-0260	G08-905-0047	G08-905-0237	G08-905-0322
G07-908-0207	G07-908-0261	G08-905-0048	G08-905-0238	G08-905-0328
G07-908-0208	G07-908-0262	G08-905-0049	G08-905-0239	G08-905-0329
G07-908-0209	G07-908-0263	G08-905-0052	G08-905-0240	G08-905-0334
G07-908-0210	G07-908-0264	G08-905-0053	G08-905-0241	G08-905-0335
G07-908-0211	G07-908-0265	G08-905-0055	G08-905-0245	G08-905-0336
G07-908-0212	G07-908-0266	G08-905-0056	G08-905-0246	G08-905-0337
G07-908-0213	G07-908-0267	G08-905-0062	G08-905-0247	G08-905-0339
G07-908-0214	G07-908-0268	G08-905-0067	G08-905-0248	G08-905-0341
G07-908-0215	G07-908-0269	G08-905-0070	G08-905-0249	G08-905-0342
G07-908-0216	G07-908-0270	G08-905-0073	G08-905-0252	G08-905-0347
G07-908-0217	G07-908-0271	G08-905-0074	G08-905-0253	G08-905-0357
G07-908-0218	G07-908-0272	G08-905-0076	G08-905-0254	G08-905-0358
G07-908-0219	G07-908-0273	G08-905-0078	G08-905-0255	G08-905-0359
G07-908-0220	G07-908-0282	G08-905-0082	G08-905-0257	G08-905-0360
G07-908-0221	G07-908-0283	G08-905-0084	G08-905-0258	G08-905-0361
G07-908-0222	G07-908-0286	G08-905-0089	G08-905-0259	G08-905-0362
G07-908-0223	G07-908-0287	G08-905-0092	G08-905-0260	G08-905-0363
G07-908-0224	G07-908-0288	G08-905-0096	G08-905-0262	G08-905-0367
G07-908-0225	G07-908-0289	G08-905-0104	G08-905-0263	G08-905-0371
G07-908-0226	G07-908-0290	G08-905-0108	G08-905-0264	G08-905-0374
G07-908-0227	G07-908-0291	G08-905-0109	G08-905-0265	G08-905-0375
G07-908-0228	G07-908-0292	G08-905-0116	G08-905-0267	G08-905-0380
G07-908-0229	G07-908-0293	G08-905-0117	G08-905-0268	G08-905-0381
G07-908-0230	G07-908-0295	G08-905-0122	G08-905-0269	G08-905-0382
G07-908-0231	G07-908-0302	G08-905-0123	G08-905-0270	G08-905-0383
G07-908-0232	G07-908-0303	G08-905-0125	G08-905-0271	G08-905-0384
G07-908-0233	G07-908-0304	G08-905-0126	G08-905-0272	G08-905-0385
G07-908-0234	G07-908-0305	G08-905-0129	G08-905-0273	G08-905-0386
G07-908-0235	G07-908-0306	G08-905-0134	G08-905-0274	G08-905-0388
G07-908-0236	G07-908-0307	G08-905-0136	G08-905-0276	G08-905-0390
G07-908-0237	G07-908-0309	G08-905-0142	G08-905-0277	G08-905-0395
G07-908-0238	G07-908-0336	G08-905-0144	G08-905-0278	G08-905-0397
G07-908-0239	G07-908-0339	G08-905-0147	G08-905-0279	G08-905-0399
G07-908-0240	G07-908-0340	G08-905-0153	G08-905-0282	G08-905-0400
G07-908-0241	G08-905-0002	G08-905-0158	G08-905-0283	G08-905-0402
G07-908-0242	G08-905-0005	G08-905-0163	G08-905-0284	G08-905-0405

MUSKOGEE AREA REJECTED CLAIMS (CONTINUED):

G08-905-0407	G08-905-0605	G08-905-0660	G08-905-0715	G08-905-0770
G08-905-0408	G08-905-0606	G08-905-0661	G08-905-0716	G08-905-0771
G08-905-0409	G08-905-0607	G08-905-0662	G08-905-0717	G08-905-0772
G08-905-0410	G08-905-0608	G08-905-0663	G08-905-0718	G08-905-0773
G08-905-0415	G08-905-0609	G08-905-0664	G08-905-0719	G08-905-0774
G08-905-0418	G08-905-0610	G08-905-0665	G08-905-0720	G08-905-0775
G08-905-0462	G08-905-0611	G08-905-0666	G08-905-0721	G08-905-0776
G08-905-0556	G08-905-0612	G08-905-0667	G08-905-0722	G08-905-0777
G08-905-0557	G08-905-0613	G08-905-0668	G08-905-0723	G08-905-0778
G08-905-0558	G08-905-0614	G08-905-0669	G08-905-0724	G08-905-0779
G08-905-0559	G08-905-0615	G08-905-0670	G08-905-0725	G08-905-0780
G08-905-0560	G08-905-0616	G08-905-0671	G08-905-0726	G08-905-0781
G08-905-0561	G08-905-0617	G08-905-0672	G08-905-0727	G08-905-0782
G08-905-0562	G08-905-0618	G08-905-0673	G08-905-0728	G08-905-0783
G08-905-0563	G08-905-0619	G08-905-0674	G08-905-0729	G08-905-0784
G08-905-0564	G08-905-0620	G08-905-0675	G08-905-0730	G08-905-0785
G08-905-0565	G08-905-0621	G08-905-0676	G08-905-0731	G08-905-0786
G08-905-0566	G08-905-0622	G08-905-0677	G08-905-0732	G08-905-0787
G08-905-0567	G08-905-0623	G08-905-0678	G08-905-0733	G08-905-0788
G08-905-0568	G08-905-0624	G08-905-0679	G08-905-0734	G08-905-0789
G08-905-0569	G08-905-0625	G08-905-0680	G08-905-0735	G08-905-0790
G08-905-0570	G08-905-0626	G08-905-0681	G08-905-0736	G08-905-0791
G08-905-0571	G08-905-0627	G08-905-0682	G08-905-0737	G08-905-0792
G08-905-0572	G08-905-0628	G08-905-0683	G08-905-0738	G08-905-0793
G08-905-0573	G08-905-0629	G08-905-0684	G08-905-0739	G08-905-0794
G08-905-0574	G08-905-0630	G08-905-0685	G08-905-0740	G08-905-0795
G08-905-0575	G08-905-0631	G08-905-0686	G08-905-0741	G08-905-0796
G08-905-0576	G08-905-0632	G08-905-0687	G08-905-0742	G08-905-0797
G08-905-0577	G08-905-0633	G08-905-0688	G08-905-0743	G08-905-0798
G08-905-0578	G08-905-0634	G08-905-0689	G08-905-0744	G08-905-0799
G08-905-0579	G08-905-0635	G08-905-0690	G08-905-0745	G08-905-0800
G08-905-0580	G08-905-0636	G08-905-0691	G08-905-0746	G08-905-0801
G08-905-0581	G08-905-0637	G08-905-0692	G08-905-0747	G08-905-0802
G08-905-0582	G08-905-0638	G08-905-0693	G08-905-0748	G08-905-0803
G08-905-0583	G08-905-0639	G08-905-0694	G08-905-0749	G08-905-0804
G08-905-0584	G08-905-0640	G08-905-0695	G08-905-0750	G08-905-0805
G08-905-0585	G08-905-0641	G08-905-0696	G08-905-0751	G08-905-0806
G08-905-0586	G08-905-0642	G08-905-0697	G08-905-0752	G08-905-0807
G08-905-0587	G08-905-0643	G08-905-0698	G08-905-0753	G08-905-0808
G08-905-0588	G08-905-0644	G08-905-0699	G08-905-0754	G08-905-0809
G08-905-0589	G08-905-0645	G08-905-0700	G08-905-0755	G08-905-0810
G08-905-0590	G08-905-0646	G08-905-0701	G08-905-0756	G08-905-0811
G08-905-0591	G08-905-0647	G08-905-0702	G08-905-0757	G08-905-0813
G08-905-0592	G08-905-0648	G08-905-0703	G08-905-0758	G08-905-0814
G08-905-0593	G08-905-0649	G08-905-0704	G08-905-0759	G08-905-0815
G08-905-0594	G08-905-0650	G08-905-0705	G08-905-0760	G08-905-0816
G08-905-0595	G08-905-0651	G08-905-0706	G08-905-0761	G08-905-0817
G08-905-0596	G08-905-0652	G08-905-0707	G08-905-0762	G08-905-0818
G08-905-0597	G08-905-0653	G08-905-0708	G08-905-0763	G08-905-0819
G08-905-0598	G08-905-0654	G08-905-0709	G08-905-0764	G08-905-0820
G08-905-0599	G08-905-0655	G08-905-0710	G08-905-0765	G08-905-0821
G08-905-0601	G08-905-0656	G08-905-0711	G08-905-0766	G08-905-0822
G08-905-0602	G08-905-0657	G08-905-0712	G08-905-0767	G08-905-0823
G08-905-0603	G08-905-0658	G08-905-0713	G08-905-0768	G08-905-0824
G08-905-0604	G08-905-0659	G08-905-0714	G08-905-0769	G08-905-0825

MUSKOGEE AREA REJECTED CLAIMS (CONTINUED):

G08-905-0826	G09-907-0035	G09-907-0199	G09-907-0254	G09-907-0309
G08-905-0827	G09-907-0036	G09-907-0200	G09-907-0255	G09-907-0310
G08-905-0828	G09-907-0050	G09-907-0201	G09-907-0256	G09-907-0311
G08-905-0829	G09-907-0077	G09-907-0202	G09-907-0257	G09-907-0312
G08-905-0830	G09-907-0090	G09-907-0203	G09-907-0258	G09-907-0313
G08-905-0831	G09-907-0092	G09-907-0204	G09-907-0259	G09-907-0314
G08-905-0832	G09-907-0098	G09-907-0205	G09-907-0260	G09-907-0315
G08-905-0833	G09-907-0098A	G09-907-0206	G09-907-0261	G09-907-0316
G08-905-0834	G09-907-0098B	G09-907-0207	G09-907-0262	G09-907-0317
G08-905-0835	G09-907-0105	G09-907-0208	G09-907-0263	G09-907-0318
G08-905-0836	G09-907-0108	G09-907-0209	G09-907-0264	G09-907-0319
G08-905-0837	G09-907-0109	G09-907-0210	G09-907-0265	G09-907-0320
G08-905-0838	G09-907-0112	G09-907-0211	G09-907-0266	G09-907-0321
G08-905-0839	G09-907-0121	G09-907-0212	G09-907-0267	G09-907-0322
G08-905-0840	G09-907-0122	G09-907-0213	G09-907-0268	G09-907-0323
G08-905-0841	G09-907-0123	G09-907-0214	G09-907-0269	G09-907-0324
G08-905-0842	G09-907-0126	G09-907-0215	G09-907-0270	G09-907-0325
G08-905-0843	G09-907-0133	G09-907-0216	G09-907-0271	G09-907-0326
G08-905-0844	G09-907-0138	G09-907-0217	G09-907-0272	G09-907-0327
G08-905-0845	G09-907-0145	G09-907-0218	G09-907-0273	G09-907-0328
G08-905-0846	G09-907-0155A	G09-907-0219	G09-907-0274	G09-907-0329
G08-905-0847	G09-907-0156	G09-907-0220	G09-907-0275	G09-907-0330
G08-905-0848	G09-907-0161	G09-907-0221	G09-907-0276	G09-907-0331
G08-905-0849	G09-907-0167	G09-907-0222	G09-907-0277	G09-907-0332
G08-905-0850	G09-907-0168	G09-907-0223	G09-907-0278	G09-907-0333
G08-905-0851	G09-907-0169	G09-907-0224	G09-907-0279	G09-907-0334
G08-905-0852	G09-907-0170	G09-907-0225	G09-907-0280	G09-907-0335
G08-905-0853	G09-907-0171	G09-907-0226	G09-907-0281	G09-907-0336
G08-905-0854	G09-907-0172	G09-907-0227	G09-907-0282	G09-907-0337
G08-905-0855	G09-907-0173	G09-907-0228	G09-907-0283	G09-907-0338
G08-905-0856	G09-907-0174	G09-907-0229	G09-907-0284	G09-907-0339
G08-905-0857	G09-907-0175	G09-907-0230	G09-907-0285	G09-907-0340
G08-905-0858	G09-907-0176	G09-907-0231	G09-907-0286	G09-907-0341
G08-905-0859	G09-907-0177	G09-907-0232	G09-907-0287	G09-907-0342
G08-905-0860	G09-907-0178	G09-907-0233	G09-907-0288	G09-907-0343
G08-905-0861	G09-907-0179	G09-907-0234	G09-907-0289	G09-907-0344
G08-905-0862	G09-907-0180	G09-907-0235	G09-907-0290	G09-907-0345
G08-905-0863	G09-907-0181	G09-907-0236	G09-907-0291	G09-907-0346
G08-905-0864	G09-907-0182	G09-907-0237	G09-907-0292	G09-907-0347
G08-905-0865	G09-907-0183	G09-907-0238	G09-907-0293	G09-907-0348
G08-905-0866	G09-907-0184	G09-907-0239	G09-907-0294	G09-907-0349
G08-905-0867	G09-907-0185	G09-907-0240	G09-907-0295	G09-907-0350
G08-905-0868	G09-907-0186	G09-907-0241	G09-907-0296	G09-907-0351
G08-905-0869	G09-907-0187	G09-907-0242	G09-907-0297	G09-907-0352
G08-905-0945	G09-907-0188	G09-907-0243	G09-907-0298	G09-907-0353
G09-907-0004	G09-907-0189	G09-907-0244	G09-907-0299	G09-907-0354
G09-907-0006	G09-907-0190	G09-907-0245	G09-907-0300	G09-907-0355
G09-907-0009	G09-907-0191	G09-907-0246	G09-907-0301	G09-907-0356
G09-907-0012	G09-907-0192	G09-907-0247	G09-907-0302	G09-907-0357
G09-907-0017	G09-907-0193	G09-907-0248	G09-907-0303	G09-907-0358
G09-907-0021	G09-907-0194	G09-907-0249	G09-907-0304	G09-907-0359
G09-907-0022	G09-907-0195	G09-907-0250	G09-907-0305	G09-907-0360
G09-907-0029	G09-907-0196	G09-907-0251	G09-907-0306	G09-907-0361
G09-907-0032	G09-907-0197	G09-907-0252	G09-907-0307	G09-907-0362
G09-907-0034	G09-907-0198	G09-907-0253	G09-907-0308	G09-907-0363

MUSKOGEE AREA REJECTED CLAIMS (CONTINUED):

G09-907-0364	G09-907-0381	G09-907-0398	G10-909-0029	G10-909-0046
G09-907-0365	G09-907-0382	G09-907-0399	G10-909-0030	G10-909-0047
G09-907-0366	G09-907-0383	G09-907-0400	G10-909-0031	G10-909-0048
G09-907-0367	G09-907-0384	G09-907-0401	G10-909-0032	G10-909-0049
G09-907-0368	G09-907-0385	G09-907-0402	G10-909-0033	G10-909-0050
G09-907-0369	G09-907-0386	G09-907-0403	G10-909-0034	G10-909-0051
G09-907-0370	G09-907-0387	G09-907-0404	G10-909-0035	G10-909-0052
G09-907-0371	G09-907-0388	G09-907-0405	G10-909-0036	G10-909-0053
G09-907-0372	G09-907-0389	G09-907-0406	G10-909-0037	G10-909-0054
G09-907-0373	G09-907-0390	G09-907-0407	G10-909-0038	G10-909-0055
G09-907-0374	G09-907-0391	G09-907-0408	G10-909-0039	G10-909-0056
G09-907-0375	G09-907-0392	G09-907-0409	G10-909-0040	G10-909-0057
G09-907-0376	G09-907-0393	G09-907-0410	G10-909-0041	G10-909-0058
G09-907-0377	G09-907-0394	G09-907-0411	G10-909-0042	G10-909-0059
G09-907-0378	G09-907-0395	G10-909-0026	G10-909-0043	G10-909-0060
G09-907-0379	G09-907-0396	G10-909-0027	G10-909-0044	G10-909-0061
G09-907-0380	G09-907-0397	G10-909-0028	G10-909-0045	G10-909-0062
				G10-909-0063

PORTLAND AREA REJECTED CLAIMS:

P00-000-0008	P00-000-0088	P00-000-0143	P00-000-0205	P00-000-0240
P00-000-0011	P00-000-0089	P00-000-0144	P00-000-0206	P00-000-0241
P00-000-0012	P00-000-0090	P00-000-0145	P00-000-0207	P00-000-0242
P00-000-0013	P00-000-0093	P00-000-0153	P00-000-0208	P00-000-0243
P00-000-0014	P00-000-0094	P00-000-0155	P00-000-0209	P00-000-0244
P00-000-0015	P00-000-0095	P00-000-0156	P00-000-0210	P00-000-0245
P00-000-0016	P00-000-0096	P00-000-0160	P00-000-0211	P00-000-0246
P00-000-0017	P00-000-0097	P00-000-0161	P00-000-0212	P00-000-0247
P00-000-0023	P00-000-0100	P00-000-0162	P00-000-0213	P00-000-0248
P00-000-0026	P00-000-0103	P00-000-0163	P00-000-0214	P00-000-0253
P00-000-0029	P00-000-0105	P00-000-0164	P00-000-0215	P00-000-0255
P00-000-0031	P00-000-0106	P00-000-0165	P00-000-0216	P00-000-0257
P00-000-0032	P00-000-0107	P00-000-0166	P00-000-0217	P00-000-0258
P00-000-0033	P00-000-0108	P00-000-0167	P00-000-0218	P00-000-0259
P00-000-0034	P00-000-0109	P00-000-0169	P00-000-0219	P00-000-0260
P00-000-0035	P00-000-0110	P00-000-0175	P00-000-0220	P00-000-0261
P00-000-0036	P00-000-0114	P00-000-0176	P00-000-0221	P00-000-0262
P00-000-0037	P00-000-0120	P00-000-0177	P00-000-0222	P00-000-0263
P00-000-0039	P00-000-0121	P00-000-0179	P00-000-0223	P00-000-0264
P00-000-0048	P00-000-0123	P00-000-0186	P00-000-0224	P00-000-0265
P00-000-0049	P00-000-0124	P00-000-0187	P00-000-0225	P00-000-0266
P00-000-0050	P00-000-0125	P00-000-0191	P00-000-0226	P00-000-0267
P00-000-0054	P00-000-0128	P00-000-0192	P00-000-0227	P00-000-0268
P00-000-0058	P00-000-0129	P00-000-0193	P00-000-0228	P00-000-0269
P00-000-0059	P00-000-0130	P00-000-0194	P00-000-0229	P00-000-0270
P00-000-0062	P00-000-0131	P00-000-0195	P00-000-0230	P00-000-0271
P00-000-0066	P00-000-0132	P00-000-0196	P00-000-0231	P00-000-0272
P00-000-0067	P00-000-0133	P00-000-0197	P00-000-0232	P00-000-0273
P00-000-0068	P00-000-0134	P00-000-0198	P00-000-0233	P00-000-0274
P00-000-0077	P00-000-0135	P00-000-0199	P00-000-0234	P00-000-0275
P00-000-0082	P00-000-0137	P00-000-0200	P00-000-0235	P00-000-0276
P00-000-0083	P00-000-0138	P00-000-0201	P00-000-0236	P00-000-0277
P00-000-0084	P00-000-0140	P00-000-0202	P00-000-0237	P00-000-0278
P00-000-0085	P00-000-0141	P00-000-0203	P00-000-0238	P00-000-0279
P00-000-0086	P00-000-0142	P00-000-0204	P00-000-0239	P00-000-0280

PORTLAND AREA REJECTED CLAIMS (CONTINUED):				
P00-000-0281	P03-101-0197	P04-180-0042	P07-143-0018	P10-107-0011A
P00-000-0282	P03-101-0264	P04-180-0070	P07-143-0019	P10-107-0011B
P00-000-0283	P03-101-0277	P05-182-0007	P07-143-0020	P10-107-0011C
P00-000-0284	P03-101-0278	P05-182-0008	P07-143-0021	P10-107-0011D
P00-000-0285	P03-101-0279	P05-182-0009	P07-143-0022	P10-107-0011E
P00-000-0286	P03-101-0280	P05-182-0010	P09-144-0030	P10-107-0011F
P00-000-0287	P03-101-0281	P05-182-0011	P09-144-0037	P10-107-0011G
P00-000-0288	P03-101-0282	P05-182-0012	P09-145-0004	P10-107-0011H
P00-000-0289	P03-101-0283	P05-182-0013	P09-145-0007	P10-107-0011I
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 A cumulative list of Public Laws for the second session will be published in Part II of the Federal Register on December 10, 1990.